

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation I am commenting on: 1302 - Definitions – Post-Disposition Services, Juvenile Hall, Camp/Ranch

Comments and Suggestions:

The regulations do not define “post-disposition services,” and the definitions of “juvenile hall,” and “camps” fail to adequately clarify who can be held in each type of facility. As we stand poised to develop regulations for the post-SB 823 era, we need to clarify what is required in post-disposition settings, irrespective of what kind of facility youth are in. We should also more fully define “juvenile hall” and “camp/ranch,” even if the original distinctions between those kinds of facilities are currently blurred.

Specific suggestions on regulation language (changes to wording):

Although the Legislature has intended that camps and ranches be used for dispositional purposes, and allowed juvenile halls to be used only if there is nowhere else in the county to put youth (Welf. & Inst. Code, §730(a)(1)), the distinction has been eviscerated over the years. Increasingly, juvenile halls have developed in-house commitment programs, and in the past decade, counties have created “camps” in or on the grounds of juvenile halls.

Going forward, it may be more important to focus on what is required if a facility provides post-disposition services in terms of operations, programming, and physical plant – irrespective of whether it is a juvenile hall, camp, or ranch.

The ESC should consider whether it is useful at this point even to define the types of facilities, or whether the traditional distinctions have been so lost in practice that there is no reason to distinguish them or to maintain separate sets of regulations for them. But if there is a reason to maintain the distinctions, and we believe there is, the definitions should be augmented to say who can be held in them, and what the physical and programmatic expectations are for each. For example, if we would want to limit the use of juvenile halls more strictly for pre-disposition use in the future, it may be useful to define them to express that intention, with a variance for current post-disposition use that may be revisited in the future. Similarly, if we want camps to be more like traditional rural camps, the definition could describe the characteristics, but provide a variance if urban “camps” can provide the equivalent of those characteristics.

Reasons the suggested changes are necessary:

Historically, there were enormous differences between the two kinds of facilities. For many years, camps and ranches were in rural settings where youth had more freedom of movement, and that featured dorm rooms and abundant outdoor areas where youth could spend their commitment in a healthy, non-penal setting. The very different physical plant characteristics in juvenile halls result in significant differences between traditional camps/ranches and juvenile halls in terms of impact on youth. The attachments set forth the reasons that juvenile halls (detention centers) should not be used for post-disposition treatment.

In recent years, counties have circumvented the statutory restriction by developing “camps” in or on the grounds of their juvenile hall – thus subjecting youth to months or even years in a much more correctional setting. This sleight of hand was possible, in part, because the regulations do not describe the purpose and basic characteristics of each kind of facility.

The abrupt decision to close DJJ has caused many counties to default to juvenile halls and juvenile hall-like camps as their secure confinement option for the immediate future. For this reason, it seems important for the ESC to define the operational, programmatic, and physical plant issues that must be addressed for all youth in post-disposition status irrespective of what kind of facility they are in. With the enactment of SB 823 and SB 92, and the heightened attention to health-oriented, trauma-informed, youth development services, we must set expectations for post-disposition services right now for youth wherever they are held (in other regulations). By simultaneously defining the purpose of each type of facility, we can create a building block for a future time when the distinctions may be better realized, but assure that youth held in less than optimum settings in the present will be as well served as possible right now.

Statutory language:

For convenience, if the ESC decides to define juvenile halls, and camps/ranches, here is the statutory language:

§730(a)(1): (a) When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602 , the court...may commit the minor to a juvenile home, ranch, camp, or forestry camp. If there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall.

§ 850: The board of supervisors in every county shall provide and maintain, at the expense of the county...a suitable house or place for the detention of wards and dependent children of the juvenile court and of persons alleged to come within the jurisdiction of the juvenile court. Such house or place shall be known as the “juvenile hall” of the county...

§ 851: Except as provided in Section 207.1, the juvenile hall shall not be in, or connected with, any jail or prison, and shall not be deemed to be, nor be treated as, a penal institution. It shall be a safe and supportive homelike environment.

§ 880: In order to provide appropriate facilities for the housing of wards of the juvenile court in the counties of their residence or in adjacent counties so that those wards may be kept under direct supervision of the court, and in order to more advantageously apply the salutary effect of a safe and supportive home and family environment upon them, and also in order to secure a better classification and segregation of those wards according to their capacities, interests, and responsiveness to control and responsibility, and to give better opportunity for reform and encouragement of self-discipline in those wards, juvenile ranches or camps may be established....

