



REPORT FOR THE
COUNTY OF LOS ANGELES
BOARD OF SUPERVISORS

RECOMMENDATIONS FOR THE ESTABLISHMENT OF A

CIVILIAN PROBATION
OVERSIGHT COMMISSION

Probation Oversight Commission Working Group:

Carol Chodroff, Chair
3rd District

Alex M. Johnson, Vice-Chair
2nd District

Jose Osuna, Member
1st District

Gabriella Holt, Member
4th District

Don Meredith, Member
5th District

December 12, 2016

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The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

On February 2, 2016, the Board of Supervisors voted unanimously in favor of creating a Working Group to examine current oversight of the Los Angeles County Probation Department. In so doing, you directed the Working Group to evaluate the feasibility of establishing a permanent Probation Oversight Commission to oversee the operations of the Probation Department; evaluate the existing oversight entities, and recommend whether a Probation Oversight Commission could replace or complement current work where overlaps or gaps exist; recommend a proposal for any investigative and monitoring structure in lieu of having various, siloed entities analyze the Probation Department; identify how the new Probation Oversight Commission might access requisite information for oversight; and, recommend whether oversight is needed to assess Juvenile and Adult Probation operations collectively or separately.

After seven months of intensive evaluation and assessment, we are honored to present to you our comprehensive report and recommendations for the creation of a new Probation Oversight Commission. In developing these recommendations, we found your guidance instrumental, which you highlighted when creating the Probation Oversight Working Group:

Disparate silos parse out information to the Department and the Board. It is necessary, at this time, to examine overlaps and duplications in current efforts being performed, as well as identification of potential needs for more effective oversight.

Currently, there is no entity monitoring all the disparate pieces. We must devise a better way of evaluating Department staff, facilities, financials, operations and population outcomes in order to assure consistency in Probation compliance and effectiveness of many of the programs. The Board must evaluate whether there is an opportunity for comprehensive oversight of the entire Probation Department.

To avoid recommending the creation of yet another siloed Commission, divorced from the context of the larger issues impacting the nation's largest probation system, and to ensure this new Probation Oversight Commission contemplates the unique opportunity the Probation Department now has to realize the promise of change and reform, we intentionally met with and heard testimony from a wide array of community stakeholders. We did not confine ourselves to a narrow interpretation of the scope of our governing motion. Rather, we took our responsibility seriously, and reached out to and solicited feedback from as many experts and varied stakeholders who offered as many different and informative perspectives as possible.

In total, the Working Group held 17 regular public meetings at the Kenneth Hahn Hall of Administration and in other county locations, toured two Day Reporting Centers, spoke with probation and oversight experts from around the country, and hosted five Town Hall meetings – one in each Supervisorial District. In addition to hearing public comments from a wide variety of community stakeholders, the Working Group heard extensive testimony in our regular public meetings and Town Hall meetings from the following individuals, agencies, community groups, and stakeholders:

1. Auditor-Controller's Department of Justice (DOJ) Audit Compliance Unit
2. Countywide Criminal Justice Coordination Committee (CCJCC)
3. Civil Grand Jury
4. Probation Field Services
5. Probation DOJ Project Office
6. Former Chair, LA Sheriff's Oversight Commission Working Group
7. Senior Probation Director, Education Services, LA County Probation Department
8. Probation Consultant, Research and Program Evaluation
9. Probation Department Ombudsman
10. Presiding Juvenile Delinquency Court Judge, and Chair of the Former Juvenile Reentry Council
11. Sybil Brand Commission
12. Bureau Chief, Professional Standards, LA County Probation Department
13. Dr. Denise Herz, Probation Juvenile Outcomes Study Work Group
14. Principal Analyst, CEO Services Integration Branch
15. Former Presiding Judge of the Juvenile Court, and Executive Director, Office of Child Protection
16. Superintendent, Executive Deputy Superintendent, and Director of the Pupil Services Division, Los Angeles County Office of Education (LACOE)
17. Reaver Bingham, Deputy Chief Probation Officer, Adult Services
18. Max Huntsman, Office of Inspector General
19. Juvenile Justice Coordinating Council (JJCC)
20. Carol Biondi, Children's Commissioner, JJCC member, juvenile justice advocate
21. Children's Defense Fund-California
22. Youth Justice Coalition
23. Homeboy Industries
24. La Clase Art Academy

25. Office of the Independent Monitor
26. Probation Commission
27. Board of State and Community Corrections (BSCC)
28. Arts for Incarcerated Youth Network
29. InsideOut Writers
30. Professional Managers' Association, AFSCME, Local 1967
31. SEIU, Local 721, Bargaining Unit 702, Supervising Deputy Probation Officers
32. Director and Organizer, SEIU, Local 721
33. Family Members of Current and Former Probationers
34. Vincent Schiraldi, Senior Research Fellow, Program in Criminal Justice Policy and Management at Harvard Kennedy School
35. Dr. Patricia Bennett, President and CEO, Resource Development Associates

We are grateful for the thoughtfulness, candor, and care of the public in making recommendations about how a new Probation Oversight Commission should be structured, and what powers and responsibilities it should have. The Working Group's recommendations take into consideration the extensive feedback received from those who testified and provided public comment.

In addition to the extensive testimony, feedback, and comments from the aforementioned speakers and organizations, we have benefitted from the depth and breadth of experience of our five Working Group members, and from invaluable assistance from Commission Services, the CEO's office, County Counsel, and Probation.

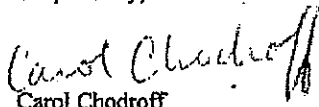
As a result of our collaborative work and analysis, we have determined that significant overlaps and gaps exist in oversight of the Probation Department, and that a new Probation Oversight Commission could and should replace and improve current efforts. We are pleased that after healthy and robust deliberations, the Working Group voted unanimously on all of our recommendations.

The end of this report also contains findings that we believe are directly related to our recommendations, and essential to address. We encourage the Board of Supervisors and a new independent Probation Oversight Commission to consider and address these findings in the context of its comprehensive oversight work.

We also created a public website for a new Probation Oversight Commission and the public that chronicles our work: <http://www.lacounty.gov/probation-oversight>. We hope this site will prove informative to the new Commission, should you choose to create one, and to the public about the many issues we considered.

It has been our honor to serve the people of the County of Los Angeles during this unique time of opportunity for meaningful reform of our nation's largest Probation Department. Thank you for entrusting us with this important responsibility.

Respectfully,


Carol Chodroff
Chair


Alex Johnson
Vice-Chair


Gabriella Holt
Member


Jose Osuna
Member


Don Meredith
Member

**PROBATION OVERSIGHT COMMISSION WORKING
GROUP'S RECOMMENDATIONS FOR THE ESTABLISHMENT
OF A
CIVILIAN PROBATION OVERSIGHT COMMISSION**

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Functions of the Probation Commission in Lieu of a Juvenile Justice
Commission 47**

OVERVIEW

Over the last seven months, the Working Group for the Civilian Oversight of the Los Angeles County Probation Department (hereinafter "Working Group") has conducted intensive evaluation and analysis, including 17 regular public meetings at the Hall of Administration, five Town Hall meetings – one in each Supervisorial District, facility tours, in-depth discussions with probation and oversight experts from around the country, and has heard public comment and testimony from a wide variety of individuals, agencies, community groups, and other community stakeholders with expertise, interest, direct and indirect involvement with the Los Angeles County Probation Department.

We have determined that significant overlaps and gaps exist in oversight of the Probation Department. The lack of coordination and clear lines of communication between the various, siloed entities currently charged with overseeing the Probation Department makes effective oversight efforts futile, and renders the Department susceptible to critiques, and even lawsuits. Throughout the course of our work, it became clear that a new Probation Oversight Commission could and should replace and improve current efforts. The Working Group thus recommends that the Board of Supervisors create a new civilian Probation Oversight Commission for the County of Los Angeles. The Working Group further recommends that the Board of Supervisors endow the new Probation Oversight Commission with four essential features, in order to ensure its effectiveness. First, the Probation Oversight Commission must be entirely independent from the Probation Department and all other County Departments. Second, the Probation Oversight Commission must be empowered with paid staff, resources, dedicated office space, and statutory authority. Third, the Probation Oversight Commission must be charged with comprehensive oversight over both juvenile and adult probation. Fourth, the Probation Oversight Commission must contain its own enforcement mechanism through a dedicated Inspector General's Office that works exclusively for the Probation Oversight Commission. We explain in depth how and why we reached the recommendation for each of these four essential components for the new Probation Oversight Commission in the report below.

Testimony from the Town Hall meetings underscored the importance of ensuring that the Probation Oversight Commission involve and solicit ongoing feedback from the individuals, families, and communities most familiar with and impacted by Probation Department policies and practices. The Working Group thus recommends that the Probation Oversight Commission dedicate itself to ongoing outreach efforts by conducting regular community Town Hall meetings, in addition to its own regular meetings, and that the Probation Oversight Commission composition include a former juvenile and adult probationer, family member, and representative of a community-based organization that works with probationers and the Probation Department.

EXECUTIVE SUMMARY

- I. **THE WORKING GROUP RECOMMENDS THAT THE BOARD OF SUPERVISORS TAKE THE FOLLOWING ACTIONS TO MERGE, REPLACE, RECONFIGURE, OR EXPAND EXISTING OVERSIGHT ENTITIES**
 - A. **Probation Commission:** Pursue legislative efforts to amend Welfare and Institutions Code §§ 240-243 to disband the existing Probation Commission and replace it with the new Probation Oversight Commission. The Board of Supervisors should also seek to amend WIC §§ 240-243, such that the new Probation Oversight Commission may fulfill the duties of a Juvenile Justice Commission outlined in WIC §§ 229-et seq., and assign the Probation Oversight Commission oversight of adult probation, which may be achieved by County ordinance.
 - B. **Sybil Brand:** Sunset the Sybil Brand Commission's oversight responsibilities over the Probation Department.
 - C. **Auditor-Controller DOJ Project:** Terminate the Auditor-Controller DOJ Project's primary oversight responsibilities over Probation.
 - D. **Juvenile Justice Coordinating Council (JJCC):** Reconfigure existing structure to have the JJCC placed under the Probation Oversight Commission.
- II. **THE PROBATION OVERSIGHT COMMISSION SHOULD ASSUME PRIMARY RESPONSIBILITY FOR INSPECTIONS AND HAVE ITS OWN INSPECTOR GENERAL'S OFFICE TO ADDRESS INVESTIGATIVE, MONITORING AND ENFORCEMENT NEEDS.**
 - A. Probation Oversight Commission Should Oversee Inspections, Report Results, and Timely Follow-Up for All Probation Facilities.
 - B. Create a Separate Inspector General's Office Exclusively for the Probation Oversight Commission.
 1. Give the Inspector General's Office Investigative Power
 2. Incorporate the Office of the Independent Monitor into the Inspector General's Office for the Probation Oversight Commission
 - C. Consult with Community Advocates, Youth, and Family Advocates About Matters Warranting Investigation.
 - D. Provide Oversight Over the Grievance Process.
- III. **THE PROBATION OVERSIGHT COMMISSION SHOULD ASSUME OVERSIGHT OVER JUVENILE AND ADULT PROBATION, AND ITS STRUCTURE SHOULD PROTECT THE UNIQUE NEEDS OF EACH POPULATION.**
 - A. A Single Oversight Commission Should Include Subject Matter Experts in Juvenile and Adult Probation.

- B. The Working Group Recommends Splitting the Department Between Adult and Juvenile.
- C. If a Split Is Deemed Unfeasible, The Working Group Recommends Separate Juvenile and Adult Divisions, with the Juvenile Division Based on a Youth Development Model.
- D. Include Special Protections for Transition Age Youth.

IV. THE WORKING GROUP RECOMMENDS THE FOLLOWING AUTHORITY, RESPONSIBILITIES, AND STRUCTURE FOR THE PROBATION OVERSIGHT COMMISSION.

