

Juvenile Justice Realignment Series

**The impact of realignment on county juvenile justice practice:
Will closing State youth correctional facilities increase adult
criminal court filings?**

by

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The impact of realignment on county juvenile justice practice: Will closing State youth correctional facilities increase adult criminal court filings?

Summary of Findings

- California counties drastically vary in arrest and incarceration policies. Yet, even radical variations in reliance on State incarceration have no effect on juvenile crime rates or trends.
- In 2009, 24 counties employed locally self-reliant juvenile justice practices. Those counties were Alpine, Amador, Calaveras, Colusa, Del Norte, Inyo, Los Angeles, Mariposa, Mendocino, Mono, Nevada, Placer, Plumas, San Diego, San Francisco, San Joaquin, San Luis Obispo, Santa Clara, Sierra, Solano, Sonoma, Stanislaus, Trinity, and Tulare.
- In 2009, 13 counties employed State-dependent juvenile justice practices that would significantly obstruct juvenile justice reform. Those counties were Alameda, Contra Costa, Fresno, Kern, Kings, Merced, Monterey, Orange, Sacramento, San Bernardino, San Mateo, Santa Barbara, and Ventura.
- The thirteen State-dependent counties accounted for 37% of juvenile felony arrests but 61% of all direct adult criminal court filings and 46% of all DJF commitments, in 2009.
- Kings County is the most State-dependent county, direct filing in adult criminal court 50 times more than Los Angeles, 39 times more than San Diego, and 36 times more than San Francisco in 2009.
- Twelve California counties did not utilize the state system during 2009; either for a DJF commitment or an adult criminal court filing despite experiencing juvenile felony arrests during that year (Alpine, Amador, Calaveras, Colusa, Del Norte, Inyo, Mariposa, Mono, Nevada, Plumas, Sierra, and Trinity).
- Despite having the highest juvenile felony arrest rate in the State, San Francisco County utilized direct adult criminal court filing one-eighth as much as the county with the lowest rate of juvenile felony arrests (El Dorado).

I. Introduction

On January 10, 2011, Governor Jerry Brown released his proposed budget for 2011-12, promoting the elimination of the Division of Juvenile Facilities (DJF) by June 30, 2014.¹ This CJCJ report is the first in a series of reports investigating the consequences of the proposed juvenile justice realignment in California. The second in the series is a two-page brief examining the 58 counties' institutional capacity to absorb the DJF population in 2009 and follows two previous CJCJ reports recommending the realignment and reform of juvenile justice practices.

As highlighted in CJCJ's May 2009 report entitled *Closing California's Division of Juvenile Facilities: An Analysis of County Institutional Capacity*,² and the October 2010 update, counties have been developing their capacity and ability to serve serious and violent offenders since 2004. However, there remains speculation as to how closure of DJF facilities will impact juvenile justice practices and although analysis is difficult, some indications can be derived from recent trends. As CJCJ's May 2009 report identified, direct filing of juvenile offenders to adult criminal courts by prosecutors has been steadily rising since 2004 despite the availability of DJF facilities. This trend suggests that direct adult criminal court filing will continue to increase regardless of the future of DJF.

This report conducts an analysis of county use of DJF and direct adult criminal court filings in 2009. The results suggest that closing DJF facilities will impact each of the 58 counties differently, but can be broadly classified into several categories. Some counties will be minimally impacted by DJF's closure, while others will be significantly impacted, requiring a more focused analysis of their needs and appropriate technical assistance, support, and resources to serve their serious juvenile offenders at the county-level. Nevertheless, counties' willingness to respond to this challenge has been demonstrated by the response to Senate Bill 81 in August 2007, when despite initial reservations many counties not only absorbed the non-violent juvenile offender population previously housed in DJF, but also implemented community-based services for high-risk serious juvenile offenders.

¹ The 2005 reorganization of the Youth and Adult Correctional Agencies into the CDCR created the Division of Juvenile Facilities (DJF). The DJF is commonly referred to as the Division of Juvenile Justice (DJJ). This report uses the Division of Juvenile Facilities.

² To read the *Closing California's Division of Juvenile Facilities: An Analysis of County Institutional Capacity* please visit: http://www.cjcj.org/files/closing_californias_DJF.pdf.

II. Methodology

Data for this analysis was specially requested from the California Department of Corrections and Rehabilitation, Juvenile Research Branch (JRB); and the Criminal Justice Statistics Center (CJSC). The analysis of these statistics is straightforward. Juvenile felony arrest rates were calculated using 2009 CJSC county juvenile felony arrest figures and JRB county youth population figures. Using data from 2009, the rate at which counties commit youth to DJF was calculated using CJSC juvenile felony arrest figures and JRB first commitment figures to determine the rate of DJF first commitments per 1,000 juvenile felony arrests. The rate at which counties direct filed in adult criminal court was calculated using CJSC juvenile felony arrest figures and CJSC direct adult criminal court filing figures to determine the rate of direct adult criminal court filing per 1,000 juvenile felony arrests.