Attachments

National Juvenile Detention Association, *Juvenile Detention as Disposition: Position Statement*

Pacific Juvenile Defender Center & Youth Law Center, *California’s County Juvenile Lockups: Expensive, Overutilized, and Unaccountable*

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation I am commenting on: 1311 - Emergency Suspension of Standards or Requirements

Comments and Suggestions:

Specific suggestions on regulation language (changes to wording):

1311. Nothing contained herein shall be construed to deny the power of any facility administrator to temporarily suspend any standard or requirement herein prescribed in the event of any emergency which threatens the safety of a local juvenile facility, youth, staff, or the public, **including but not limited to fire or natural disasters, public health epidemics or communicable disease, and civil unrest or terrorism.**

Only such regulations directly affected by the emergency may be suspended. The facility administrator shall notify the Board in writing in the event that such a suspension lasts longer than three days, **and for each provision suspended, shall explain the reasons for suspension, and alternative interim measures that will be employed to address the issue or condition.** In no event shall a suspension continue more than 15 days without the approval of the chairperson of the Board for a time specified by him/her.

For any suspension continuing beyond 15 days, the Board shall investigate the accuracy and completeness of what the county has reported, whether the issue or condition is being addressed through alternative means, and the impact on the health and welfare of incarcerated youth. If deficiencies are found, the chairperson may deny the request

for further suspension, or direct the facility administrator to develop more effective interim measures.

The Board shall post contemporaneous data on its website with respect to standards or requirements suspended, the length of the suspension approved, the proposed alternative means of compliance, and results of any investigation by the Board.

Related Best Practices, or current practices:

The Council of Juvenile and Correctional Administrators has published a thoughtful analysis of lessons learned in juvenile facilities during the Covid pandemic (*The Impact of COVID-19 on Juvenile Justice Systems*, attached). One of the points they repeatedly emphasize is the importance of keeping families, advocates, and the public apprised of changes in policies and practices – e.g., suspension of in-person visitation; educational services; and efforts to minimize risk of COVID-19 to youth and staff. They also speak of the importance of actively working to make sure operations are working as effectively as possible, and sharing information about innovative means of meeting standards during the pandemic.

Reasons the suggested changes are necessary:

One of the greatest needs during the height of the pandemic was information about what was happening in juvenile facilities, and what youth and families could expect during this period. The BSCC plays an essential role in this regard, and the process of collecting and posting information about suspension of regulations should be memorialized in regulation.

In addition, as part of its oversight role, the regulations should call for BSCC to investigate and critically examine what counties are reporting in terms of length of suspension needed, and alternative means of compliance. Anecdotally, youth experienced onerous conditions that were not captured in what counties reported. While there is no question that some required services had to be curtailed during the peak of Covid, the counties varied greatly in the effectiveness of their response to important issues such as educational services, outdoor recreation, and visiting.

Attachments:

CJCA, *The Impact of COVID-19 on Juvenile Justice Systems*

Burrell & Wilber, *COVID-19 and California's Detained Youth: Vulnerable and Overlooked*

2022 Juvenile Titles 15 and 24 Regulations Revision Public Input Form

Section I. Contact Information

Name: Sue Burrell

Organization: Pacific Juvenile Defender Center

Title: Policy Director

Email Address: 1sueburrell@gmail.com

Section II. Comments and Suggestions

Title 15 Regulation I am commenting on: 1321 - Staffing

Comments and Suggestions:

Title 15 Cal. Code of Regulations, section 1321 should be changed to reflect the staffing ratios legally long required in juvenile facilities by the Prison Rape Elimination Act and by the standards of professional organizations: 1:8 during waking hours and 1:16 during sleeping hours. Also, additional language should be inserted requiring that there be staff available to meet facility needs during emergencies such as pandemics or in the aftermath of disasters.

Attached are the legal supports for this change that were distributed to the Board during the last revision cycle, as well as several more recent media articles illustrating what happens when there is understaffing.

Specific suggestions on regulation language (changes to wording):

The following is proposed language to achieve the proposed revision to Section 1321 (h):

...Staffing shall be in compliance with a minimum youth-staff ratio for the following facility types:

(1) Juvenile halls

(A) during the hours that youth are awake, one wide-awake youth supervision staff member on duty for each ~~10~~ 8 youth in detention;

(B) during the hours that youth are confined to their room for the purpose of sleeping, one wide-awake youth supervision staff member on duty for each ~~30~~ 16 youth in detention;

...

(2) Special Purpose Juvenile Halls

(A) during the hours that youth are awake, one wide-awake youth supervision staff member on duty for each ~~10~~ 8 youth in detention;

(B) during the hours that youth are confined to their room for the purpose of sleeping, one wide-awake youth supervision staff member on duty for each ~~30~~ 16 youth in detention;

....