A. Authority of the Probation Oversight Commission

- 1. Resources, Professional Staff, Dedicated Office Space
- 2. Formally Review and Provide Recommendations on Probation's Budget
- 3. Review Probation's JJCPA Funding Proposals
- 4. Have Access to Files
- 5. Report Directly to the Board of Supervisors

B. Responsibilities of the Probation Oversight Commission

- 1. Review and Make Recommendations about Recruiting, Hiring, Training, and Evaluation Policies and Practices
- 2. Review and Monitor Supervision and Treatment of "At Risk" Youth
- 3. Review and Monitor Provision of Reentry Services
- 4. Monitor Capital Improvements
- 5. Make Policy Recommendations
- 6. Maintain a "Live" Database and Information Clearinghouse
- 7. Work to Strengthen Partnership Between LACOE and Probation

C. Qualifications and Composition of Oversight Commission

1. Qualifications of Probation Oversight Commissioners

Commissioners shall have background and expertise in a variety of disciplines, and possess an understanding of the needs of the communities that interact with the Probation Department the most.

2. Composition of Probation Oversight Commission

a) Nine Commissioners shall include representation from:

- i. Health care / Mental health
- ii. Former Law enforcement or Probation separated by at least 12 months.
- iii. Formerly incarcerated person and/or under supervision or custody within the probation system, separated by at least 12 months.
- iv. Family member of formerly incarcerated person and/or person with experience being under probation supervision, separated by at least 12 months.

- v. Educator with juvenile court school, adult education and/or community college education experience.
 - vi. Former representative of the judiciary from adult criminal court.
 - vii. Former juvenile court judge
 - viii. Academic subject matter expert or researcher in probation and/or criminal justice issues
 - ix. Juvenile justice expert, advocate, or community organizer
 - x. Substance abuse expert
 - xi. Community-based organization (including restorative justice, and/or faith-based), advocate, or civil rights community leader
- b) The Working Group feels strongly that the Commission must include former probationers with juvenile and adult experience; a family member of a former probationer; and, a representative from a community-based organization or a civil rights leader.
- c) Diversity and Cultural Representation on the Commission Commissioners shall reflect diversity within the community, and include a mix of racial and ethnic diversity, gender diversity, and LGBTQ representation.
3. Inclusion of Juvenile and Superior Courts in Oversight
The Working Group recommends inclusion of juvenile and adult courts in the Probation Oversight Commission to broaden its perspective and enhance its oversight work.
4. The Working Group Recommends Community Involvement in Oversight
Community-based organizations (CBOs) should be included on the Probation Oversight Commission, and in the discussion about the standards to which CBOs must be held accountable. The Probation Oversight Commission should also hold regular community hearings, including some meetings in the evenings after work, in all five supervisorial districts, to allow members of the community to attend and participate.
5. Oversight Must Include the Voices of Families, Guardians, and Relative Caregivers
The Probation Oversight Commission should work proactively to ensure the voices of family members and guardians of youth in the system are included in oversight work.
6. DCFS and the Department of Mental Health Should be Included in Collaborative Oversight Discussions

The Probation Oversight Commission should include the Department of Mental Health in its discussions.

D. Administrative Issues

1. Appointment Process

The Board of Supervisors shall appoint five commissioners, and jointly select the remaining four at-large commissioners by majority vote. Selection of the four at-large commissioners shall take place through a county-wide application process coordinated by an independent human resources expert.

2. Terms of Appointment

Commissioners shall serve a term of four years, and serve a maximum of two terms.

3. By-Laws

The Probation Oversight Commission Shall Write Its Own By-Laws, Sign Financial Disclosures, and Submit to a Live Scan Investigation.

4. Training for Commissioners

Probation Oversight Commissioners Shall Receive Training in Oversight, Conducting Inspections, and Best Practices in Relevant Areas.

5. Stipend and Mileage

Probation Oversight Commissioners Shall Receive Stipend and Reasonable Reimbursement for Mileage.

MISSION

The mission of the Los Angeles County Civilian Probation Oversight Commission is to restore public trust in, and ensure that professionalism and best practices are used throughout the Los Angeles County Probation Department in custodial and non-custodial settings. The Commission shall oversee and monitor all aspects of the Department, including hiring, education and training, policies, practices, procedures, culture, field and custody field operations to ensure improved:

- Transparency
- Accountability
- Positive morale
- Implementation of the Probation Oversight Working Group recommendations
- Adherence to best practices for juvenile and adult probationers
- Effective use of resources
- Collaboration with relevant agencies, organizations, and community stakeholders
- Enhancement of public safety
- Preservation of victims' rights, and
- Ongoing development of positive change

VISION

The Los Angeles County Civilian Probation Oversight Commission shall oversee the Probation Department's adherence to its legal mandates and mission; promote fairness, effectiveness, and efficiency within the Department; provide advice to the Chief Probation Officer and the Board of Supervisors; and, facilitate internal and external communication and transparency and accountability.

I. THE WORKING GROUP RECOMMENDS THAT THE BOARD OF SUPERVISORS TAKE THE FOLLOWING ACTIONS TO MERGE, REPLACE, RECONFIGURE, OR EXPAND EXISTING OVERSIGHT ENTITIES

The Working Group spent extensive time meeting with and hearing from members of each of the existing commissions, committees, agencies, and entities charged with providing various aspects of oversight over the Los Angeles County Probation Department.¹ The lack of communication and coordination between and among these entities is striking, and hampers oversight and follow-through efforts, while frequently imposing an unnecessary burden on the Probation Department with duplicative requests by different agencies for reports and information.

Recognizing that some of the commissions, such as the Civil Grand Jury, must continue to retain their current oversight responsibilities pursuant to legal mandates, the Working Group recommends that the Board of Supervisors exercise its authority to eliminate the fragmented state of siloed oversight entities, in favor of streamlined and concentrated oversight responsibility in a new Probation Oversight Commission. In particular, the Working Group recommends the Board of Supervisors terminate or sunset the oversight responsibility of three existing entities over the Probation Department: the Probation Commission, the Sybil Brand Commission, and the Auditor-Controller's DOJ Project. Where existing entities continue to retain oversight responsibility, the Working Group recommends in Section IV B 6 of this report that the Probation Oversight Commission maintain a live database to streamline information, reports, and recommendations into a comprehensive, accessible, and transparent system that addresses and responds to concerns.

A. The Board of Supervisors Should Disband the Existing Probation Commission.

Under its current configuration, the existing Probation Commission does not have the capacity to provide robust, independent, and constructive oversight over the Los Angeles County Probation Department. It lacks the authority to provide effective oversight. It lacks professional staff to enhance its ability to perform inspections and effective follow-up, or to collaborate in the promulgation and review of departmental policies. Its unwieldy size and the absence of a budget renders it essentially powerless. It lacks a unifying strategy for comprehensive oversight.

The Working Group believes that even if the existing Probation Commission were restructured, it would be unable to adequately fulfill the role, and increased responsibility, required for effective, comprehensive oversight. Welfare &

¹ A summary of the duties and responsibilities of each of these different entities is attached to this report as Appendix A.

Institutions Code §§ 240-243 severely proscribes the role of a probation commission in Los Angeles County by limiting its power and authority.²

The Working Group recommends that the Board of Supervisors pursue legislative efforts to amend WIC §§ 240-243 to disband the existing Probation Commission and replace it with the new proposed Probation Oversight Commission. The Board of Supervisors should also seek to amend WIC §§ 240-243, such that the new Probation Oversight Commission may fulfill the duties of a Juvenile Justice Commission outlined in WIC §§ 229-et seq. Additionally, the Working Group recommends that the new Probation Oversight Commission include oversight of adult probation, the authority for which may be achieved by County ordinance through Board Action.

The Working group also recommends that the new Probation Oversight Commission be made a voting member of the Countywide Criminal Justice Coordination Committee (CCJCC).

B. The Board of Supervisors Should Sunset the Sybil Brand Commission's Responsibility to Oversee Probation Department Functions.

There is a clear need for ongoing, consistent reporting and monitoring of the Probation Department, and the Working Group feels it is important to unify Los Angeles County Probation oversight efforts under one body. The Sybil Brand Commission lacks the authority and capacity to provide that function. The Working Group believes there is considerable overlap between role of Sybil Brand Commission and some of the recommended responsibilities of the new Probation Oversight Commission.³ We therefore recommend the Board of Supervisors sunset the role of the Sybil Brand Commission with respect to Probation Oversight. Doing so, or making any modification to the existing Sybil Brand Commission, will require a change to the Los Angeles County Code⁴ as directed by the Board of Supervisors.

C. The Board of Supervisors Should Terminate the Auditor-Controller's DOJ Project's Oversight Over Probation.

The Auditor-Controller's DOJ Project was assigned oversight over Probation pursuant to action by the Board of Supervisors. The Auditor-Controller's office

² Two conflicting legal opinions about the authority of the existing Probation Commission have created confusion about the ability of the Probation Commission to perform various oversight functions. These conflicting opinions are attached as Appendix B and Appendix C.

³ The Sheriff's Oversight Working group came to a similar conclusion about the Sybil Brand Commission, with which we concur. *See Report to the Los Angeles County Board of Supervisors from the Working Group Civilian Oversight Commission for the Los Angeles County Sheriff's Department:*

<http://ceo.lacounty.gov/pdf/Final%20Report%206-22-15.pdf>

⁴ See LA County Code, Chapter 2.82

lacks the ability to talk individually with juvenile probationers without a court order, and to make unannounced visits to facilities. The Working Group recommends that inspections of juvenile facilities must be conducted by individuals with the authority and expertise to make unannounced visits and to talk with the youth. The Auditor-Controller recognizes and freely admits that they do not conduct site inspections as part of their reviews, and cannot interview youth without a court order. Thus, the Working Group believes that while there should be continued monitoring of the issues highlighted by the Auditor-Controller's DOJ Project, the Probation Oversight Commission should assume this responsibility moving forward.⁵

D. The Probation Oversight Commission Should Assume

Oversight over the Juvenile Justice Coordinating Council (JJCC)

To protect and serve vulnerable youth in the County's care, keep them out of the juvenile and criminal justice systems, and curb crime and delinquency, the Los Angeles County Probation Department has the Juvenile Justice Crime Prevention Act (JJCPA) funding stream as one of its greatest resources.⁶ The Working Group heard testimony suggesting that Probation practices with respect to the use of JJCPA funds run afoul of the unequivocal statutory mandate to provide a stable funding source for juvenile programs that have proven effective at preventing curbing crime and delinquency. The Working Group also heard testimony about millions of dollars of unspent JJCPA funds that could and should be going to support community-based programs.⁷

The Working Group heard additional testimony suggesting that Los Angeles County Probation's Juvenile Justice Coordinating Council (JJCC) has been out of compliance for years with the mandates of the California State Welfare and Institutions Code, which requires that in order to receive JJCPA funding, a county Juvenile Justice Coordinating Council "shall, at a minimum, include the chief probation officer, as chair, and one representative each from the district attorney's office, the public defender's office, the sheriff's department, the board of supervisors, the department of social services, the department of mental health, a

⁵ The Working Group believes the new Probation Oversight Commission should have the ability to work in consultation with the Auditor-Controller's office as necessary, especially where document review and a subsequent report is required.

⁶ State of California, Board of State and Community Corrections, JUVENILE JUSTICE CRIME PREVENTION ACT, March 2015 Annual Report, available at: <http://www.bscc.ca.gov/downloads/JJCPA%20Report%20Final%204.2.2015%20m-r-r.pdf>

⁷ Some reports have acknowledged the amount of approximately \$22 million dollars in unspent funds. *See e.g.*, Jeffery Loudenback, "Promising Los Angeles Juvenile Diversion Program Anxiously Awaits Hoarded Probation Cash," *Chronicle of Social Change*, Feb 19, 2016 <https://chronicleofsocialchange.org/featured/promising-los-angeles-juvenile-diversion-program-anxiously-waits-on-hoarded-probation-cash/15855>

community-based drug and alcohol program, a city police department, the county office of education or a school district, and an at-large community representative. ... [The] coordinating council shall also include representatives from nonprofit community-based organizations providing services to minors.”⁸ The same statute also requires that the Board of Supervisors shall be informed of community-based organizations participating on a coordinating council.