A median value was calculated for both rates to facilitate classification of the counties for analysis. The twelve counties that did not utilize either DJF or direct adult criminal court filing in 2009 were removed from the data set prior to calculating median points for these two rates. The median rate of DJF commitment was 6.97. The median rate of adult criminal court filing was 15.73.

There were 346 juvenile court remands to adult court in 2009 (CJSC, 2010). These were not included in the adult criminal court filing data set because they are an outcome of juvenile court dispositions rather than a product of prosecutorial discretion. Also, not all juvenile felony arrests are eligible for direct adult criminal court filing. In this report, the rate of direct adult criminal court filing is determined using the total number of juvenile felony arrests, and not the subset of juvenile felony arrests that were eligible for direct adult criminal court filing. This is due to informational limitations regarding felony arrest data available.

III. Analysis

In 2006, CJCJ published a report entitled *Testing Incapacitation Theory: Youth Crime and Incarceration in California* that found large decreases in the incarceration of California youth in DJF were followed by significant declines in youth crime through 2004. Moreover, in July 2010, CJCJ published a report entitled *The California Miracle: Drastically Reduced Youth Incarceration, Drastically Reduced Youth Crime* that analyzed current trends of California juvenile incarceration and found that both the rate of juvenile incarceration and the rate of juvenile violent and felony crime have been steadily decreasing since 1980. The report went on to conduct a county-by-county analysis of juvenile incarceration policies and crime trends and determined that there is no relationship between youth incarceration and youth crime rates or trends.

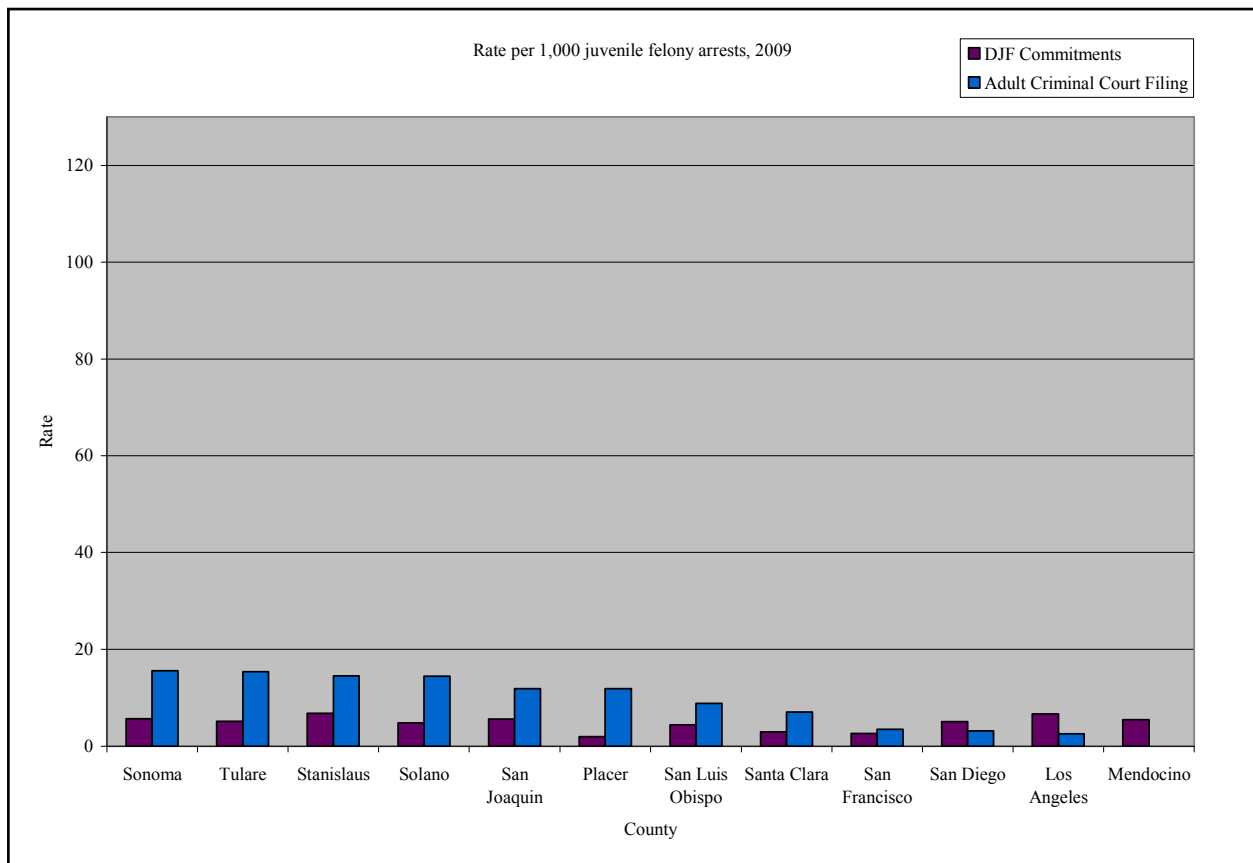
This February 2011 report analyses juvenile felony arrest rates by county and juvenile incarceration rates by county. Again, CJCJ found that California counties drastically vary in arrest and incarceration policies, and even radical variations in policy appear to have no effect on juvenile crime rates or trends. This analysis reconfirms a consistent hypothesis that counties can feasibly incarcerate far fewer juvenile offenders at significantly reduced costs without risking an increase in youth crime.