(3) Camps

(A) during the hours that youth are awake, one wide-awake youth supervision staff member on duty for each ~~15~~ 8 youth in the camp population;

(B) during the hours that youth are confined to their room for the purpose of sleeping, one wide-awake youth supervision staff member on duty for each ~~30~~ 16 youth present in the facility;

In addition, 1321 should have a new (i) directed at staffing for emergency situations (in red):

- (i) Have a roster of trained staff who can be quickly activated as staff in the event of emergencies such as pandemics, natural disasters, or other situations when minimum staffing ratios cannot otherwise be maintained.

Related Best Practices, or current practices: The proposed staffing ratios are already required by the Prison Rape Elimination Act, and national standards, such as JDAI and the National Partnership (attached). It has been an issue in the BSCC Los Angeles unsuitability investigation and the DOJ lawsuit against Los Angeles.

Reasons why the suggested changes are necessary: Although changes to Title 15 staffing ratios have been rejected in past revision cycles, the events of the past several years have graphically shown how understaffing imperils youth and staff in county juvenile facilities. Understaffing makes it harder to deal with emergencies, more difficult to cover required daily facility operations, and less likely that the plight of youth who are being subjected to sexual abuse or suffering from other harm will be discovered.

In addition, the realignment of all youth to county care (S.B. 823/92) is already resulting in longer commitments, often of higher needs youth, to juvenile facilities. Counties are being tasked with a whole new set of duties to provide health-based, non-punitive interventions, and this calls for more robust programming requiring intensified staffing.

Section III. Attachments

Authority for 1:8 staffing provided to BSCC for the 2017 revision cycle

JDAI standards on Staffing

National Partnership position statement on staffing

Los Angeles Probation Response to BSCC in LA Unsuitability Process – Chief Gonzales to Chair Penner (June 7, 2022) – p. 2, discusses the impact of understaffing on safety checks

California DOJ Complaint against LA County (People of the State of California v. L.A. County and LACOE – filed 2018) details many deficiencies resulting from understaffing – see pp. 15-17, 23-24. The stipulated agreement filed in 2022 requires attention to staffing. (If these are too long, you can probably give links for online access)

Religious Services For Kids Canceled For 5 Weeks Straight At LA County's Most Troubled & Understaffed Juvenile Hall (Witness LA (2019) – Celeste Fremon)

6/21/22

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation I am commenting on: 1327 - Emergency Procedures

Comments and Suggestions:

Specific suggestions on regulation language (changes to wording):

§ 1327. Emergency Procedures.

The facility administrator shall develop facility-specific policies and procedures for emergencies that shall include, but not be limited to:

- (a) escape, disturbances, and the taking of hostages;
- (b) civil disturbance, active shooter and terrorist attack;
- (c) fire and natural disasters;
- (d) movement of youth in relation to findings of unsuitability;
- (e) movement of youth in relation to pandemics, outbreaks of communicable disease, or other public health emergencies;
- (f) ~~(d)~~ periodic testing of emergency equipment;
- (g) ~~(e)~~ emergency evacuation of the facility; and
- (h) ~~(f)~~ a program to provide all youth supervision staff with an annual review of emergency procedures; and
- (i) procedures to immediately notify family and legal counsel.

Confidential policies and procedures that relate to the security of the facility may be kept in a separate manual.

Related Best Practices, or current practices:

The Council of Juvenile Correctional Administrators has spoken of the need to have policies and procedures in place before emergencies occur (see attachment). This is a

commonsense proposal designed to ensure the presence of emergency procedures in additional situations that have occurred since the 2017 revisions – fires, pandemics, and findings of unsuitability.

Reasons the suggested changes are necessary:

Since the 2017 revisions, California has experienced a serious fire in a Los Angeles County juvenile facility in which there was enormous confusion about evacuation. We have experienced a pandemic in which youth were moved within and between facilities where Covid raged. We have experienced a finding of unsuitability by the BSCC that resulted in movement of youth in the middle of the night, without notice to families. The proposal calls for facilities to have emergency policies to anticipate those situations.

Attachments:

CJCA, *The Impact of COVID-19 on Juvenile Justice Systems*

Burrell & Wilber, *COVID-19 and California's Detained Youth: Vulnerable and Overlooked*

Queally, LA Times, *'We're screwed': L.A. County empties troubled juvenile hall ahead of state board's inspection*

Fremon, WitnessLA, *Facing The Inferno, Part 1: Why Wasn't LA County Probation Prepared To Evacuate Kids & Staff At Campus Kilpatrick When A Monster Wildfire Struck?; Facing The Inferno, Part 2: When Evacuation Is No Longer An Option*

Palomino & Dizikes, SFChronicle, *The coronavirus is spiking in California's youth prisons. So why isn't the state letting young prisoners out?*

*Please note that we will submit a more detailed proposal specifically directed at Covid in the health section.