Testimony before the Working Group suggested that the Los Angeles County Probation’s JJCC is out of compliance with the membership requirements of its governing statute; that its JJCPA program flouts the scientific research on best practices in juvenile justice; and, that its JJCPA program has suffered from a lack of fiscal clarity and transparency.

The Working Group recommends a new structure, under which the JJCC is placed under the Probation Oversight Commission. Under this structure, the Probation Oversight Commission shall provide rigorous review of JJCC compliance with its statutory mandates, as well as JJCPA funding proposals and budget policies.⁹ The Working Group recommends that the Probation Oversight Commission consult closely with the evaluator who is selected to review JJCPA programming.

II. THE PROBATION OVERSIGHT COMMISSION SHOULD ASSUME PRIMARY RESPONSIBILITY FOR INSPECTIONS AND HAVE ITS OWN INSPECTOR GENERAL OFFICE TO ADDRESS INVESTIGATIVE, MONITORING AND ENFORCEMENT NEEDS

Over the last seven months, after hearing from the numerous varied agencies and entities charged with inspecting various Probation facilities, the Working Group has concluded that the inspection process is disjointed, lacks coordination and timely, consistent follow-up, and requires stricter oversight.

Six commissions or agencies are currently charged with inspecting 44 juvenile probation facilities, either annually or biannually, or on an “as needed” basis. No adult probation facilities or area offices are required to undergo a facility inspection. The 44 juvenile facilities that are inspected include three juvenile halls; 11 operational camps; one residential treatment facility; and, 29 group homes. The commissions and agencies charged with conducting the inspections include the Board of State and Community Corrections; the Civil Grand Jury; the Commission on Accreditation of Rehabilitation Facilities; the Probation Commission; the Superior Court/Juvenile Court; and, the Sybil Brand Commission. The agencies and/or

⁸ California State Welfare and Institutions Code § 749.22

⁹ The recommendation that the Probation Oversight Commission review and monitor JJCPA funding proposals and budget policies is discussed more in depth in Section IV A (3) of this report, *infra*.

departments that inspect group homes include: Sybil Brand Commission; Community Care Licensing; the Department of Children and Family Services; and, the Probation Department.

There is a general lack of communication and coordination among the aforementioned agencies and existing commissions about their respective inspection processes, standards, results, and follow-up. The inspections often lack follow-through, and some are limited to an inspection for compliance with minimum standards.

The Working Group believes the Probation Oversight Commission should assume responsibility for ensuring thorough, consistent inspections and follow-through of all facilities within the Probation Department's purview. Doing so will require a robust, paid staff and resources.¹⁰

The Probation Oversight Commission must also have the legal authority and a meaningful enforcement mechanism to hold the Probation Department accountable and ensure compliance and accountability. Such authority might include the ability to require a response from the Chief Probation Officer or designee on an action, report, or corrective measure within a reasonable period of time. The Probation Oversight Commission also needs the ability to respond in a timely fashion (or generate a timely response from the appropriate party) to concerns and issues raised. Accordingly, the Working Group recommends the creation of an Office of the Inspector General exclusively dedicated to the Probation Oversight Commission.

Although internal affairs investigations and resulting disciplinary actions must generally remain confidential, the Probation Oversight Commission must have a mechanism to monitor employee performance, compliance with department policy and procedures, facility operations, and adherence to the law. The Working Group has concluded that the current mechanism - a monthly report by the Office of Independent Monitoring (OIM) that provides a redacted synopsis of misconduct and corresponding discipline - is limited and insufficient. We recommend incorporation of the OIM into the Probation Oversight Commission's new Office of the Inspector General.

- A. **The Probation Oversight Commission Should Assume Responsibility for Inspections of All Juvenile and Adult Facilities within Probation's Purview.**
1. **The Probation Oversight Commission Should Establish an Inspection Schedule Protocol, and Facilitate Coordination for Follow-Up to all Inspection Reports.**

The Probation Oversight Commission should establish a protocol for ongoing, thorough, regularly scheduled and unannounced inspections and follow-through. Recognizing that some statutorily mandated existing oversight entities¹¹ will still retain their obligation to conduct inspections, the Working

¹⁰ The Working Group recommends requisite resources for the Probation Oversight Commission in section IV A (1) of this report, *infra*.

¹¹ The Civil Grand Jury, the BSCC, and the Courts, for example, will continue to retain a statutorily mandated obligation to conduct inspections.

Group recommends that the Probation Oversight Commission facilitate coordination and communication about all inspection results; and ensure that all visits and inspections are coordinated, information is shared, and follow-up is conducted in a timely manner. Inspection results should be shared not only through written reports, but through regular, in-person communication. The Working Group encourages the Probation Oversight Commission to request that all existing oversight entities that retain inspection responsibilities come before the Probation Oversight Commission to present their results.

2. Inspections Should be Conducted by Multi-Disciplinary Teams.

The Probation Oversight Commission should ensure that multi-disciplinary teams should conduct all inspections of facilities and group homes. For example, when a judge goes to inspect a juvenile court school, someone from LACOE should accompany him/her to help ensure appropriate educational questions are addressed. The Probation Oversight Commission should also enlist participation from experienced and trained community members and advocates who work directly with communities with the highest level of probation involvement in the process of preparing for and conducting inspections. The Probation Oversight Commission should also solicit feedback from families and kin in connection with inspections. All inspections should be conducted by individuals and agency representatives authorized to make unannounced visits, and to speak with probationers. Inspection teams should include individuals trained to speak and communicate with youth who have been exposed to trauma to ensure a level of comfort and promote effective and safe communication. The Working Group also recommends engaging judges in a meaningful way in the inspection process. When juvenile probationers are going to be interviewed, minor's counsel should be notified in advance.

3. Expansion of the Scope of Inspections.

Bolstered by a robust, paid staff and resources, the Probation Oversight Commission should audit and provide oversight over all custodial and non-custodial juvenile and adult operations with the Probation Department's purview.

B. The Board of Supervisors Should Create an Independent Office of the Inspector General for the Probation Oversight Commission.

1. Need for an Office of the Inspector General Dedicated Exclusively to the Probation Oversight Commission.

The Working Group recommends the creation of a dedicated Inspector General's Office exclusively for the new Probation Oversight Commission. The Working Group advises against merging this office with that of the Inspector General for the Sheriff's Department. Because the Sheriff is an elected official, the Board of Supervisors does not have the same power over the Sheriff's Department as it does over the Probation Department. The

Probation Department is unique and very different from the Sheriff's Department. With its inclusion of juvenile and adult divisions, custodial and non-custodial supervision responsibilities, the Probation Oversight Commission needs an Inspector General that specifically understands Probation's mission and culture. Accordingly, the Working Group believes it would be more effective and appropriate to create an Inspector General's Office exclusively for the new Probation Oversight Commission.

2. Inclusion of the Office of the Independent Monitor in the Probation Oversight Commission's Inspector General Office.

The Working Group believes the Office of the Independent Monitor (OIM) should be incorporated into the Probation Oversight Commission's Office of the Inspector General. Until such time as the new Office of the Inspector General is created, the Working Group recommends that OIM should be retained in its current form.

3. Powers and Responsibilities for the Probation Oversight Commission's Office of the Inspector General.

The Probation Oversight Commission's Office of the Inspector General should have investigative power to address concerns regarding personnel, employee performance, compliance with department policy and procedures, facility operations, and adherence to the law. It should also be charged with providing oversight to ensure data is collected, analyzed and released on Probation's population, progress, discipline, complaints, use of force, adherence to the Probation Department's mission, goals, and recidivism rates. The OIM reports about misconduct and corresponding discipline should be expanded to include monthly reports about all incidents. More thorough and expansive information will help identify policies or procedures in need of change; any cultural issues in the Probation Department fostering misconduct; and/or, any areas warranting specialized training. A computer program for tracking all complaints, allegations, investigations, and discipline should be implemented to identify any personnel with a pattern of misconduct.

The Working Group recommends that the Probation Oversight Commission solicit input from community advocates, youth, and families who can help raise awareness about issues that warrant investigation and provide background and context in different cases.

The Working Group also recommends that the Probation Oversight Commission provide oversight over the process and procedures for grievances and follow-up.

III. THE PROBATION OVERSIGHT COMMISSION SHOULD ASSUME OVERSIGHT OVER JUVENILE AND ADULT PROBATION, AND ITS STRUCTURE SHOULD PROTECT THE UNIQUE NEEDS OF EACH POPULATION

The Board of Supervisors directed our Working Group to include a recommendation as to whether oversight is needed to assess Juvenile and Adult Probation operations collectively or separately.¹² Pursuant to a motion the Board of Supervisors passed on February 16, 2016,¹³ the County hired a consultant to explore dividing the Probation Department between juvenile and adult clients. The Working Group met with and heard testimony from the consultant, Resource Development Associates, and Vincent Schiraldi, and understands their work and analysis of the logistics of changing the Probation Department's structure will not be complete until well after our working group submits our recommendations to the Board. In that context, we developed our recommendation for the relationship between juvenile and adult oversight with the goal of enabling the Probation Oversight Commission to provide the Probation Department with the most thorough and comprehensive oversight possible, while recognizing and protecting the unique needs of each separate population.

Because the consultant is charged with working in consultation with our Working Group, we are also offering our recommendation for dividing the Department between juvenile and adult clients.

A. The Probation Oversight Commission Should Provide Oversight over Juvenile and Adult Probation Operations.

The Working Group agrees there is a need for oversight of both juvenile and adult probation. We believe there should be one single Probation Oversight Commission that includes commissioners and staff members with subject matter expertise in both adult and juvenile probation, criminal, and juvenile justice. The Working Group recommends that the Probation Oversight Commission be structured to reflect the unique needs of each population.

B. The Working Group Recommends a Split Between Juvenile and Adult Divisions in the Probation Department.

Based on testimony from public speakers over the last seven months, as well as the experience and expertise of the working group members, the Working Group believes that the ideal scenario would be to split the Probation Department into two separate adult and juvenile departments. If that option is not financially or otherwise feasible, the Working Group recommends that, at a minimum, the Probation Department should split adult and juvenile probation into two separate

¹² See <https://www.lacounty.gov/files/Probation.Oversight.Motion.2.2.16.pdf>

¹³ See <http://file.lacounty.gov/SDSInter/bos/supdocs/101591.pdf>

divisions, one for juvenile and one for adult. We further recommend the juvenile division should adhere to a youth development model,¹⁴ and include transition age youth (TAY).

Nationwide, there is growing recognition of the importance of building the skills and resources of youth and young people aged 16-24. Commonly referred to as "transition age youth" or "TAY," youth in this age group experience a number of challenges on their path to successful adulthood, especially youth transitioning out of juvenile detention facilities and foster care. Accordingly, the Working Group recommends that there be special protections for transition age youth within the Probation Department.¹⁵ Such protection might come in the form of a special TAY division within the Department; or, inclusion of TAY in the juvenile division.

IV. THE WORKING GROUP RECOMMENDS THE FOLLOWING AUTHORITY, RESPONSIBILITIES, AND STRUCTURE FOR THE PROBATION OVERSIGHT COMMISSION

The Working Group worked in especially close collaboration with County Counsel, the CEO's Office, and the Probation Department in writing this section to ensure our recommendations would pass legal muster and comply with the Brown Act, County policies and procedures around the budget process, and other technical areas. The Working Group would like to acknowledge and thank all three offices as well as Commission Services for providing invaluable assistance, as they did throughout the process of writing these recommendations.

The Working Group strongly recommends that the Probation Oversight Commission be completely independent from the Probation Department and all other county departments. The Probation Oversight Commission should be interdisciplinary, and have the resources and professional staff required to be effective. It should have the authority to review, audit, and make recommendations about the Department's hiring, staffing, training, and evaluation policies and practices.

The Probation Oversight Commission should formally review and provide recommendations on the Probation Department's proposed budget during the budget process. It must have access to complete files, consistent with legal constraints. The Probation Oversight Commission should also have direct access to the Board of Supervisors.