Moreover, some counties are already succeeding at providing county level services to serious juvenile offenders, rather than relying on State incarceration. Twelve California counties did not utilize the state system during 2009; either for a DJF commitment or an adult criminal court filing despite experiencing felony arrests during that year. These locally self-reliant counties were: Alpine, Amador, Calaveras, Colusa, Del Norte, Inyo, Mariposa, Mono, Nevada, Plumas, Sierra, and Trinity.

Collectively these counties housed two youths in DJF in December 2009 (and none in December 2010). As such these twelve counties were removed from the statistical analysis. These counties are entirely locally self-reliant and, with the exception of Calaveras, experience a low rate of juvenile felony crime (*See Appendix A for felony arrest rates by county*). The trend suggests these counties would be minimally impacted by the closure of DJF.

Below, the counties are organized broadly into four categories according to the rate of utilizing direct adult criminal court filing and rate of DJF commitments. The graphs for each enumerated section depict the rate of use for direct adult criminal court filing and DJF commitments in 2009, by county. The median rate value used for categorization was 15.73 for adult criminal court filing, and 6.97 for DJF commitments.

1. Counties with a low rate of adult criminal court filing and a low rate of DJF commitment



(Source: CJSC, 2011a, 2011b; JRB, 2011)

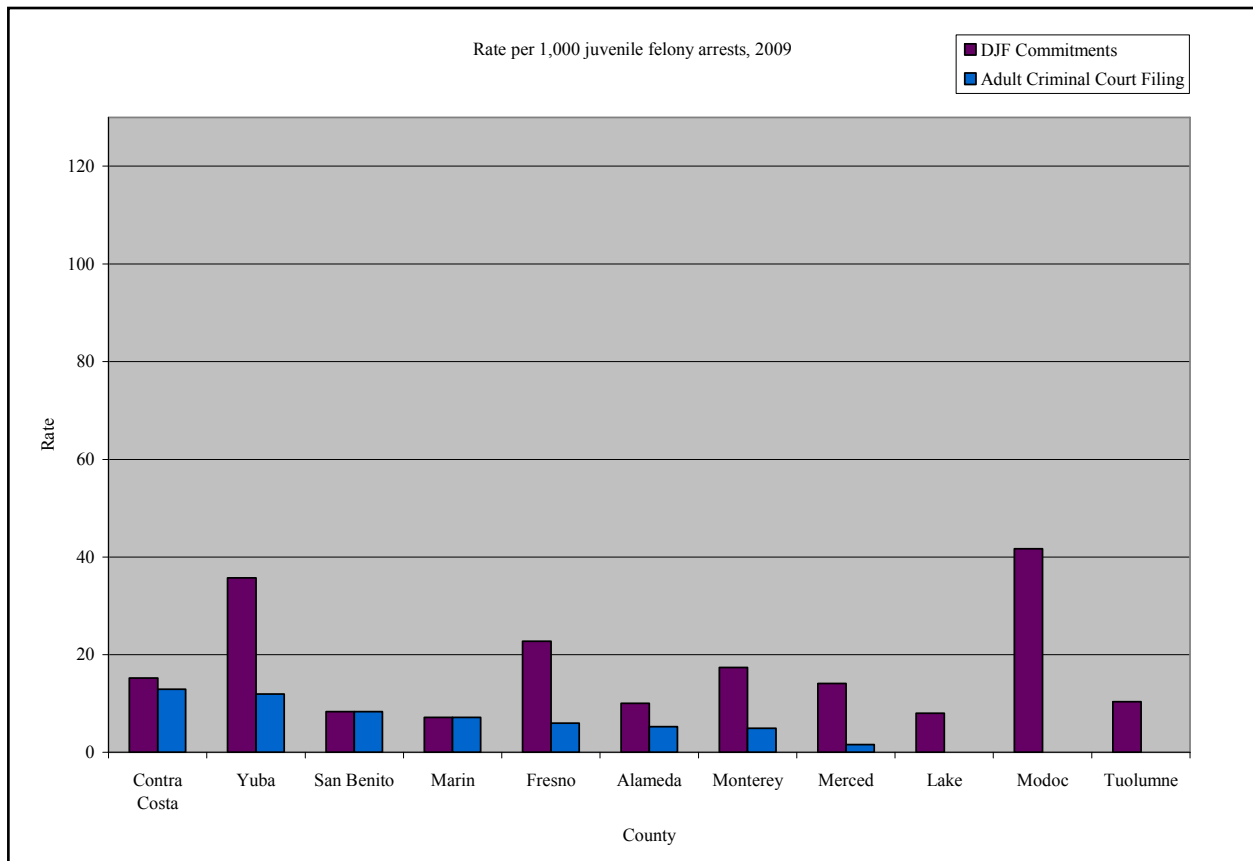
Based on the rate analysis, these counties employ locally self-reliant juvenile justice practices and rarely utilize the State youth correctional system or the adult criminal justice system to serve juvenile offenders. However, according to the numerical data several counties housed a large number of youths in DJF and direct filed a high number of youths in adult criminal court in 2009 (*See Appendix B for numerical data*). These counties were: Los Angeles, San Diego, San Joaquin, Santa Clara, Solano, Stanislaus, and Tulare.