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation: Proposed New Regulation - § 1350.2. Expediting Release

Comments and Suggestions:

It is widely recognized that detention is not benign, and that even a few days of detention may have a lasting impact on young people. One of the strategies widely employed in the Juvenile Detention Alternatives Initiative (JDAI) is having a deliberate process for “expediting” cases when it is possible to reduce the length of detention. The proposed regulation offers a framework for institutionalizing such a practice. This does not mean the facility has to hire more staff; it just creates a more deliberate and consistent way for existing staff to do their work. Having such a regulation will help facilities to implement the intent of SB 823 in reducing incarceration. This will save facilities many thousands of dollars in the costs of incarceration, and will improve outcomes for youth.

Specific suggestions on regulation language (changes to wording):

§ 1350.2. Expediting Release.

The facility administrator shall develop and implement written policies and procedures to reduce unnecessary detention and expedite release to the community or less restrictive settings. The policies and procedures shall address:

- (a) follow up at intake to locate parents or address other issues that may have prevented detention;
- (b) follow up with child welfare or mental health systems to assure that youth who should appropriately be handled by those systems do not remain detained in juvenile hall;
- (c) ongoing population review and coordination with field probation officers to assure that pre-adjudication youth who do not need secure confinement are

immediately stepped down to less restrictive settings, and advancing court hearings where needed;

- (d) ongoing population review of post-disposition cases and coordination with the juvenile court to assure that youth are released as soon as the goals of their program are met, and advancing court hearings where needed; and
- (e) ongoing population review and follow up with the relevant placements or facilities to prevent placement delay, and advancing court hearings where needed.

Related Best Practices, or current practices:

One of the core strategies of the nationally recognized Juvenile Detention Alternatives Initiative is instituting case processing reforms to expedite the flow of cases through the system (AECF, *Timely Justice: Improving JDAI Results Through Case Processing Reforms* – attached). In relation to “expediting,” they say:

Numerous JDAI sites have established expediter positions. The expediter concept emerged from efforts to manage jail populations in the 1980s. These positions were sometimes referred to as jail case coordinators or population control officers. Whatever the title, the purposes of the expediter position are to identify inappropriate admissions and reduce lengths of stay, either in individual cases or for categories of cases... In its fullest expression, the expediter position becomes the system’s quality control officer for timeliness in case processing.

They recommend having weekly detention reviews of the population to review individual cases and assign responsibility for completing certain tasks such as paperwork that is delaying placement. The meetings can also be a forum for highlighting groups of cases that seem to get stuck and identifying practices that demand a systemic solution. The idea is that this process helps to provide greater accountability for specific actions to produce timely case processing and reduce unnecessary incarceration.

Reasons the suggested changes are necessary:

In some counties, youth wind up staying in detention until their next court date, even though they could be released if someone were focused on doing simple follow up or paperwork. Also, many youth in post-disposition status spend unnecessarily prolonged periods waiting for the court’s order to be implemented. While there are sometimes legitimate reasons for delay, more often it occurs because the facility does not have an intentional and clearly defined process for review and follow through to reduce custody time.

Unnecessary detention has both short term and long-term consequences for youth – in their ability to defend the case, educational outcomes, exacerbation of mental health issues, long term prospects for income and employment, and their prospects

for staying out of the system. The youth who experience these harms are primarily youth of color. SB 823 expressly states an intention that the use of incarceration be reduced. Unnecessary detention is also extremely expensive for the system (see attached BSCC survey of costs).

While some California facilities already have these kinds of expediting processes in place, others could benefit from having a more systematized approach. The regulations should address this important component detention practice.

Attachments:

Annie E. Casey Foundation, *Timely Justice: Improving JDAI Results Through Case Processing Reforms*

Burrell, PJDC – *Sources for Dangers of Detention*

BSCC, *Average Daily Cost to House Youth in Detention Facilities* (April 2019)

SB 823 Intent section, §1.