¹⁴ For more information about the value of a youth development model, see *Building a Positive Future for LA's Youth: Re-imagining Public Safety for the City of Los Angeles With an Investment in Youth Development*, September 13, 2016, available at: <http://www.laforyouth.org/wp-content/uploads/2012/06/LAYouthFINAL.pdf>

¹⁵ See, e.g., <https://aspencommunitysolutions.org/the-fund/opportunity-youth-network/>

A. The Working Group recommends the following Authority for the Probation Oversight Commission:

1. The Probation Oversight Commission Must Have Resources.

The new Probation Oversight Commission must be an independent body with sufficient resources, staff, and support to be effective and have the ability to get things done, including an Executive Director, professional staff, and dedicated office space. The Probation Oversight Commission office should not be located within the Probation Department. It must be autonomous, and have the requisite support and personnel to operate independently and effectively, including a healthy budget, its own office (ideally close in location to the Hall of Administration), professional staff, technical support for an interactive database, access to information, and resources.

2. The Probation Oversight Commission Should Formally Review and Provide Recommendations on the Probation Department's Budget.

The Probation Department should provide the Probation Oversight Commission an opportunity to review and provide input on the Department's proposed budget during the budget process. The Probation Department shall provide a baseline reflecting prior year actuals and the adopted budget, at a Probation Oversight Commission meeting in October of each year. The Probation Oversight Commission shall submit its recommendations to the Probation Department in November. The Probation Department shall consider these recommendations in the development of its proposed budget and shall provide an overview at a Probation Oversight Commission meeting prior to its submission to the Chief Executive Office for consideration in their development of the recommended budget to the Board of Supervisors. The Probation Oversight Commission will have additional formal opportunities to make edits and propose alternative budget recommendations to the Board of Supervisors during the Board's consideration of the recommended budget in April, during public hearings in May, during budget deliberations in June, and during the supplemental budget in September or October.

3. The Probation Oversight Commission Should Regularly Review Juvenile Justice Crime Prevention Act (JJCPA) Funding.

The Juvenile Justice Crime Prevention Act (JJCPA) was created in 2000 to provide funding to local communities to support community-based juvenile justice programs and services for youth. According to its authorizing statute, and in the spirit of its legislative intent, JJCPA funds – allocated on a per capita basis – should be spent on community-based programs that employ effective methods to serve youth. The statute specifically mandates that county JJCPA programs “provide a continuum of responses to juvenile crime and delinquency, and demonstrate a collaborative and integrated approach... employ information-sharing systems and ensure that county actions are fully

coordinated and designed to provide data for measure the success of the juvenile justice programs and strategies.”¹⁶

As mentioned in Section I (D) of this report, the Working Group heard testimony suggesting that Probation practices with respect to the use of JJCPA funds have consistently run afoul of the statutory mandate to provide a stable funding source for juvenile programs. Accordingly, the Working Group recommends that as part of its budgetary review responsibilities, the Probation Oversight Commission should carefully review the JJCPA proposed budget to ensure it is used to provide youth with delinquency prevention and early intervention services in the community, consistent with the legislative intent of its authorizing statute.

4. To the Extent Legally Permissible by Law, the Probation Oversight Commission Must Have Access to Complete Files to Conduct Its Oversight Work.

Commissioners and teams conducting oversight must be able to assess issues and information that involve and are generated by multiple agencies (e.g., probation, education, mental health, etc.), and gather information to collect data and look for trends. The Juvenile Court should also be included and play a greater role in juvenile probation oversight. To ensure protection of privacy issues and compliance with privacy laws and regulations, identifying information may be redacted in files prior to submission to the Probation Oversight Commission.

5. The Probation Oversight Commission Should Report Directly to the Board of Supervisors.

The Working Group recommends the Probation Oversight Commission have direct access to the Board of Supervisors. That way, if after corrective actions are recommended or directed, deficiencies continue or the Probation Department shows a lack of responsiveness, the Probation Oversight Commission will have direct access to the Board of Supervisors to address the issue and facilitate a remedy.

B. Responsibilities of the Commission

1. **The Probation Oversight Commission Should Review and Make Recommendations About Recruiting, Hiring, Training, and Evaluation Policies, Practices, and Adherence to Established Standards.**

a) Recruitment

¹⁶ See *Juvenile Justice Crime Prevention Act Annual Report to the Legislature*, March 2016, available at: <http://www.bscc.ca.gov/downloads/2016-3-30%20JJCPA%20Final%20Draft%20Report%20for%20DOF.pdf>

The Probation Department needs probation officers who are uniquely qualified to work with individuals and help promote strengths and develop positive changes in behavior, while also serving as law enforcement officers. The Working Group believes the Probation Department should develop a recruitment plan to attract candidates with the personalities, skills, and qualifications needed within the Department.

b) Background Checks

Backgrounds should be compliant with the standards set forth in California Government Code sections and subsections of 1029, 1031, California Penal Code sections 830, 6035, 6036 and 13510. While background investigations are confidential, the Probation Oversight Commission can and should carefully review the standards for hiring, and the procedures for conducting, processing, evaluating, and storing background checks.

c) Hiring

The Probation Oversight Commission should ensure that hiring practices reflect evidence-based standards and best practices in the field; comply with Board of State and Community Corrections standards; meet Commission on Peace Officers Standards and Training peace officer standards; comply with all relevant legal mandates; and, meet the standards of the Probation Department and the County of Los Angeles.

d) Training

The education and training of probation officers and probation staff is critical to culture change, meeting established standards, and implementing best practices. Training should be ongoing, reflect best practices and current research, evidence, and advances in the field, and meet the legal mandates established by the California Board of State and Community Corrections (BSCC) and the California Commission on Peace Officer's Standards and Training. (POST).¹⁷ Training should include thorough and ongoing education about available and local community-based organizations and services. Probation officers and staff should also receive training in substance abuse treatments, housing options, available educational and vocational community resources, cultural competence, and mental health issues, programs, and services. The Probation Oversight Commission should monitor and audit core training, specialized training, and in-service training.

2. The Probation Oversight Commission Should Provide Oversight Over the Treatment of "At Risk" Youth.

The Probation Oversight Commission should provide oversight over the treatment of "at risk" youth to avoid net-widening, and deeper entry into the juvenile and criminal justice systems. The literature suggests we must be very careful about

¹⁷ These standards are established by BSCC and POST under the authority of California Penal Code Sections 6035, 6036 and 13503.

how we treat “at risk” youth to avoid inadvertently funneling more youth into the juvenile and criminal justice systems by providing them with disproportionate levels of supervision or intervention. Research suggests that a “dosage probation model,” coupled with a rigorous empirical evaluation, increases public safety while decreasing the costs associated with offenders’ persistent cycle of crime.¹⁸ By contrast, research reveals that providing a heavy dosage of supervision and services to low risk clients can set clients up for failure.¹⁹ Accordingly, placing a low risk youth on intensive probation supervision would seem to violate the first tenant of evidence-based practice: dosage based on risk assessment. The Working Group recommends stricter oversight over the way in which the Probation Department supervises “at risk” youth under WIC § 236.

While many youth do need community-based services, Probation needs to improve its ability to identify and access appropriate services tailored to youth at different stages of their development. The Probation Oversight Commission must also take care to monitor the Probation Department’s referral system, and ensure that it encompasses the full array of prevention as well as intervention and rehabilitation services needed. The Probation Oversight Commission should also regularly review the Probation Department’s use of assessment and screening tools to ensure they remain current and consistent with best practices.

The Probation Oversight Commission should pay special attention to review the policies and practices governing the WIC §236 and active investigation cases. “At-risk” populations should be diverted away from probation. Diversion practices and resources should be focused in the community. The Probation Oversight Commission should facilitate the development of, and ensure the Department utilizes, a comprehensive, evidence-informed process for determining when a youth would benefit from community-based services as opposed to probation supervision.

3. The Probation Oversight Commission Should Review and Monitor Reentry Services.

The Probation Oversight Commission should work to ensure greater oversight over the Probation Department’s use of community-based services for both prevention supervision and for probationers upon reentry. The Probation Oversight Commission should work to ensure that the Probation Department contracts with community-based services that are proven effective and adhere to best practices. The Probation Oversight Commission should ensure that the Probation Department provides it with a regular report with respect to quality

¹⁸ See <https://www.fppoa.org/sites/default/files/dosage.pdf>

¹⁹ See Christopher T. Lowenkamp & Edward J. Latessa, *Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low Risk Offenders*, *Topics in Community Corrections*, 3, 6 (2004).

assurance, outcomes, and compliance with contractual obligations for community-based and any other organizations that contract with Probation to provide reentry services.

The Juvenile Reentry Council was disbanded because the Probation Department felt it was too much work to manage. There remains a critical need for it, however, and the Working Group recommends that the Probation Oversight Commission consider the importance of reinstating the Juvenile Reentry Council. Alternatively, the Working Group recommends the creation of a reentry advisory committee, aligned with the Probation Oversight Commission.

4. The Probation Oversight Commission Should Monitor Capital Improvements.

Capital Improvements should be included as a part of ongoing oversight. The Probation Oversight Commission should review all capital improvement projects prior to their submission to the Board of Supervisors. The Probation Oversight Commission should monitor to ensure that the Probation Department develops a long-term capital improvement plan.

5. The Probation Oversight Commission Should Make Policy Recommendations.

The Probation Oversight Commission should use its authority and resources to make policy recommendations regarding the findings in this report, and other issues brought to its attention.

6. The Probation Oversight Commission Should Maintain a "Live" and Current Database and Information Clearinghouse.

The Probation Oversight Commission should maintain an active website, that includes a live database to house all reports; status updates on recommendations; and, follow-up. This database should include links to the various reports and recommendations from all oversight entities, and be available and easily accessible by the public, county departments, citizen oversight entities, advocacy groups, and other organizations to promote transparency and facilitate monitoring and oversight. The Probation Oversight Commission should streamline the flow of information, reports, and recommendations into a comprehensive system that addresses and responds to concerns.

7. The Probation Oversight Commission Should Work to Strengthen the Partnership Between LACOE and Probation.

The Probation Oversight Commission should take care to clarify the role between the Probation Department and LACOE. It should work to ensure coordination and an effective process for the two agencies to work together, share information, and report regularly both to one another, and to the Probation Oversight Commission, about the educational progress of probationers.

The Working Group recommends that the Senior Director of Education Services in the Los Angeles County Probation Department report directly to the Chief or Chief Deputy Probation Officer, as originally designated when the position was established. The Chief Probation Officer and the Superintendent of LACOE should work together on comprehensive education reform. The community college district should be intentionally included in this collaboration, and in a revised reporting structure.

The increased collaboration between LACOE and Probation should include ongoing input from LACOE teachers working in juvenile camps and halls, as well as from probation officers. A regular meeting should be established in order to address any issues that come up in order to promote greater collaboration between these two entities, which is essential for youth in the system.

C. Qualifications and Composition of the Probation Oversight Commission.

1. Qualifications of Probation Oversight Commissioners

Probation Oversight Commissioners should have background and experience in a variety of disciplines, including Probation, Rehabilitation, Mental Health, Public Health, Education, Health Care, Social Work, Facilities, Law Enforcement. The Probation Oversight Commission should be interdisciplinary, and reflect and possess an understanding of the needs of the communities that interact with the Probation Department the most. Commissioners should neither be currently employed by nor have been employed over the prior 12 months by a county agency. County Counsel shall develop a comprehensive conflict of interest policy and a code of conduct policy to be approved by the Board of Supervisors. Each commission member must sign conflict of interest and code of conduct statements certifying compliance.

2. Composition of the Probation Oversight Commission

- a) The Probation Oversight Commission should include nine Commissioners who reflect the following representation:
- i. Health care / Mental health
 - ii. Former law enforcement or Probation separated by at least 12 months.
 - iii. Formerly incarcerated person and/or formerly under supervision or custody within the probation system, separated by at least 12 months.
 - iv. Family member of formerly incarcerated person and/or person with experience being under probation supervision separated by at least 12 months.
 - v. Educator with juvenile court school, adult education and/or community college education experience.
 - vi. Former representative of the judiciary from adult criminal court
 - vii. Former juvenile court judge.

- viii. Academic subject matter expert or researcher in probation and/or criminal justice issues.
- ix. Juvenile justice expert, advocate, or community organizer
- x. Substance abuse expert.
- xi. Community-based organization (including restorative justice, and/or faith-based), advocate, or civil rights community leader.