These counties generally experience a high rate of juvenile felony crime (*See Appendix A*). However, according to CJCJ's analysis of county capacity, with the exception of Stanislaus, these counties have available bed space to house all of their serious juvenile offenders at the county level. If given appropriate resources to expand and supplement their county programs, the trend suggests these counties would not significantly increase direct adult criminal court filing upon closure of DJF, and would instead serve their serious juvenile offenders at the county level.

Notably, San Francisco (the only county consisting wholly of a city) experienced the highest rate of juvenile felony crime of all 58 counties in 2009. Despite this, San Francisco committed only three youth to DJF and entered four direct adult criminal court filings during the year. Moreover, Mendocino, Placer, and San Luis Obispo also entered few direct adult criminal court filings in 2009. The trend suggests that these counties would not significantly increase direct adult criminal court filing upon closure of DJF, as they already utilize DJF infrequently.

Further, both San Francisco and San Luis Obispo counties have declared moratoriums on sending youths to DJF after allegations of mistreatment emerged in the late 1990's. Since then, San Francisco has developed several collaborative programs, targeting its highest risk youth including repeat offenders with a continuum of services at the county-level. For example, the Juvenile Collaborative Reentry Team (JCRT) works in partnership to develop a comprehensive service plan for the youth upon his/her reentry into society and submits this plan to Court for the Judge's input and approval. Unlike many other Court structures, JCRT Court does not present clear opposing positions between the Public Defender's Office and the District Attorney, allowing the expertise of the JCRT staff and their knowledge of the client to promote the Judge's legal decision. The youths served by the JCRT program would typically be committed to DJF based on the severity of their crimes, however the JCRT program allows these high-needs youth to receive critical reentry services to assist them and their families in achieving success in the community at the county level. Counties with model programs, such as San Francisco, could provide technical assistance and support to other counties in need of enhancing their programming.