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation: 15 CCR §1355 - Institutional Assessment and Plan

Comments and Suggestions:

Although this regulation was strengthened in the 2017 revisions, the enactment of S.B. 823 has resulted in much more specific expectations for handling of youth at the county level. This proposal builds on the existing regulation by adding in language from the new statutory scheme. Also, this proposal attempts to build in more mechanical accountability in terms of having goals, articulation of how the goals fit with the young person's needs and the statutory intent, activities to meet the goals, ways to measure progress, and plans for step down/release. It also borrows from the S.B. 92 Secure Youth Treatment Facility language in Welfare and Institutions Code § 875 on what should be considered in institutional plans.

This regulation applies to case plans for youth who are in custody for more than 30 days, and to youth committed to juvenile hall. It does not apply to youth in Secure Youth Treatment facilities because the statute is already very explicit about individual case plans for those youth.

Specific suggestions on regulation language (changes to wording):

1355. Institutional Assessment and Plan.

The facility administrator shall develop and implement written policies and procedures for assessment and case planning that assure compliance with the Legislature's intent that youth:

- are closer to their families and communities and receive age-appropriate treatment;
- receive public health approaches to support positive youth development
- have trauma-informed, culturally responsive care;
- benefit from a continuum of community-based approaches;
- are given evidence-based and promising practices and programs; and
- are handled in the least restrictive appropriate environment.

(a) Assessment:

The assessment is based on information collected during the admission process with periodic review, which includes the youth's risk factors, needs and strengths including, but not limited to, identification of substance abuse history, educational, vocational, counseling, health, behavioral or emotional health, disabilities, needs related to sexual orientation, gender identity and expression, consideration of known history of trauma, and family strengths and needs.

(b) Institutional Case Plan:

(1) A written case plan shall be developed for each youth held for at least 30 days or more and created within 40 days of admission.

(2) A written case plan for post-disposition services shall be developed for each youth committed to the juvenile hall. The plan shall be developed within 10 days of the disposition hearing.

(3) (2) The institutional case plan shall include, but not be limited to, written documentation that provides:

(A) a discussion of how the plan addresses the legislative intent set forth above;

(B) (A) objectives and time frame for the resolution of problems identified in the assessment;

(C) (B) a plan for meeting the objectives that includes a description of the activities to be undertaken for each objective, how and at what intervals progress will be measured; program resources needed and the individuals responsible for assuring that the plan is implemented and their training and qualifications for providing the services; and the expected confinement time.

(3) a record of the periodic evaluation of progress towards meeting the specific objectives and the underlying legislative intent, including periodic review and discussion of the plan with the youth, and provision for acceleration of completion if the youth has met their goals more quickly than projected;

(4) a transition plan for step-down to a less restrictive setting or release, the contents of which shall be subject to existing resources, shall be developed for post dispositional youth in accordance with the release procedures in Section 1351; and,

(5) ~~in~~ as much as possible ~~and if appropriate~~, the plan, including the transition plan, shall be developed with input from the family, supportive adults, youth, and ~~when appropriate,~~ ~~the~~ Regional Center for the Developmentally Disabled.

Youth committed to a Secure Youth Treatment Facility shall have, in lieu of an institutional case plan, an individual case plan developed in conformity with the provisions of Welfare and Institutions Code sections 875.

Comments and Suggestions:

Although this regulation was strengthened in the 2017 revisions, the enactment of S.B. 823 has resulted in much more specific expectations for handling of youth at the county level. This proposal builds on the existing regulation by adding in language from the new statutory scheme. Also, this proposal attempts to build in more systematized accountability in terms of having goals, articulation of how the goals fit with the young person's needs and the statutory intent, activities to meet the goals, ways to measure progress, and plans for step down/release.

Related Best Practices, or current practices:

We used the Secure Youth Treatment Facility statute (Welf. & Inst. Code §875), as a model for much of what is proposed here, and also, the intent language from Section 1 of S.B. 823. Teasing out the individual factors we want to be sure to address for each youth, and combining that with more attention to the underlying goals of intervention will help to strengthen these all-important plans.

Reasons the suggested changes are necessary:

With the closure of DJJ, more and more youth will be handled in juvenile halls as a disposition commitment. Strengthening this regulation will help to assure that services are targeted to the youth, are provided by qualified persons, that progress is well documented, and that youth are released at the earliest appropriate time.

Attachments:

S.B 823:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB823

S.B. 92:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB92

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation: 15 CCR §1356 – Counseling and Casework

Comments and Suggestions:

The enactment of S.B. 823 has resulted in heightened expectations for services to youth. The legislation provides funding to the counties to provide services that are trauma informed, evidence-based, and culturally responsive. Implementing this vision calls for having staff with the training, expertise and credibility needed to provide the services.