- b) The Working Group feels strongly the Probation Oversight Commission must include former probationers with juvenile and adult experience; a family member of a former probationer; and, a representative from a community-based organization or a civil rights leader.
- c) The Probation Oversight Commissioners should reflect cultural, ethnic, and racial diversity within the community, and include gender diversity, and LGBTQ representation.

3. The Working Group Recommends Inclusion of the Juvenile and Superior Courts in Oversight.

The Working Group believes the courts should be included in an ongoing and meaningful way as part of all Probation oversight efforts. Courts are currently removed from oversight of Probation. Los Angeles County is an outlier in that respect, and is the only county in the state where courts are not the duly authorized body for oversight. The Working Group recommends inclusion of judges in the Probation Oversight Commission to broaden its perspective and enhance its oversight work.

4. The Working Group Recommends Community Involvement in Oversight.

Community-based organizations (CBOs) that serve probationers have tremendous expertise, and are essential for inclusion in the oversight process and reform efforts. CBOs must also be held accountable with respect to the services they provide. CBO representation should be included on the Probation Oversight Commission, and in the discussion about the standards to which CBOs must be held accountable. The Probation Oversight Commission should include system-impacted individuals, particularly those with the direct experience of being under probation supervision and/or custody. The Probation Oversight Commission should also hold regular community hearings, including some meetings in the evenings after work, in all five supervisorial districts, to allow members of the community to attend and participate.

5. Oversight Must Include the Voices of Families, Guardians, and Relative Caregivers.

The Probation Oversight Commission should work to ensure the inclusion of direct feedback from family members and guardians of youth in the system. Testimony in the Town Halls and Working Group meetings revealed that family members and guardians feel they lack an open, in-person forum in which they can

provide feedback or concerns they have regarding Probation. The Probation Oversight Commission should work proactively to ensure the voices of family members and guardians are heard, and ensure the provision of ample notice of meetings. If possible, the Probation Oversight Commission should work to make transportation available, and hold meetings at convenient times and locations for family members.

6. DCFS and the Department of Mental Health Should be Included in Collaborative Oversight Discussions.

The Probation Oversight Commission should work to facilitate improved collaboration between and among relevant county departments, and to bring the Department of Mental Health into its discussions. The Working Group heard testimony revealing that in too many cases involving crossover youth and youth with mental health issues, proper communication is lacking, with each department left thinking a different department is responsible for addressing critical needs, which ultimately go unaddressed.

D. Administrative Issues and Procedures

1. Appointment Process

The Working Group recommends the appointment of nine commissioners to the Probation Oversight Commission. The Working Group recommends that the Board of Supervisors appoint five commissioners, and that the Board of Supervisors jointly select the remaining four at-large commissioners by majority vote. The Working Group further recommends that the selection of the four at-large commissioners take place through a county-wide application process coordinated by an independent human resources expert.²⁰

2. Terms of Appointment

The Working Group recommends a term of appointment of four years for Probation Oversight Commissioners, with a maximum of two terms.

3. By-Laws

The Working Group recommends that the Probation Oversight Commission write its own by-laws, sign financial disclosures, and submit to a Live Scan investigation.

4. Training for Commissioners

The Working Group recommends that Probation Oversight Commissioners and staff receive training in oversight, conducting inspections, and best practices in relevant areas.

²⁰ This process was approved and used for the appointment of members of the Sheriffs Oversight Commission, and complies with Brown Act requirements.

5. Stipend and Mileage

The Working Group recommends that Probation Oversight Commissioners receive a stipend and reasonable reimbursement for mileage.

FINDINGS

To avoid recommending the creation of yet another siloed Commission, divorced from the context of the larger issues impacting the nation's largest probation system, and to ensure the new Probation Oversight Commission contemplates the unique opportunity the Probation Department now has to realize the promise of change and reform, we intentionally met with and heard testimony from a wide array of community stakeholders. We did not confine ourselves to a narrow interpretation of the scope of our governing motion. Rather, we intentionally reached out to and solicited feedback from as many experts and varied stakeholders who offered as many different and informative perspectives as possible. In so doing, we heard repeated testimony around a number of concerns and themes that we feel compelled to highlight in the context of offering our recommendations. We are thus including this section of "findings" in the report, which are relevant to our recommendations, and we believe will be essential to consider should the Board choose to adopt and implement our recommendations.

1. Probation Needs a Clear Mission and Consistent Leadership.

The Probation Department lacks a clear mission that drives its practice, aside from laws and mandates. This void can be felt throughout the Probation Department; as a result, Probation ends up getting pushed and pulled in different directions, and ends up being reactive, as opposed to working proactively towards clear, well-understood departmental goals. The Department needs a recognized and accepted guiding philosophy to inform its decisions and actions. The Working Group encourages the Probation Oversight Commission to work with the Probation Department to ensure the development of and compliance with a clear mission and strategic plan that is felt throughout the Department.

The Probation Oversight Commission should ensure that in its work, the Probation Department develops and utilizes a process of continued review and improvement based on data and outcomes. The Probation Oversight Commission should also work to facilitate multidisciplinary interaction and communication to implement recommendations.

2. There Should be a Thorough, Constructive, "Friendly" 360 Evaluation of all Departments, Individuals, and Agencies Involved in or Working With the Probation Department.

Currently, many professionals and other stakeholders in various fields are not evaluated in a meaningful, constructive way, and they should be to promote ongoing improvements of the system.

3. The Probation Department Should Build on Probationers' Strengths.

There is a need for a greater strengths-based approach throughout the County for both adult and juvenile supervision.

4. The Services Integration Branch is Inadequate to Provide the Follow-Through Necessary for Effective Oversight.

There is a lack of follow-through for current oversight reports and recommendations. Many recommendations seem to fall into a "black hole," and the existing oversight entities lack the capacity to compel implementation. The County Service Integration Branch (SIB) was organized to coordinate county services for children and families by enacting the following strategies: 1) developing and implementing client-centered approaches for integrated services; 2) promoting information sharing; 3) increasing cost avoidance strategies that yield improved service outcomes; 4) enhancing partnerships with community-based organizations; and 5) maximizing existing resources and program effectiveness through program evaluation and improved data management.

Repeated reports reveal, however, that county services are siloed and non-integrated; communication between and among departments and agencies is fragmented; data is difficult to access; and program effectiveness and evaluation is inconsistent. The SIB appears reactive, focused on project-based interventions on a case-by-case basis, determined by Board directives, as opposed to taking proactive measures consistent with a strategic plan. The SIB lacks continued reviews, updates or evaluation of outcomes built into its recommendations, and there is no clear measure of successful or effective implementation and outcomes. Once the SIB develops strategies to improve integrated services, a plan is given to the designated county department for implementation, without documented follow-up.

The Working Group recommends that integrative methodologies be incorporated in the strategic countywide plan. In order to achieve the vision of the SIB and the coordination and integration of countywide services for youth and families, including juvenile and adult probationers, the Working Group encourages the Board of Supervisors to restructure the SIB.

5. The Probation Department and Law Enforcement Lack a Clear Understanding of Existing Community-Based Organizations and Available Community Services.

The Probation Department has failed to tap into existing community-based resources. Too many services are being outsourced out of California. Los Angeles County needs stronger budget oversight and better training and education of probation officers, with an emphasis on training officers about how best to serve different populations.

6. Antelope Valley and Lancaster Feel Underserved and Disregarded by the Probation Department.

At a Town Hall meeting, the Working Group received testimony suggesting the Antelope Valley has the largest proportion of AB 109 Probationers in Los Angeles County, but gets the least amount of Probation resources and services. Testimony at the Town Hall in the Fifth Supervisorial District revealed a strong level of frustration with the Probation Department's lack of engagement with or commitment to the community in Lancaster and the Antelope Valley.

SPECIAL CONSIDERATIONS FOR SUPERVISION OF JUVENILE PROBATION

- 7. Los Angeles County Needs a Strategic Plan for Juvenile Justice.**
To address the current, siloed structure with multiple bodies looking at what Probation is doing, we need a new, comprehensive strategic plan for juvenile justice in Los Angeles County. This plan must include collaboration and integration of all involved, and embody multiple, disparate disciplines. All stakeholders need to be represented at the table, including parents and family members of probationers. This plan should be in alignment with the new strategic plan for the County of Los Angeles.
- 8. Juveniles Need Tailored Support from Prevention through Reentry.**
There is a need for one case plan, including multi-disciplinary allied agencies, with a case manager to follow youth - from low risk youth to the most serious offenders - from prevention through reentry. This recommendation does *not*, however, suggest that probation officers should supervise youth receiving only prevention services, which the Working Group is concerned encourages net-widening. Rather, the Working Group recommends the Commission facilitate collaboration with community-based organizations and other agencies, when appropriate, to provide youth with prevention and early intervention services, and keep them out of the juvenile and criminal justice system, and off of probation.
- 9. Probation Youth Need for Job Readiness and Training.**
Vocational training and job readiness, preparation, and training should be prioritized and offered, especially to youth in the juvenile probation camps, and in partnership with community colleges for youth who are out of custody.
- 10. Youth Need Greater Outreach to Locate Available Family Members, Relatives, Relative Caregivers, and Kin.**
There needs to be greater work done to find extended relatives, relative caregivers, and kinship providers for youth who are frequently sent to juvenile hall for lack of a stable family situation. There is a failure to identify relatives and available relative caregivers and kin who might be available to care for a court-involved youth. There also should be family-centered access to all county services relative to successful rehabilitation and the prevention of recidivism.
- 11. AB 216 Is Problematic for Confined Probation Youth.**
The ability to graduate with fewer credits leads to probation youth completing their credits while in camp or the halls, before completing their term of confinement. As a result, youth are sitting around with nothing productive to do. These youth need to be engaged in educational enrichment, job training, and other productive learning opportunities to help prepare them for successful reentry.

12. The Pre-Plea Report System in Los Angeles County Can Be Harmful to Youth Who Have Not Been Adjudicated, and Might Not Belong on Probation.

We have heard a number of concerns about the pre-plea report system, which is unique to Los Angeles County and Riverside, and potentially impacts probation officers' caseloads and effectiveness. Because probation officers are tasked with writing pre-plea reports, in lieu of disposition reports, they cannot obtain the full picture and all of the information that might be necessary and helpful for disposition and subsequent services. This practice merits careful review and reconsideration.

13. Special Protections for Youth and Uniquely Vulnerable Populations.

The Probation Oversight Commission should pay special attention to the need to evaluate, assess, and afford special protections for uniquely vulnerable youth. Probation officers and staff should receive special training in the unique sensitive issues facing crossover youth, LGBTQ youth, undocumented youth, and youth with mental health issues, and should also receive training in the eligibility requirements for, and the protections afforded by Special Immigrant Juvenile Status (SIJS).

The Probation Department should also separate day reporting center (DRC) adult and juvenile lobby entries, so children and youth do not have to come in with adults in the lobby areas.

SPECIAL CONSIDERATIONS FOR SUPERVISION OF ADULT PROBATION

14. Special Monitoring of Probation's Felony Supervision Caseloads

Probation officers perform their duties individually or in teams, and supervise over 50,000 adults for felony offenses, many of whom suffer from mental health issues, substance abuse, gang affiliation, lengthy criminal histories, homelessness and/or transience. These assignments afford probation officers significant autonomy, and some officers are armed, and assigned to multi-agency law enforcement task forces. These assignments should be closely monitored.

15. AB 109/ Realignment Supervision

As the lead agency for Post-Release Community Supervision, the Probation Department has sole responsibility for determining AB 109 eligibility, modifying risk levels, and determining the need for additional monitoring from law enforcement. AB 109 cases, which often include supervision and involvement from multiple agencies, organizations, and services, require careful collaboration and cooperation. The probation officers assigned to supervise these cases are often armed. AB 109 also authorizes "flash incarceration" at the local level for up to 10 days, which has been described as a "therapeutic" intervention. Careful review of these practices is warranted.