2. Counties with a low rate of adult criminal court filings and a high rate of DJF use



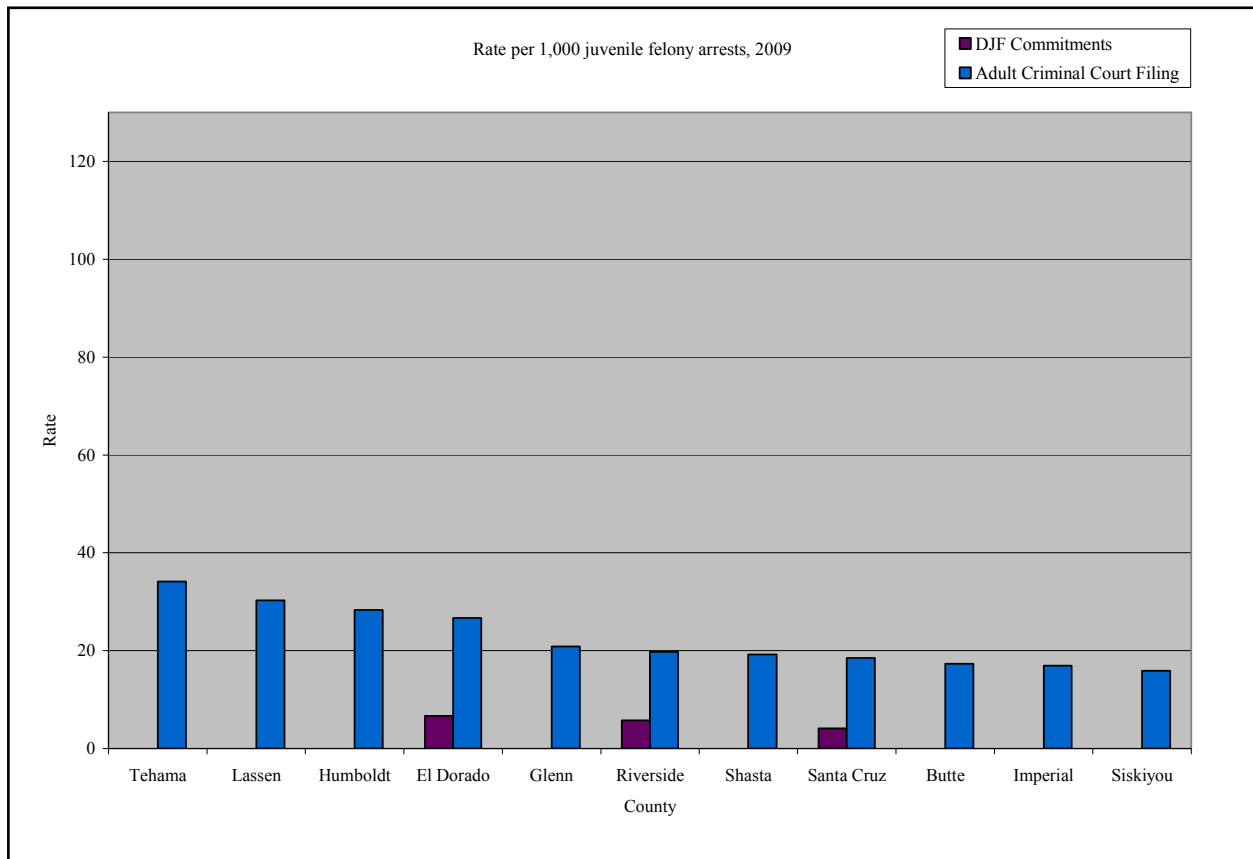
(Source: CJSC, 2011a, 2011b; JRB, 2011)

Based on the rate analysis, these counties demonstrate a significant reliance on the State youth correctional system but not the adult criminal justice system to serve juvenile offenders. The trend suggests that these counties are State-dependent and would be most impacted by DJF's closure. With the exception of Contra Costa, Marin, and Yuba counties, these counties experience high rates of juvenile felony crime (*See Appendix A*). Direct adult criminal court filings may significantly increase in these counties without intensive technical assistance.

Five of these counties housed a high number of youths in DJF: Alameda, Contra Costa, Fresno, Merced, and Monterey (*See Appendix B*), indicating a higher level of State-dependency. These counties should be targeted for technical assistance and peer support by locally self-reliant counties, such as San Francisco. Further, according to CJCJ's analysis of county capacity, six of these counties may need additional assistance securing appropriate housing to confine the additional juvenile offenders at the county level. These counties are: Contra Costa, San Benito, Fresno, Monterey, Merced, and Modoc counties.

Five of these counties have a small youth population and experienced a relatively low number of juvenile felony arrests in 2009 (*See Appendix A*): Lake, Modoc, San Benito, Tuolumne, and Yuba counties. This may indicate that minimal technical assistance and allocation of resources would be necessary to enhance county-based services to serve the small number of youths who would otherwise have been committed to DJF from these counties.

3. *Counties with a high rate of adult criminal court filing and a low rate of DJF use*



(Source: CJSC, 2011a, 2011b; JRB, 2011)