Also, youth should have a voice in terms of the sort of counselor they would feel most comfortable with. A young woman might feel more comfortable speaking about sensitive issues with a woman provider. A youth of color might feel more comfortable speaking about their problems with someone who looks like them or had similar life experiences. This is part of the duty to provide services that are culturally responsive.

Specific suggestions on regulation language (changes to wording):

§ 1356. Counseling and Casework Services.

The facility administrator shall develop and implement written policies and procedures ensuring the availability of appropriate counseling and casework services for all youth.

Policies and procedures shall ensure:

- (a) youth will receive assistance with needs or concerns that may arise;
- (b) staff or outside providers have appropriate training and professional qualifications to provide the assistance given;

~~(c)(b)~~ youth will receive assistance in requesting contact with parents, other supportive adults, attorneys, clergy, probation officers, community-based service providers, the Office of Youth and Community Restoration Ombudsperson, or other public officials; (c) youth will be consulted about their preferences and needs with respect to counselors or treatment providers ~~be provided access to available resources to meet the youth's needs.~~

Comments and Suggestions:

It appears that the existing regulation applies both to counseling in relation to problems being experienced by the youth, and counseling in relation to their case plan. Probation staff who have had only the CORE training to work in the facility may lack the expertise to effectively provide these services. Thus, the proposed change calls for counselors or providers to have the requisite training and qualifications to provide the particular counseling or case work service. It also recognizes that counselors or service providers may be persons other than juvenile hall staff.

As an example, being exposed to information about trauma in basic CORE training, would not make staff qualified to provide trauma treatment services. Similarly, brief training about mental health disorders would not render staff qualified to counsel youth in relation to issues being experienced by youth stemming from a mental health condition.

And with respect to evidence-based services, those services are only evidence-based when implemented by qualified providers.

Related Best Practices, or current practices:

Through S.B. 823 and S.B. 82, the Legislature is calling for much greater attention to the purpose of and goals for intervention. Services are to be age appropriate, represent public health approaches, support positive youth development, be trauma-informed, and culturally responsive. Community service providers are a core part of the new order. It is no longer acceptable for facilities to run group programs or provide individual counseling without increased attention to the knowledge and qualifications of the person providing them.

A great deal of research on adolescent development and what promotes healthy development supports this approach. The landmark National Academies of Science, *Reforming Juvenile Justice: A Developmental Approach* focuses on the importance of training and qualifications throughout the 400+ page study.

Reasons the suggested changes are necessary:

Attachments:

National Academies of Science, *Reforming Juvenile Justice: A Developmental Approach* (2012): <https://nap.nationalacademies.org/catalog/14685/reforming-juvenile-justice-a-developmental-approach>

S.B 823:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB823

S.B. 92:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB92

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation I am commenting on: 1376 – Telephone Access

Comments and Suggestions:

The current telephone access regulation fails to set any standard at all for telephone access. To comply, the facility needs only to have a written policy. The proposed changes would address the need for free calls, and access sufficient to further the goals of SB 823.

Specific suggestions on regulation language (changes to wording):

§ 1376. Telephone Access.

The administrator of each juvenile facility shall develop and implement written policies and procedures to provide youth with access to telephone communications. The policies and procedures shall ensure that:

- (a) Calls are free of charge.
- (b) Facility staff shall provide youth with reasonable access to telephones. At a minimum, calls shall be 15 minutes in length after a connection is established, at least twice a week. Staff may not deprive youth of these phone calls as a disciplinary sanction.
- (c) Additional calls shall be provided upon request if the young person's family is unable to visit in person, when the youth is in crisis, or when interaction with the family is needed to prepare for court or in relation to treatment of the youth in the facility.

- (d) Youth can use the telephone at times that are arranged in advance and that will be convenient to staff and the recipient of the call.
- (e) If there is no response when the youth first places a call, staff shall give the youth an opportunity to make additional efforts to call back.
- (f) Staff shall not listen in on, or record youth's conversations absent individualized reasonable suspicion of criminal activity or a threat to the security of the facility. The facility informs youth if telephone calls may be monitored.

Related Best Practices, or current practices:

These provisions are based on the JDAI standards, used in sites around the country (<https://assets.aecf.org/m/resourcedoc/aecf-juveniledetentionfacilityassessment-2014.pdf>) – though we have called for a minimum of 15 minutes rather than 10 minutes for calls.

Reasons the suggested changes are necessary:

In the pre-adjudication phase, it is critical that youth be able to talk with their family to receive support during a stressful time, to begin to heal fractures caused by the arrest, and to help prepare the case for adjudication and disposition.