CONSIDERATIONS FOR BOTH ADULT AND JUVENILE SUPERVISION

16. Homelessness and Housing

Homelessness and housing is a critical problem in Los Angeles County that can disproportionately affect youth and adults under probation supervision. Special training for DPOs and probation supervisors in housing resources and opportunities, advocacy services, and sealing and expungement programs can make a critical difference.

17. Substance Abuse

Substance abuse is a terrible threat to youth and adults in the juvenile and criminal justice systems. Probation officers must be trained to communicate and work in closer collaboration with substance abuse programs. On the juvenile side, we heard disturbing testimony about youth who test dirty from probation, yet still graduate from substance abuse programs, which might test the youth at different times. Drug court in Los Angeles, which has been proven effective and exists in three of eight locations, provides services to youth under its jurisdiction. These services should be available to all youth on probation who struggle with substance abuse issues. Corresponding services for adults should be available for all adults under probation supervision who are struggling with substance abuse issues. Probation should take care to educate and inform officers and probationers about the dangers of fatal, cheap drugs like "spice," which are on the rise and have claimed the lives of an increasing number of youth and adults in its care.

18. Mental Health Services and Counseling

We need greater services for youth and adults who are deemed "not competent" to stand trial. The court cannot order mental health services for individuals who are not under the court's jurisdiction. Mental health services, restorative justice services, and counseling should all be made available for those probationers.

19. Racial Equity

Racial and ethnic disparities plague all aspects of the juvenile and criminal justice system. Education and training about racial bias (both implicit and explicit), as well as structured guidelines for decision-making can help ensure probation officers' decisions to charge a juvenile or adult for a probation violation are less susceptible to racial bias.

Administration- Personnel Issues

20. Separate Clearance Process for VISTO

There should be a separate clearance process for VISTO (volunteers and interns) from Human Resources Employment processing and clearance. At the same time, the Department must take special precaution and measures to screen who can come in to facilities to protect the safety of probationers and the public.

21. Records Management

The Working Group believes there is a need for a comprehensive records management system to allow for accurate recording of all department reports, ease in tracking data, and an audit to reveal who is accessing what data.

APPENDIX A

**LOS ANGELES COUNTY PROBATION DEPARTMENT-RELATED
EXISTING COMMISSIONS', COMMITTEES' AND AGENCIES'
ROLES AND RESPONSIBILITIES**

I. CITIZENS' COMMISSIONS

Civil Grand Jury

The civil or watchdog, responsibilities of the grand jury encompass the examination of all aspects of the county government, including special districts, to ensure that the county is being governed honestly and efficiently and that county monies are being handled appropriately. The Grand Jury is mandated by law to inquire into the condition and management of public jails, including juvenile institutions.

Functions of the Civil Grand Jury include the general business meetings and the committee meetings of the Grand Jury to inquire into and possibly investigate the operation of city and county government and special districts of local government. Valuable information is obtained by meeting with county officials, visiting county facilities and conducting independent research by using the services of an outside auditor. Conclusions of the auditor's findings are developed into recommendations on how to improve county government and public services and ways to save taxpayers' dollars and presented to the Board of Supervisors. At the end of its term of service, the Civil Grand Jury is required by law to submit a final report to the Presiding Judge of the Superior Court.

Sybil Brand Commission

The Sybil Brand Commissioners conduct inspections of jails, lockups, probation and correctional facilities in the Los Angeles County at least once each year. They may conduct additional inspections more often as the Commission may deem necessary or as directed by a judge of the Superior Court. These inspections involve a complete evaluation of the condition of each facility by the members of the Commission or a committee of the Commission. These inspections involve a complete evaluation of the condition of each facility's effective and economical administration, cleanliness, discipline and comfort of its inmate and juveniles at Probation camps. Additionally, the Commission may call for and inspect the permit and registration of such jail and lockup, whether the institution is located within and without the corporate limits of any incorporated city. The commission also inspects group home facilities to ascertain their condition.

II. BOARD-APPOINTED MONITORING OR INITIATIVES

Auditor-Controller – DOJ Audit Compliance Unit

In August 2010, the Board of Supervisors (Board) instructed the Auditor-Controller (A-C) to monitor the Probation Department's progress toward implementing the federal Department of Justice (DOJ) settlement agreement provisions for the camps. This compliance unit monitors 23 of the provisions related to various issues such as use of force, rehabilitation and behavior management, and staff training. The A-C issues formal monitoring reports to the Board detailing the results of their reviews.

In addition, in December 2004 the Board instructed the A-C to monitor the DOJ settlement agreement provisions for the juvenile halls. In October 2009, the DOJ concluded that the County had implemented all of the settlement agreement provisions and at the request of the Chief Executive Officer, the A-C continues to monitor the County's compliance with the 35 provisions.

Comprehensive Education Reform Committee (CERC)

The Comprehensive Education Reform Committee was created by the Board in 2007 to develop a comprehensive plan to dramatically reform education programs in the County's juvenile halls and camps. The Committee is comprised of various key stakeholders including the Chief Probation Officer, the Los Angeles County Superintendent of Schools, Los Angeles County Board of Education, Probation Commission, County Librarian, Director of Mental Health, the Chief Executive Officer, and the Los Angeles County Education Coordinating Council.

The Committee developed 35 recommendations for education reform implementation. All 35 recommendations were unanimously approved by the Board. Based on a rubric that has been created for each recommendation to measure the level of compliance, out of the 35 recommendations, 33 are either fully or partially compliant, as of February 2016. The Committee conducts quarterly meetings which provide other key stakeholders with the opportunity to participate and provide input regarding education reform. Consequently, the Comprehensive Education Reform Committee is still in place and remains active in guiding education reform strategies for probation youth.

Countywide Criminal Justice Coordination Committee (CCJCC)

The Countywide Criminal Justice Coordination Committee (CCJCC) is an advisory body established in 1981 by the Board of Supervisors to improve the effectiveness and efficiency of the local criminal justice system. Originally created as part of a comprehensive program to reduce violent crime, the 59-member committee brings together virtually all of the top leaders in criminal justice and local government to form a unique policy-level forum whose overall purpose is to strengthen interagency coordination, communication, and cooperation.

The CCJCC is a voluntary organization. It has no statutory powers or legal authority, nor does it have independent authority to set policies or determine resource allocations. Yet, the committee is able to play a leadership role in addressing a variety of countywide justice issues because of the commitment and support of its members. This membership reflects the support of municipal, county, state, and federal jurisdictions, and includes law enforcement executives, prosecutors, judges, court administrators, criminal justice agency heads, as well as elected officials and key leaders from the disciplines of health services, mental health, education, and affirmative action.

Juvenile Reentry Council

The County established the Juvenile Reentry Council, chaired by the Chief Executive Office and the Superior Court. The Council was tasked with overseeing and coordinating reentry services for the County, particularly for youth leaving camps. This Council does not currently meet.

Office of the Independent Monitor (OIM)

Pursuant to a Board-approved contract, as authorized under Government Code Section 31000, the Office of the Independent Monitor's duties and functions consist of the following:

- Providing periodic status reports on selected investigations, uses of force, the disciplinary process, and reviews of significant matters to the Board of Supervisors and the Chief Probation Officer.
- Assisting in the initiation, structuring, and development of ongoing internal investigations conducted by the Probation Department's Professional Standards Bureau to ensure that investigations are complete, effective, and fair.
- Participating, as necessary and appropriate, in ongoing investigations including interviewing witnesses, responding to crime scenes, and reviewing tangible evidence and relevant documentation.
- Monitoring ongoing investigations and reviewing completed investigations conducted by the Probation Department's Professional Standards Bureau to ensure that content, disposition of employment issues, and recommended discipline are appropriate.
- Monitoring and making recommendations about direction, disposition, discipline, and corrective action throughout the Probation Department's disciplinary process.
- Establishing and maintaining liaison with the District Attorney, Probation Executives, Probation Units and Facilities, County Counsel, employee unions, the Probation Commission, the United States Department of Justice, the Federal Bureau of Investigation, civil rights organizations, community based organizations, and other outside entities.
- Performing thorough analyses and reviews of selected Probation Department internal investigations to determine whether Probation Department policies, practices, and procedures should be reexamined to prevent the future occurrence of similar allegations of misconduct, and when warranted, developing and proposing recommendations for revisions of the implicated policies, practices, or procedures.
- Performing audits of Probation Department operations, reviewing selected internal investigations, and studying best practices from probation departments in other jurisdictions in order to develop and improve policies, practices, and procedures to ensure that investigations of intra- departmental misconduct and disciplinary procedures are more effective, fair, thorough, and impartial.
- Devising and recommending mechanisms to provide positive recognition and incentives to employees who perform duties in an exemplary fashion with regard to integrity, conduct, and other issues that frequently are the subject of discipline.
- Setting an operational philosophy to ensure that the needs and goals of the

community, the Board of Supervisors, the Probation Department, and the staff are met.

Probation Commission

Advisory to the Chief Probation Officer (CPO) in lieu of the County Juvenile Justice System Commission, and issues annual advisory to the CPO pursuant to WIC Section 240.243; and may inspect juvenile camps and halls in LA County to assure compliance with applicable laws and regulations regarding the health, safety, welfare, and education of juveniles at these facilities. The Commission may provide each juvenile facility administrator with its documented findings and evaluation on an annual basis pursuant to Title 15 of the California Code of Regulations, Section 1313.

Probation's Ombudsman Office

The Probation Ombudsman was created in 1997 by the Board of Supervisors. The Ombudsman provides independent, confidential, informal, and neutral/impartial services to Probation clients, their families, and the general public with complaints related to Probation's service delivery, policies, and/or procedures. Initiates investigations and assists in resolving issues. Maintains a toll-free Help Line.

Probation Outcomes Study Work Group

- Identify how agencies, communities, and families can better prevent youth entry into the juvenile justice system;
- Provide insight into how to prevent youth who enter the juvenile justice system from reaching the point of being placed in out-of-home care (suitable placement) and/or Probation camps;
- Provide direction on how to build an integrated and coordinated response system that would address the complex needs of youth and families, particularly those who penetrate deeply into the system; and,
- Identify key outcomes that can be measured consistently and regularly (e.g., annually) by Probation, LACOE and allied County departments.

III. COUNTY DEPARTMENTS

Auditor-Controller's Audit Division

The Auditor-Controller conducts audits and prepares reports relating to the Probation Department's budget, fiscal and personnel functions to ensure compliance with Board-approved policies including recruitment, cost effectiveness of camps and halls, grant outcomes and evaluations, Request for Proposal procedures, operating costs, and numerous realignment and Prop 47 issues.

Probation's Contract Monitoring Office

The Contract Monitoring Office within the Probation Department is tasked with determining whether the Probation Department's contractors are financially viable and also to maintain the necessary fiscal and administrative systems and records to properly manage contracts in order to ensure compliance with Federal, State and County guidelines and determines whether contractors are providing the type and required level of services specified in their contracts.

Probation's DOJ Project Office

A comprehensive audit and quality assurance system is fully implemented in Probation. Camp program performance is measured through on-going quality assurance reviews, and analysis of performance measures and outcome measures. Results are shared with managers monthly. Data is entered into a Continuous Monitoring System that assists with tracking trends and producing various management reports on audit outcomes and analysis. Control charts in the system are used to plot data and to identify anomalous trends that require corrective measures. The goal is to provide continuous process improvement by establishing performance expectations, monitoring data, and implementing corrective action plans. Corrective action plans are developed in collaboration with program directors for process improvement and accountability when audit expectations are not met.

IV. STATE AGENCIES OR OTHER BODIES

Board of State and Community Corrections – Facilities Standards & Operations (FSO)

Collaborates with local law enforcement agencies to maintain and enhance the safety and security of local adult and juvenile detention facilities.