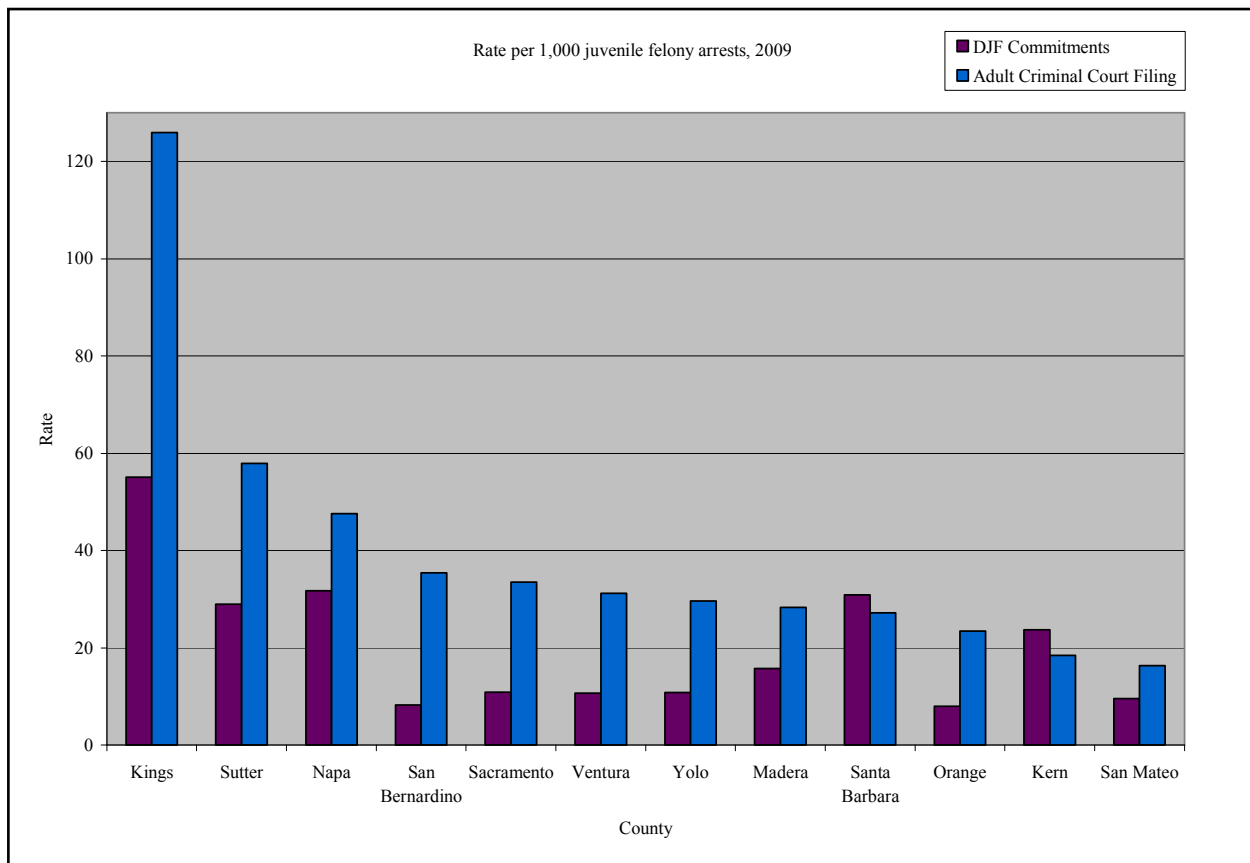
Based on the rate analysis, these counties generally send their serious juvenile offenders directly to the adult criminal justice system and do not have a significant reliance on the State's youth correctional system. Thus, these counties are also heavily State-dependent but would be minimally impacted by the closure of DJF. In 2009, only three of these counties committed youths to DJF: Riverside (19), Santa Cruz (2) and El Dorado (1) and out of these 15 were youths who were direct filed in adult criminal court. The trend suggests that these counties would not significantly increase direct filing upon closure of DJF, as they already utilize DJF infrequently and tend to direct file serious juvenile offenders in adult criminal court.

In 2009, Riverside County direct filed a large number of youths under the age of 18 to adult criminal court who are subsequently housed at DJF. This would account for the high number of youths housed at DJF despite a low rate of DJF commitments. This trend suggests that Riverside county may need special technical assistance upon the closure of DJF to enable it to house its serious juvenile offenders at the county level until they reach the age of 18.

Interestingly, both Santa Cruz and Humboldt counties have developed model programming at the county-level for serious juvenile offenders, thus minimizing utilization of DJF. Santa Cruz County has initiated several reform efforts in the last ten years to improve services and conditions of confinement for youth under their supervision. In 1999, the county was targeted as an Annie E. Casey Foundation Juvenile Detention Alternatives Initiative (JDAI) site. The county utilized a data-driven, collaborative planning approach to implement case processing strategies and alternative programs. Another unique feature of this county was probation staffs' willingness to accommodate long-term commitments at the juvenile hall including housing serious juvenile offenders otherwise typically sent to DJF. Moreover, Humboldt County's New Horizons mental health program has made strategic use and leveraging of often-underutilized funding streams, particularly Early Periodic Screening Diagnosis and Treatment (EPSDT), and wraparound funding. Humboldt acquired a state waiver to use SB 163 (wraparound) funds to provide services for youths in a locked facility. This innovative venture allows mixed funding streams to sustain the program's costs. After release from the New Horizons facility, EPSDT funding is used to provide aftercare mental health services. This type of structured funding allows for a seamless provision of mental health services while in and returning from a locked facility.

