

## Addendum

### Addendum to “*Charging Youth as Adults in California: A county by county analysis of prosecutorial direct file practices*” regarding county data collection discrepancies

By

Selena Teji, J.D, Communications Specialist  
Mike Males, Ph.D, Senior Research Fellow

#### Introduction

This addendum refers to the Center on Juvenile and Criminal Justice’s (CJCJ) publication entitled, *Charging Youth as Adults in California: A county by county analysis of prosecutorial direct file practices*, released on February 16, 2012.<sup>1</sup>

The purpose of this addendum is to highlight the limitations with current state methods for collecting data on direct filing, and to urge District Attorneys, as the chief elected county law enforcement officers, to proactively ensure that accurate data is submitted to the Department of Justice as the official statewide data source regarding their direct file practices.

The original report examined county by county prosecutorial direct file practices between 2003 and 2010 to determine whether Proposition 21 (2000) has resulted in more commitments of youths to state correctional facilities than would have occurred otherwise. In light of these historic trends, the report also reflected on the potential effect that the Governor’s proposed closure of the state’s Division of Juvenile Facilities (DJF)<sup>2</sup> would have on prosecutorial direct file practices in California.

In this age of criminal justice reform, data-driven research is crucially important to analyzing criminal justice policy. This requires all government criminal justice agencies to take responsibility to ensure that information is properly collected and reported. No government agency, including district attorneys, are exempt from the responsibility of accurately reporting data and having that data scrutinized. Information inaccurately reported to the state by county agencies, impacts the ability of policy makers and the public to accurately assess the impact of public policy.

This addendum provides information on how data should be properly reported to the California Attorney General’s Office on the discretionary transfer of youth to adult court by county prosecutors – a practice known as direct file.

The errors in Ventura, Yolo, and possibly other counties’ reports on direct files over many years have misdirected policy research and possibly California juvenile justice policies. CJCJ awaits the corrected statistics for further analysis.

~ Daniel Macallair  
CJCJ Executive Director

<sup>1</sup> The full original report can be found at [http://www.cjcj.org/files/Charging\\_Youths\\_as\\_Adults\\_in\\_California.pdf](http://www.cjcj.org/files/Charging_Youths_as_Adults_in_California.pdf)

<sup>2</sup> The 2005 reorganization of the Youth and Adult Correctional Agencies into the CDCR created the Division of Juvenile Facilities (DJF), formerly the California Youth Authority (CYA). The DJF is commonly referred to as the Division of Juvenile Justice (DJJ). This report uses the Division of Juvenile Facilities.

## **The importance of accurate data collection and reporting**

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California's 58 county probation departments report juvenile justice related data, including data on prosecutorial direct filings, to the Department of Justice's Criminal Justice Statistics Center (CJSC) to **"provide information on the administration of juvenile justice in California"** (CJSC, 2006, p. 19, bold added). This data reporting is mandated under California Penal Code 13020 and Welfare and Institutions Code 285, requiring counties to "install and maintain records needed for the correct reporting of statistical data" to the Attorney General (PC 13020).

Reporting of direct file data is conducted electronically via the Juvenile Court and Probation Statistical System (JCPSS), and is quality assured twice a year by the CJSC through direct contact with county probation departments (Chief of the Bureau of Criminal Information and Analysis Julie Basco, personal communication, February 29, 2012). **As such, county agencies bear full responsibility for the accuracy of the data submitted to the state.**

Prosecutorial direct file data are mandatorily collected and reported to the state expressly for the purpose of providing insight into the county administration of juvenile justice. These data are regularly relied upon by local government, the legislature, state and federal agencies, and other criminal justice stakeholders and have been utilized in many studies and policy discussions in California, including but not limited to:

- Criminal Justice Statistics Center (CJSC). (2002-2010). *Juvenile Justice in California*. Sacramento, CA: Department of Justice.
- Pacific Juvenile Defender Center (PJDC). (2009). *Juveniles Tried in Adult Court in California*. San Francisco, CA: Youth Law Center.
- Berkeley Center for Criminal Justice (BCCJ). (2010). *A Closer Look at Transfer Laws' Impact on Young Men & Boys of Color*. Berkeley, CA: BCCJ.
- National Council on Crime and Delinquency (NCCD). (2010). *A New Era in California Juvenile Justice*. Oakland, CA: NCCD.
- Commonwealth Juvenile Justice Program. (2011). *California Juvenile Justice Policy, Practice & Funding Update*, presented at Beyond the Bench Conference 2011, California Administrative Office of the Courts. Sacramento, CA: Commonwealth.

While every effort is made to review data for accuracy, non-governmental organizations, policy makers, and independent researchers cannot be responsible for errors made at the county level.

County district attorneys have a duty to ensure that data regarding their prosecutorial practices are accurately being submitted to the Attorney General. The California District Attorney's Association has acknowledged the importance of accurate data collection in the assessment of adult criminal justice realignment, and "[t]o ensure accurate measurement of the impact of the laws in the future, CDAA will be developing data-collection recommendations" (CDAA, 2011). Equally, prosecutors must be proactively engaged in ensuring accurate information about prosecutorial direct filing of juveniles is being submitted to the state.