- Collects data relative to operations and demographics from local detention facilities
- Establishes minimum standards for local adult and juvenile detention facilities
- Conducts biennial inspections of local adult and juvenile detention facilities
- Conducts compliance monitoring pursuant to the federal Juvenile Justice and Delinquency Prevention Act (JJCPA)
- Provides technical assistance and training to local detention facilities

Juvenile Justice Coordinating Council (JJCC)

To be eligible for Juvenile Justice Crime Prevention Act (JJCPA) funding, each county shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of county-based responses to juvenile crime. The JJCC is a body created pursuant to WIC 749.22 to oversee plans developed for spending of JJCPA funds. The JJCC must include, at a minimum, the chief probation officer, as chair, and one representative each from the district attorney's office, the public defender's office, the sheriff's department, the board of supervisors, the department of social services, the department of mental health, a community-based drug and alcohol program, a city police department, the county office of education or a school district, and an at large community representative. In order to carry out its duties pursuant to this section, a coordinating council shall also include representatives from nonprofit community-based organizations providing services to minors.

APPENDIX B



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

RAYMOND G. FORTNER, JR.
County Counsel

August 4, 2006

TELEPHONE
(213) 974-1821
FACSIMILE
(213) 626-2105
TDD
(213) 633-0901

Gabriella Holt, President
County of Los Angeles
Probation Commission
9150 E. Imperial Highway
Downey, California 90242

Re: Powers and Duties of the Probation Commission

Dear Ms. Holt:

Your letter of May 30, 2006, presents the following questions regarding the powers and duties of the Probation Commission:

1. What are the specific powers and duties of the Los Angeles County Probation Commission?
2. Does the Probation Commission have the powers of a Juvenile Justice Commission?
3. Are any duties imposed upon the Probation Commission by Title 15, § 1313?
4. What constitutes a "majority" for action taken at a Commission meeting, a majority of the Commission or a "majority" of the quorum in attendance?
5. Can the duties described in Welfare and Institutions Code § 209(b) be delegated by the Juvenile Court to the Probation Commission?

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CONCLUSIONS

1. The Probation Commission's sole duty is to function in an advisory capacity to the Probation Officer. Its powers are limited to those necessarily required to perform that duty.
2. The Probation Commission is not a Juvenile Justice Commission and has none of the powers and duties of a Juvenile Justice Commission.
3. Title 15, § 1313 does not impose duties upon the Probation Commission.
4. A "majority" for action taken at a Probation Commission meeting is a majority of the quorum in attendance.
5. The duties described in Welfare and Institution Code § 209(b) can be delegated by the Juvenile Court to a Juvenile Justice Commission, but not to the Probation Commission.

ANALYSIS

The Number of Commissioners Required to Take Action

We first address the issue of what constitutes a majority for action taken at a Probation Commission meeting.

The Los Angeles County Probation Commission must consist of no less than seven members.¹ By order of the Board of Supervisors, there are to be 15 members of the Probation Commission, with three nominated by each of the five members of the Board of Supervisors.²

¹ Welfare and Institutions Code § 240.

² County of Los Angeles Board of Supervisors Order 111, of September 7, 1999.

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A quorum is generally defined as the least number of the members of a body that can transact the business of that body.³ At common law,⁴ and by statute,⁵ a simple majority of a body's members constitutes a quorum. Applying this rule, a quorum of the Probation Commission consists of at least eight of its members. If there are vacancies on the Commission, a quorum is computed as if there are no vacancies.⁶ In the case of your Commission, a quorum requires the attendance of at least eight members, even if there are vacancies in the number of appointed Commissioners. A meeting of the Commission may not proceed without a quorum.

In the absence of a statutory restriction, the majority of a quorum may take action.⁷ That is, if only eight members of the Probation Commission are present at a meeting, a quorum exists, and the votes of five of those members will be sufficient to take action.

The Powers and Duties of the Commission

Your remaining questions all concern the powers and duties of the Probation Commission and whether those powers and duties are commensurate with those of a Juvenile Justice Commission. The Probation Commission does not have the powers and duties of a Juvenile Justice Commission. The two Commissions are distinct bodies with different statutorily defined powers and duties.

³ *People v. Dale*, (1947) 79 Cal. App. 2d 370, 375.

⁴ *Urisno v. Superior Court*, (1974) 39 Cal. App. 3d 611, 621.

⁵ Civil Code § 12, Code of Civil Procedure § 15, *Ford v. Civil Service Commission*, (1958) 161 Cal. App. 2d 692, 697.

⁶ *Pennington v. George W. Pennington & Sons*, (1950) 27 Cal. App. 57, 59-60.

⁷ *People ex. rel. Flint v. Harrington*, (1883) 63 Cal. 257, 259-260.

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The Legislature has established Juvenile Justice Commissions in each county. These Commissions are required to have between seven and 15 members. At least two members must be between the ages of 14 and 21. Juvenile Justice Commissioners are appointed by the Presiding Judge of the Superior Court.⁸ Juvenile Justice Commissions are charged with a range of duties and granted powers commensurate with those duties. A Juvenile Justice Commission is required to inquire into the administration of the Juvenile Court Law in the county. It has access to public institutions, and must inspect those institutions no less than once a year. It may hold hearings and issue subpoenas.⁹ A Juvenile Justice Commission may inquire into the operations of group homes¹⁰, and may make recommendations to any person charged with administration of any provision of the Juvenile Court law.¹¹

In counties with a population in excess of 6 million, there is a Probation Commission "in lieu of" a Juvenile Justice Commission. A Probation Commission consists of at least seven members appointed by the authority that appoints the Probation Officer.¹² Los Angeles County is the only county which meets the requirements of the statute, and is the only county with a Probation Commission. "In lieu of" means "instead of," "in place of," or "in substitution for."¹³ In the County of Los Angeles, there is a Probation Commission "instead of," "in the place of," or "in substitution for," a Juvenile Justice Commission.

⁸ Welfare and Institutions Code § 225.

⁹ Welfare and Institutions Code § 229.

¹⁰ Welfare and Institutions Code § 229.5.

¹¹ Welfare and Institutions Code § 230.

¹² Welfare and Institutions Code § 240.

¹³ *Carey v. Retirement Board*, (1955) 131 Cal. App. 2d 739, 745. Disapproved on other grounds, *Abbott v. City of Los Angeles*, (1958) 50 Cal. 2d 438, 453.

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The Board of Supervisors of Los Angeles County appoints the Probation Officer,¹⁴ and, therefore, appoints the members of the Probation Commission. In contrast to the broad duties imposed upon a Juvenile Justice Commission,¹⁵ the Probation Commission, by statute, is expressly charged with but one duty: it advises the Probation Officer.¹⁶

Even if we discerned an ambiguity in the statutory language, the rules of statutory construction would lead us to the same conclusion. The statute defining the Probation Commission's duties lists only one duty, advising the Probation Officer. Under the doctrine of *expressio unis est exclusio alterius*, the express statutory description of that single duty precludes the existence of other implied duties.¹⁷

In construing a statute, we must give effect to every word and clause and must consider the absence of a word or clause.¹⁸ In describing the duties of the Juvenile Justice Commission, the Legislature listed a series of duties and empowered the Juvenile Justice Commission to advise all persons associated with the administration of the Juvenile Court law. In the case of the Los Angeles County Probation Commission, the Legislature imposed the duty of advising only one of that class of officials, the Probation Officer. If we were to conclude that a Probation Commission has the same powers and duties as a Juvenile Justice Commission, the description of a Probation Commission's duty found in Welfare and Institutions Code § 243 would be surplusage. A rule of statutory construction dictates that a statutory interpretation resulting in surplusage should be avoided.¹⁹

¹⁴ County of Los Angeles Charter §§ 11, 14.

¹⁵ Welfare and Institutions Code § 229.

¹⁶ Welfare and Institutions Code § 243.

¹⁷ *Burlingame v. Treager*, (1929) 101 Cal. App. 365, 371.

¹⁸ *Arden Carmichel Inc. v. County of Sacramento*, (2001) 93 Cal. App. 4th 507, 517.

¹⁹ *Cooley v. Superior Court*, (2002) 29 Cal. 4th 228, 249.

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The legislative history of Juvenile Justice Commissions and the Los Angeles County Probation Commission is also consistent with our interpretation that the Los Angeles County Probation Commission has powers and duties different from those of a Juvenile Justice Commission.

In 1945, the management and control of the Juvenile Halls in all California counties, including Los Angeles County, was vested by the Legislature in each county's "Probation Committee." Probation Committees were the statutory predecessor to both Juvenile Justice Commissions and the Los Angeles County Probation Commission.²⁰ But since 1949, through several legislative amendments, Los Angeles County's Probation Commission or Probation Committee has had different powers and duties than those legislatively granted to the Juvenile Justice Commissions or Probation Committees in all other counties.

In 1949, the applicable statute was amended to provide that the management of the Juvenile Hall in Los Angeles County was under the control of the Probation Committee. In all other counties, the Probation Committee had only an advisory function.²¹

In 1951, a Probation Committee still managed the Juvenile Hall in Los Angeles County. Probation Committees in all other counties still only had an advisory role, but the Juvenile Court in those other counties could place control of the Juvenile Halls in the county's Probation Committee.²²

Things changed again in 1957. The Legislature took management of the Los Angeles County Juvenile Hall away from the Probation Committee and gave it to the Probation Officer. The Probation Committee was left with an advisory role. In all other counties, the Probation Officer had control of the Juvenile Hall subject to the Probation Committee's advice, but the Juvenile Court could still place control of the Juvenile Halls under the Probation Committee.²³ This option

²⁰ Stats 1945, Chap. 967 § 4.

²¹ Stats 1949, Chap. 1585 § 3.

²² Stats 1951, Chap. 582 § 3.

²³ Stats 1957, Chap. 906 §§ 2 and 3.

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was not available in Los Angeles County where the Probation Committee's role could only be advisory.

In 1961, the Legislature created Juvenile Justice Commissions in each county with duties similar to those described in the current statute. Probation Committees in those counties were eliminated. In Los Angeles County, a Probation Committee was established "in lieu of" a Juvenile Justice Commission. The statutory duties of the Probation Committee in Los Angeles County were the same as those of today's Probation Commission; it was an advisory body to the Probation Officer.²⁴

In 1987, the Los Angeles "Probation Committee" was renamed "Probation Commission." Its duties were not changed.²⁵

Since 1949, the Legislature has consistently established different powers and duties for the Probation Committee or Probation Commission in Los Angeles County than those provided to Probation Committees or Juvenile Justice Commissions in all other counties. At times, the Commission or Committee in Los Angeles County has had greater powers and duties than those in other counties. At other times, it has had less. But for more than five decades, the Legislature has consistently treated the Los Angeles County Probation Committee or Probation Commission differently than Probation Committees and Juvenile Justice Commissions in all other counties. This Legislative history precludes an interpretation of current legislation suggesting that the Los Angeles County Probation Commission has duties and powers that are identical to those of the Juvenile Justice Commissions existing in all other counties.

We conclude that the legislative intent expressed in Welfare and Institutions Code §§ 225 *et seq.* and 240 *et seq.* is for the Los Angeles County Probation Commission to have an advisory function to the Probation Officer, and not the broader powers of a Juvenile Justice Commission.

²⁴ Stats 1961 Chap. 1616 §§ 540-545.

²⁵ Stats 1987 Chap. 228 § 3.

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In the absence of express statutory powers, the Commission's powers are limited, but include those necessarily implied by its duty to advise the Probation Officer.²⁶ The Probation Officer's responsibilities are varied. They include taking custody of detained minors, preparing probation reports, supervising probationers, and crime prevention. Your Commission has implied powers to collect the information necessary to advise the Probation Officer on these duties as well as all of his or her other statutory responsibilities. For example, your Commission may interview Probation Department employees, members of the public, public officials, and with permission of their counsel, minors held in the Probation Officer's custody. The Probation Officer may also grant access to her or his facilities to members of the Commission.

These conclusions answer your remaining questions. Welfare and Institutions Code § 209(b) requires that the Juvenile Court conduct an annual inspection of all law enforcement facilities containing a lockup for adults that was used in the preceding year for the secure detention of any minor. The Juvenile Court may conduct this inspection personally, or may delegate the responsibility to a "Juvenile Justice Commission."²⁷ As explained, the "Probation Commission" is not a "Juvenile Justice Commission." Welfare and Institutions Code § 209(b) lacks any reference to a Probation Commission, and we are not at liberty to add the Probation Commission to the express terms of the statute. Your Commission has no duty to conduct the inspections statutorily required to be either personally performed by the Juvenile Court or delegated by that court to a Juvenile Justice Commission.