In the post-disposition phase, the intent section of S.B. 823 says that “Evidence has demonstrated that justice system-involved youth are more successful when they remain connected to their families and communities.” Providing reasonable telephone access is a good place to start.

With respect to cost, the requirement that telephone calls from children to their homes be free is long overdue. A 2020 survey of counties a couple of years ago found that some counties impose enormous costs on families (see attachment). It is only a matter of time until this will be required by legislation, but this is a change that can be implemented right now. Charging youth and families for family engagement is antithetical to the very purpose of juvenile court intervention. Multiple Code sections speak to the goals of family reunification, and strong supportive relationships with parents and guardians are essential to healthy adolescent development. In addition, most of the youth in detention are from families that are poor or have limited financial means. Just as we have stopped saddling them with other fines and fees over the past few years, we should eliminate this cost.

Attachment:

Fact Sheet - # Price of Justice Juvenile Phone Calls

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation I am commenting on: 1377 – Access to Legal Services

Comments and Suggestions:

Require that juvenile facilities provide contact visiting for attorneys.

Specific suggestions on regulation language (changes to wording):

§ 1377. Access to Legal Services. The facility administrator shall develop written procedures to ensure the right of youth to have access to the courts and legal services. Such access shall include: (a) access, upon request by the youth, to contact visits with licensed attorneys and their authorized representatives ~~without separation by glass, plexiglass or other partitions, and without being forced to speak through telephone devices~~; and (b) provision for confidential consultation with attorneys. These rights may be limited in individual cases only where the facility superintendent finds that there are specific grounds for believing that the person currently poses a serious danger to others in the facility, and those reasons shall be documented in the person's institutional file. Access shall, in all cases, include ~~and~~ (c) unlimited postage free, legal correspondence and cost-free telephone access to attorneys and their authorized representatives. as appropriate

Related Best Practices, or current practices:

Contact visits for juveniles are a core part of the attorney client relationship. The National Juvenile Defense Standards call for attorney visits to be "... in person in a private setting, away from the client's parent or other people, to maintain privilege and

assure that the client knows the communication is confidential. Counsel of a detained juvenile client must visit the client in detention and ensure that the meeting occurs in a setting that allows for a confidential conversation...” (NJDA, *National Juvenile Defense Standards* (2013), 2.1 Role of Juvenile Defense Counsel at Initial Client Contact.)

Case law, even for adults, supports the right to contact visits, absent a specific showing of security need in specific cases. (*In re Roark* (1996) 48 Cal.App.4th 1946; *In re French* (1980) 106 Cal.App.3d 74, 85. This, a plexiglass division between attorney and client in a jail setting was struck down in *County of Nevada v. Superior Court* (2015) 236 Cal.App.4th 1001, 1004-1005.

Reasons the suggested changes are necessary:

Over the past several years we have become aware situations in court holding settings in which youth are routinely required to speak to their attorney while separated by windows, with only a small opening at waist level to pass papers. Youth must communicate either on a telephone device, or through a voice hole high in the window. This has resulted in lack of confidentiality because both parties must speak loudly to be heard, or trust that no one is listening on the phone device. In the past, some DJJ facilities have also had such restricted settings for attorney visits. They make it difficult to share and read documents together and get them signed. They create a punitive atmosphere in what should be a relaxed, comfortable setting. The attorney access regulation should specifically prohibit such restrictions on contact.

We are concerned that juvenile halls may impose similarly restrictive visiting restrictions as DJJ youth are handled at the local level, and as counties search for ways to reduce staffing needs. Title 15 should make it clear that contact visits, free of architectural limitations and intrusions into attorney client confidentiality, are the expected norm.

Attachments – the authority is in the cases and standards cited above.

2022 Juvenile Titles 15 and 24 Regulations Revision

Public Input Form

Section I. Contact Information

Name: Sue Burrell and Brooke Harris

Organization: Pacific Juvenile Defender Center

Title: Policy Director (Sue) and Executive Director (Brooke)

Email Address: Sue@pjdc.org; Brooke@pjdc.org

Section II. Comments and Suggestions

Title 15 Regulation to be considered: 1410 – Management of Communicable Disease

Comments and Suggestions:

The existing regulation on management of communicable disease is so bare bones, it was of little use during the Covid-19 pandemic that surfaced in Spring 2020. With the benefit of hindsight, we can do better to think through what needs to be addressed in such emergencies and to set up protocols ahead of time. The proposal uses published guidance on the pertinent issues to more fully describe what facilities should be prepared for.