## **Direct file data discrepancies**

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Over the course of the past eight months, CJCJ has uncovered several discrepancies in the direct file data being submitted to the CJSC by county agencies since 2003. First, following an August 2011 CJCJ report, Ventura County District Attorney's Office acknowledged that the data Ventura County provided to the state regarding their prosecutorial direct file practices were erroneous and a result of ... "... reporting errors by the Ventura County Probation Department that included:

- Low level juvenile infraction offenses 'directly filed' by law enforcement to the courts assigned to handle infractions,
- Misdemeanor juvenile cases handled in juvenile court, and
- Offenses committed by 18-year-old offenders." (Ventura County District Attorney Greg Totten, personal communication, September 16, 2011).

The Ventura County District Attorney's Office advised that this error would be corrected and accurate data would be submitted to the Attorney General's Office. As of January 4, 2012, Ventura County still had not updated their direct file data and was therefore removed from the revised CJSC direct file data set (CJSC, personal communication, January 4, 2012).

Second, following CJCJ's February 2012 report on prosecutorial direct file practices that utilized the revised CJSC direct file data, the Yolo County District Attorney's Office acknowledged that the data Yolo County provided to the state regarding prosecutorial direct file practices were erroneous as a result of an ambiguity in the definition of "direct file" originating at the county level. This ambiguity resulted in compounding prosecutorial direct files (as defined in WI 707(d)) and statutory direct files (as defined in WI 602(b)) in the data submission.

On February 29, 2012, the CJSC advised that "there may be limitations with the 'direct file' data as depicted" among counties other than Yolo although the extent of this discrepancy is unknown (personal communication). Currently, the Yolo County District Attorney's Office is in the process of reviewing their files to verify the correct data (personal communication, March 1, 2011). CJSC is revising the JCPSS manual and will prepare a corresponding Informational Bulletin to California's statistical reporting agencies (personal communication, Feb. 29, 2012).

## **Policy implications**

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The California District Attorney's Association (CDAA) has asserted that restriction of admission to the state's DJF would result in increased transfers of juveniles to adult court (CDAA, 2011a). In light of Governor Brown's current proposal to complete juvenile justice realignment, data-driven assessment of prosecutorial direct file practices has become imperative to this dialogue.

In this instance, the impact of the direct file data discrepancy on the overall validity of CJCJ's analysis is unclear. Statutory WI 602(b) direct filing implicates a subset of offense types (including specifically enumerated homicide offenses and sex offenses) which account for a subset of juvenile felony arrests reported by counties. While CJCJ will certainly revise the report to reflect changes in county data as they become available from the state CJSC, CJCJ will not retract it from the public domain in the absence of data demonstrating that this discrepancy has significantly impacted the trends found in the report. It is still clear that California's counties utilize prosecutorial direct filing at radically different rates. Without this important analysis, policy makers are unable to evaluate prosecutorial practices or the effect of Proposition 21 (2000). County prosecutors cannot escape accountability because they have failed to address reporting errors regarding their practices for the past 8 years.

## Conclusion

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Accurate data collection and reporting is of the utmost importance as policymakers evaluate outcomes of criminal and juvenile justice practices. CJCJ's recent discovery regarding the quality of the direct file data being submitted by county agencies to the state raises serious concerns about the consistency of county data collection practices. The fact that county District Attorney's Offices have not addressed this issue while these data has been available publically for over 8 years is egregious.

CJCJ appreciates that the Yolo County District Attorney's Office is engaging with its Probation Department to address their error and look forward to receiving the outcome of their review. In addition CJCJ recommends:

- County District Attorneys' Offices work closely with Probation Departments to review and correct their data submissions,
- The CJSC report separately all three code section labels for discretionary, mandatory, and judicial waiver into adult criminal court when revising its manual and bulletin,
- County reporting agencies expedite confirmation of the original data submission or correction of the submitted data regarding direct filing.

CJCJ will reanalyze the county by county prosecutorial direct file trends upon receipt of corrected data.

## References

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Criminal Justice Statistics Center (CJSC). (2006). *Criminal Statistics Reporting Requirements*. Sacramento, CA: Department of Justice (DOJ). At: <http://ag.ca.gov/cjsc/misc/rptreq.pdf>

California District Attorney's Association (CDAA). (2011). *Prosecutors' Analysis of the 2011 Criminal Justice Realignment*. Sacramento, CA: CDAA.

California District Attorney's Association (CDAA). (2011a). Letter to Governor Brown from CDAA, CPOC, and CSAC dated December 7, 2011, RE: Division of Juvenile Justice "Trigger" Cut. At: [http://www.csac.counties.org/images/users/1/CSAC-CDAA-CPOC%20DJJ%20trigger%20cut-ltr%20to%20Gov%20\(120711\)\\_FINAL.pdf](http://www.csac.counties.org/images/users/1/CSAC-CDAA-CPOC%20DJJ%20trigger%20cut-ltr%20to%20Gov%20(120711)_FINAL.pdf)

For more information please contact:

Center on Juvenile and Criminal Justice  
440 9<sup>th</sup> Street  
San Francisco, CA 94103  
(415) 621-5661  
[cjcjmedia@cjcj.org](mailto:cjcjmedia@cjcj.org)  
[www.cjcj.org](http://www.cjcj.org)

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