Title 15, California Code of Regulations, § 1313 also imposes no duties upon your Commission. The regulation imposes duties upon a facility administrator to obtain certificates of inspection of facility buildings and grounds from a number of agencies. The regulation imposes no duty upon your Commission to either conduct an inspection or issue a certificate. The duty of an agency to conduct an inspection or issue a certificate must be found in some other statute or regulation. However, no statute imposes a duty upon the Probation

²⁶ *San Vicente Nursery School v. County of Los Angeles*, (1956) 147 Cal. App. 2d 79, 83.

²⁷ Welfare and Institutions Code § 209(b).

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Commission to conduct inspections or perform any duties other than that of advising the Probation Officer.²⁸ The language of the applicable statutes, Welfare and Institutions Code §§ 240 and 243, controls over an inconsistent administrative regulation promulgated to implement those statutes.²⁹

In summary, the Probation Commission has but one duty: it is to act in an advisory capacity to the Probation Officer. It has those powers necessarily implied to perform that duty. It must have a quorum of at least eight members present to conduct a meeting. A majority of the quorum present at a meeting must vote in favor of any proposed action.

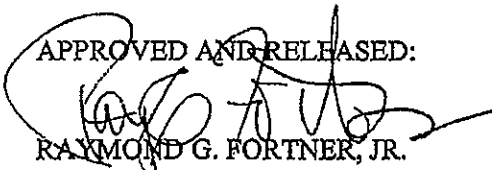
Very truly yours,

RAYMOND G. FORTNER, JR.
County Counsel

By 

GORDON W. TRASK
Principal Deputy County Counsel
Law Enforcement Services Division

APPROVED AND RELEASED:


RAYMOND G. FORTNER, JR.
County Counsel

GWT:bl

²⁸ Welfare and Institutions Codes §§ 240, 243.

²⁹ *Nevada County Office of Education v. Riles*, (1983) 149 Cal. App. 3d 767, 733.

APPENDIX C



ROBERT B. TAYLOR
Chief Probation Officer

COUNTY OF LOS ANGELES
PROBATION DEPARTMENT

Carl Washington, Division Chief
Intergovernmental Relations and Community Outreach Services
9150 E. IMPERIAL HWY., DOWNEY, CA 90242
Tel: (562) 940-2746
Fax: (562) 658-9961



November 1, 2006

TO: Probation Commission
From: Carl Washington *Carl*
Division Chief
SUBJECT: California Legislative Opinion

I am forwarding to you the opinion from the Legislative Counsel of the State of California regarding your functions in lieu of a Juvenile Justice Commission.

August 16, 2006

Honorable Karen Bass
Room 2117, State Capitol

PROBATION COMMISSION: LOS ANGELES COUNTY - #0619191

Dear Ms. Bass:

QUESTION

Is the probation commission in Los Angeles County authorized or required to inspect juvenile facilities located in the county?

OPINION

The probation commission in Los Angeles County is required to inspect publicly administered juvenile facilities located in the county that are authorized, or whose use is authorized, under juvenile court law. That commission also is authorized to inspect group homes located in the county that serve wards or dependent children of the juvenile court.

ANALYSIS

Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code¹ contains the Arnold-Kennick Juvenile Court Law. Section 225, which is contained in that chapter, requires that each county establish a juvenile justice commission. In lieu of this, two or more adjacent counties may establish a regional

¹ All further section references are to the Welfare and Institutions Code, unless otherwise indicated.

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juvenile justice commission (Sec. 226). The duties of a juvenile justice commission are set forth in Section 229, as follows:

"229. It shall be the duty of a juvenile justice commission to inquire into the administration of the juvenile court law in the county or region in which the commission serves. For this purpose the commission shall have access to all publicly administered institutions authorized or whose use is authorized by this chapter situated in the county or region, shall inspect such institutions no less frequently than once a year, and may hold hearings. A judge of the juvenile court shall have the power to issue subpoenas requiring attendance and testimony of witnesses and production of papers at hearings of the commission.

"A juvenile justice commission shall annually inspect any jail or lockup within the county which in the preceding calendar year was used for confinement for more than 24 hours of any minor. It shall report the results of such inspection together with its recommendations based thereon, in writing, to the juvenile court and to the Board of Corrections."

Thus, a juvenile justice commission is required to inspect, at least annually, all publicly administered institutions in the county or region that are authorized, or whose use is authorized, under the juvenile court law.

In addition, Section 229.5 authorizes the commission to inquire into the operation of any group home² located in the county or region that serves wards or dependent children of the juvenile court, and to review the safety and well-being of those wards or dependent children.

² A group home generally refers to a nondetention privately operated residential home, operated on a nonprofit basis, that provides services in a group setting to children in need of care and supervision (see, for example, Sections 740 and 11400).

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Subdivision (a) of Section 229.5 provides, in relevant part, as follows:

"229.5. (a) Notwithstanding any other provision of law, a juvenile justice commission may inquire into the operation of any group home that serves wards or dependent children of the juvenile court and is located in the county or region the commission serves. The commission may review the safety and well-being of wards or dependent children placed in the group home and the program and services provided in relation to the home's published program statement.

* * *

Further, a commission may recommend to any person charged with the administration of specified provisions governing certain commissions and committees related to juvenile delinquency prevention changes it concludes, after investigation, will be beneficial (Sec. 230).

With respect to Los Angeles County, Section 240 requires that a probation commission act in lieu of a juvenile justice commission in that county. That section reads as follows:

"240. In counties having a population in excess of 6,000,000 in lieu of a county juvenile justice commission, there shall be a probation commission consisting of not less than seven members who shall be appointed by the same authority as that authorized to appoint the probation officer in that county."³

Thus, "in lieu of" a county juvenile justice commission, there is a probation commission in Los Angeles County. "In lieu of" means "in place of" (*Carey v. Retirement Board* (1955) 131 Cal.App.2d 739, 745 overruled on other grounds by *Abbott v. Los Angeles* (1958) 50 Cal.2d

³ According to the U.S. Census, the population in Los Angeles County as of the year 2000, exceeded 9,000,000 (<http://www.census.gov> [as of Aug. 4, 2006]).

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438, 453). Section 243 states that the probation commission shall function in an advisory capacity to the probation officer; however, unlike Sections 229 and 229.5 which set forth the duties and powers of juvenile justice commissions, the provisions relating to the probation commission do not specifically prescribe the duties of the probation commission. Because Section 225 requires a juvenile justice commission in each county and because Section 240 provides that the probation commission is appointed in lieu of a juvenile justice commission, in the absence of any statute specifically setting forth the duties and powers of the probation commission, we think that a court would conclude that the probation commission has all the duties and powers of the juvenile justice commission.⁴

Therefore, we conclude that the probation commission in Los Angeles County is required to inspect publicly administered juvenile facilities located in the county that are

⁴ This is consistent with information contained in the legislative history of Section 240. For example, in regard to proposed legislation changing the name of the Los Angeles "probation committee" to the "probation commission," a committee report stated that the Legislature had merely permitted Los Angeles County to "retain the name of their preexisting committee with the same duties" as those of the juvenile justice commission (Sen. Com. on Judiciary, Rep. on A.B. 1287 (1987-1988 Reg. Sess.) as amended May 28, 1987, p. 2).

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authorized, or whose use is authorized, under juvenile court law. That commission also is authorized to inspect group homes located in the county that serve wards or dependent children of the juvenile court.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

By

Felicia A. Lee
Deputy Legislative
Counsel

FAL:dil



LORI GLASGOW
EXECUTIVE OFFICER

COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

KENNETH HAIN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 303
LOS ANGELES, CALIFORNIA 90012
(213) 974-1411 • FAX (213) 620-0636

MEMBERS OF THE BOARD

HILDA L. SOLIS
MARK RIDLEY-THOMAS
SIBILA KURIL
JANICE HAHN
KATHRYN BARGER

May 8, 2017

Carol Chodroff, Chair
Probation Oversight Commission
Working Group
500 West Temple Street, B-50
Los Angeles, CA 90012

Dear Chair Chodroff:

On behalf of the Board of Supervisors, I would like to thank you for your dedication and vital contributions while serving as a member of the Probation Oversight Commission Working Group.

The Board highly regards your time and expertise in evaluating the operations of the Probation Department. It was our pleasure to provide staff assistance with the numerous town hall meetings you conducted, along with the meetings in the Hall of Administration throughout the seven months of intensive evaluation and assessment.

Again, thank you for your service. If you have any questions or concerns, please contact Twila Kerr of my staff at 213-974-1431.

Sincerely,

Lori Glasgow
Executive Officer

LG:tpk

c: Board of Supervisors
Chief Executive Officer



LORI GLASGOW
EXECUTIVE OFFICER

COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

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SHIBILA KUEHL
JANICE HAHN
KATHRYN BARGER

May 8, 2017

Alex M. Johnson, Vice-Chair
Probation Oversight Commission
Working Group
500 West Temple Street, B-50
Los Angeles, CA 90012

Dear Vice-Chair Johnson:

On behalf of the Board of Supervisors, I would like to thank you for your dedication and vital contributions while serving as a member of the Probation Oversight Commission Working Group.

The Board highly regards your time and expertise in evaluating the operations of the Probation Department. It was our pleasure to provide staff assistance with the numerous town hall meetings you conducted, along with the meetings in the Hall of Administration throughout the seven months of intensive evaluation and assessment.

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Sincerely,


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MEMBERS OF THE BOARD

HILDA L. SOLIS
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May 8, 2017

Don Meredith
Probation Oversight Commission
Working Group
500 West Temple Street, B-50
Los Angeles, CA 90012

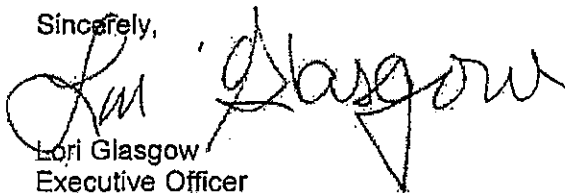
Dear Member Meredith:

On behalf of the Board of Supervisors, I would like to thank you for your dedication and vital contributions while serving as a member of the Probation Oversight Commission Working Group.

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Sincerely,


Lori Glasgow
Executive Officer

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c: Board of Supervisors
Chief Executive Officer



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EXECUTIVE OFFICER

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BOARD OF SUPERVISORS

KENNETH HALLS HALL OF ADMINISTRATION
510 WEST TEMPLE STREET, ROOM 303
LOS ANGELES, CALIFORNIA 90012
(213) 974-1411 • FAX (213) 420-0636

MEMBERS OF THE BOARD

HILDA L. SOLIS
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JANICE HAHN
KATHRYN BARGER

May 8, 2017

Jose Osuna
Probation Oversight Commission
Working Group
500 West Temple Street, B-50
Los Angeles, CA 90012

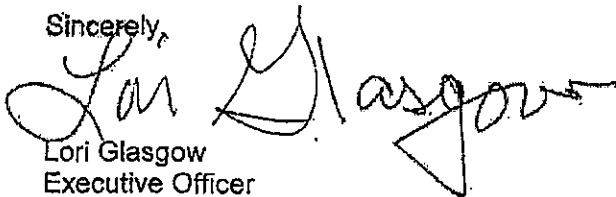
Dear Member Osuna:

On behalf of the Board of Supervisors, I would like to thank you for your dedication and vital contributions while serving as a member of the Probation Oversight Commission Working Group.

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Sincerely,


Lori Glasgow
Executive Officer

LG:tpk

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Chief Executive Officer



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KENNETH HAIN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 183
LOS ANGELES, CALIFORNIA 90012
(213) 974-1411 • FAX (213) 620-6236

MEMBERS OF THE BOARD

HILDA L. SOLIS
MARK RIDLEY-THOMAS
SHEILA KUEHL
JANICE HAHN
KATHRYN BARKER

May 8, 2017

Gabriella Holt
Probation Oversight Commission
Working Group
500 West Temple Street, B-50
Los Angeles, CA 90012

Dear Member Holt:

On behalf of the Board of Supervisors, I would like to thank you for your dedication and vital contributions while serving as a member of the Probation Oversight Commission Working Group.

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