However, the high rate of direct adult criminal court filing from these counties highlights the importance of inter-agency collaboration and continued education on juvenile justice best practices not only to probation departments but to all agencies involved in the juvenile justice system, such as district attorneys, defense attorneys, and the judiciary.

4. Counties with a high rate of adult criminal court filings and a high rate of DJF use



(Source: CJSC, 2011a, 2011b; JRB, 2011)

Based on the rate analysis, these counties are the most State-dependent in California, relying heavily on the state system at both the juvenile and adult level to serve their serious juvenile offenders. All of these counties committed youths to DJF and direct filed youths in adult criminal court at a high rate in 2009.

In addition to the rate of use, eight counties also commit high numbers of youths to both DJF and the adult criminal court system (*See Appendix B*): Kern, Kings, Orange, Sacramento, San Bernardino, San Mateo, Santa Barbara, and Ventura counties. These counties with the exception of Kings county have large juvenile populations and experience a varied rate of juvenile felony crime. Further, in 2009 these counties direct filed a large number of youths under the age of 18 to adult criminal court who are subsequently housed at DJF. This would account in part for the high number of youths housed at DJF. This trend suggests that these counties will require special technical assistance upon the closure of DJF to enable them to house their serious juvenile offenders at the county level until they reach the age of 18. Moreover, the trend suggests that direct adult criminal court filings will likely significantly increase in these counties without intensive technical assistance. A closer analysis of available resources and juvenile

justice practices in these counties is necessary to determine why this reliance on DJF and adult criminal court filing exists.

Although there is some variation, Yolo and Madera counties have similar medium-sized juvenile populations (16,000 to 17,000) and higher rates of juvenile felony crime, while Napa and Sutter counties have slightly smaller juvenile populations and lower rates of juvenile felony crime (Napa falls on the median) (*See Appendix A*). All four counties generally fall close to the median for the number of youths direct filed in adult criminal court and have a low number of youths in DJF (*See Appendix B*). The trend suggests that these four counties would significantly increase direct adult criminal court filing upon closure of DJF, without technical assistance. However, considering the small number of youths this encompasses (total housed in DJF in Dec. 2009: 29; total DJF commitments in 2009: 19), minimal technical assistance and allocation of resources would be necessary to enhance county-based services to serve the small number of youths who would otherwise have been committed to DJF from these four counties.