The regulation should cover all of the issues needed to keep staff and youth safe in the facility, protections in relation to people coming in and out of the facility, ways to reduce facility population in the event of a full-on epidemic or pandemic, and ways to mitigate the impact of needed adjustments in facility operations.

Specific suggestions on regulation language (changes to wording):

§ 1410. Management of Communicable Diseases.

The health administrator/responsible physician, in cooperation with the facility administrator and the local health officer, shall develop written policies and procedures to address the identification, treatment, control and follow-up management of **epidemics, pandemics and** communicable diseases. The policies and procedures shall address, but not be limited to:

- (a) sanitization of surfaces, enhanced cleaning, and hygiene practices in the facility consistent with public health guidelines;
- (b) social distancing strategies to increase space between individuals in the facility;
- (c) training for staff and youth on how to recognize symptoms of the disease;
- (d) testing and proof of vaccination;

- (e) infection control strategies, including access to masks, handwashing facilities, hand sanitizers, and wipes;
 - (f) practices to be employed for youth, staff, and visitors coming in or going out of the facility to prevent inadvertent transmission;
 - (g) medical evaluation for of suspected cases;
 - (h) isolation of confirmed and suspected cases and quarantine of contacts, and planning for how to group youth when individual spaces are limited;
 - (i) clinical care for confirmed and suspected cases;
 - (j) considerations for persons at higher risk of severe disease from COVID-19;
 - (k) ~~(e)~~ plans for safe re-entry of youth being released from the facility, and coordination with public and private community-based resources for follow-up treatment;
 - (l) protections for release and transfer between facilities, and transportation of youth who cannot be properly isolated or treated in the facility;
 - (m) notification of families when youth test positive or are determined to have the disease;
 - (n) plans for addressing staff shortages;
 - (o) plans for providing essential services if the outbreak or staff shortages make normal functioning difficult;
 - (p) plans to counteract the negative effects of disruptions in services or normal activities, and support for youth or staff experiencing stress; and
 - (q) process for providing information to families about their child and responding to questions.
- ~~(f) applicable reporting requirements; and,~~
- ~~(g) strategies for handling disease outbreaks.~~

The facility administrator shall collaborate with the presiding juvenile court judge, prosecutor, and public defender to develop a structured process to limit admissions and facilitate release of youth from custody during public health emergencies, and clear lines of authority for invoking it, consistent with the release powers set forth in Government Code section 8658.

The Board shall issue guidance to the counties with the coordination and concurrence of the Office of Youth and Community Restoration and the California Department of Public Health, when needed to supplement this regulation. County facility policies and procedures shall be updated as necessary to reflect the additional communicable disease priorities identified by the Board, Office of Youth and Community Restoration, California Department of Health, and local health officer. ~~and currently recommended public health interventions.~~

The Board may require counties to collect data on incidence of communicable disease, testing, impact of the health emergency on the provision of required services, and on youth and staff; impact of population control efforts; and such other issues as may help to inform needed adjustments to facility response, and the facility administrator shall comply with those directives.

Related Best Practices, or current practices:

Almost all of the specific requirements above are taken directly from the Centers for Disease Control publication, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* (attached).

With respect to the inclusion of a process for population control, the guidelines from public health and correctional experts urge that that the most important thing institutions can do is to reduce facility population during a pandemic (AAP 2020, Youth Correctional Leaders for Justice 2020, The Sentencing Project 2020, McBride 2020, Council of Juvenile Justice Administrators 2020, Fore 2020 – cited in the attachment, *COVID-19 and California's Detained Youth: Vulnerable and Overlooked*).

The proposal also provides for additional guidance as may be needed during an outbreak, epidemic, or pandemic. BSCC did issue *Covid-19, Additional Guidance to Juvenile Facilities* in March 2020 (attached), and this proposal would simply add a provision for that type of guidance to the regulation.

Reasons the suggested changes are necessary:

The vague provisions in the existing regulation made it difficult for counties to know exactly what to do in the beginning of the Covid-19 pandemic. Public health experts quickly rolled out guidance, but should there be a “next time,” we would be so much better off if we already have policies and procedures in place to address key issues.

Attachments:

CJCA, *The Impact of COVID-19 on Juvenile Justice Systems*

Burrell & Wilber, *COVID-19 and California's Detained Youth: Vulnerable and Overlooked*

Pacific Juvenile Defender Center, *Model Covid-19 Population Reduction Protocol for Secure Juvenile Facilities*

Centers for Disease Control, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities*

Penner, *Covid-19, Additional Guidance to Juvenile Facilities* (Mar. 30, 2020)

DOJ Information Bulletin - *COVID-19 and Statutory Authority Under Government Code Section 8658*