IV. Conclusion

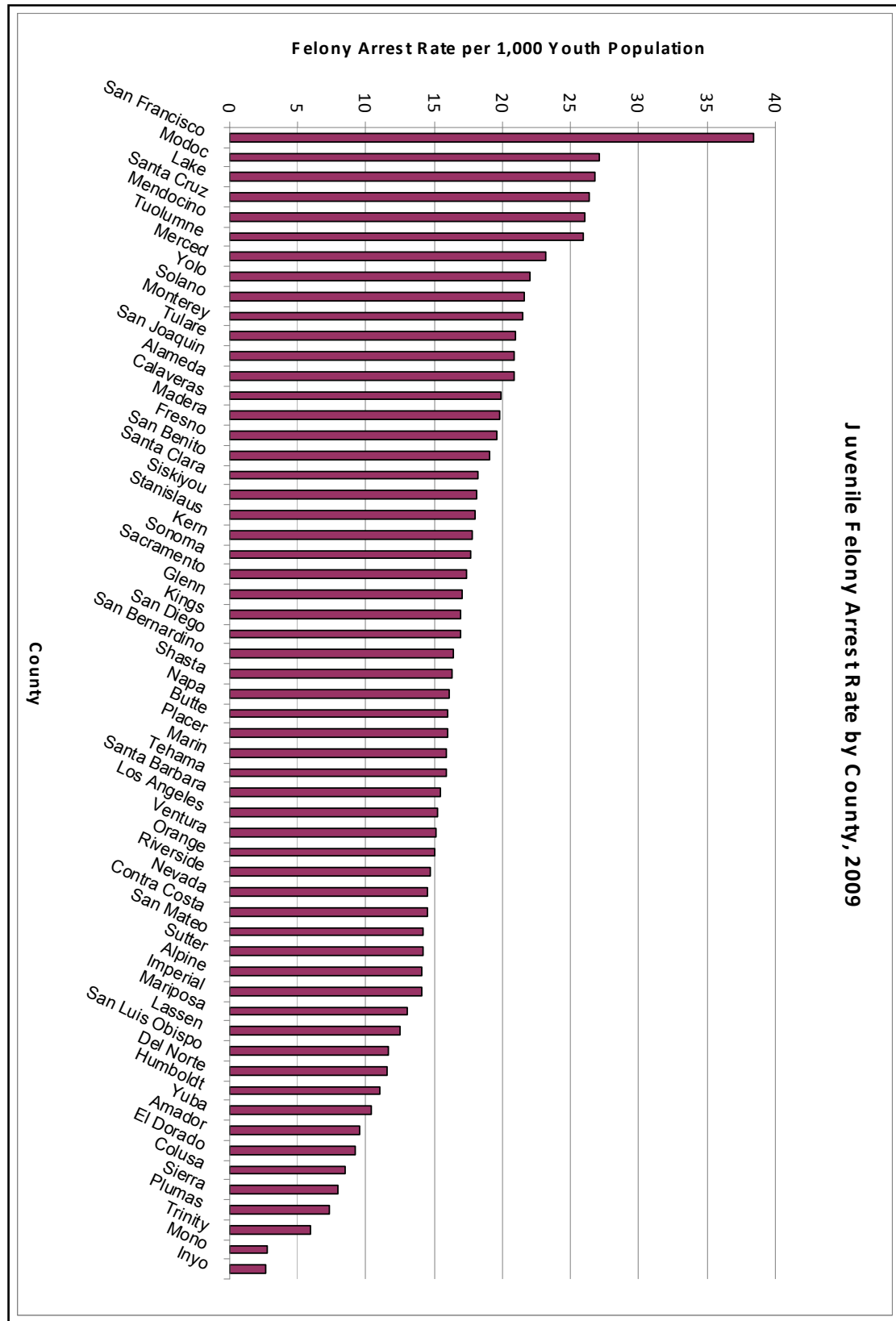
The purpose of this report was to conduct an analysis of county use of direct adult criminal court filing to determine how county juvenile sentencing policies may be impacted upon realignment of serious juvenile offenders to the county level. In this analysis CJCJ found a set of locally self-reliant counties, such as San Francisco and San Luis Obispo counties that already serve juvenile serious offenders at the county level. These counties would be minimally impacted by the elimination of DJF. In comparison, CJCJ also found a set of State-dependent counties, such as Kern and Kings counties that rely heavily on the state system and would be significantly impacted by the elimination of DJF. These trends were not determined by juvenile felony crime rates or youth population. In light of this information, the realignment will necessitate a learning process, through which State-dependent counties can develop strategies to transition away from reliance on incarceration and depend on the best practices already employed by self-reliant counties.

Elimination of DJF and realignment of responsibility for all juvenile offenders to the counties is appropriate and fiscally responsible. The state is facing a \$28 billion budget deficit and can no longer afford to operate a dual juvenile justice system. California counties now have the bed space to house the dwindling DJF population, moreover, juvenile justice best practices recognize the importance of serving youths at the local level allowing for increased access to attorneys, families, and community-based organizations. Several California counties have already demonstrated the capacity to serve high-risk serious juvenile offenders. Moreover, many counties responded positively to SB 81 in 2007 despite initial hesitation, established the counties' ability to be creative and develop innovative practices, when provided with the incentive and resources to do so.

In 2009, California counties' juvenile justice practices varied widely and confirm a need for adequate resources and technical support to not only enhance and develop a continuum of non-institutional rehabilitative services at the county level, but also educate the various agencies involved in the juvenile justice system on best juvenile justice practices. The Governor's proposal to eliminate DJF by June 30, 2014, will require a realignment of resources, both fiscal and technical; to provide counties with the various tools they need to serve California's most troubled youths. The proposal indicates additional funding will be provided to the counties in the amount of \$78 million for fiscal year 2011-12, with an additional \$242 million allocated in fiscal year 2014-15 to complete the realignment. This is an opportunity for California to redesign its juvenile justice system to better reflect modern, safe, and effective juvenile justice practices.

References

- Center on Juvenile and Criminal Justice. (2006). *Testing Incapacitation Theory: Youth Crime and Incarceration in California*. July 2006. CA: CJCJ. Retrieved February 8, 2011 from http://www.cjcj.org/files/testing_incapacitation.pdf.
- Center on Juvenile and Criminal Justice. (2009). *Closing California's Division of Juvenile Facilities: An Analysis of County Institutional Capacity*. May 2009. CA: CJCJ. Retrieved February 8, 2011 from http://www.cjcj.org/files/closing_californias_DJF.pdf.
- Center on Juvenile and Criminal Justice. (2010). *The California Miracle: Drastically Reduced Youth Incarceration, Drastically Reduced Youth Crime*. July 2010. CA: CJCJ. Retrieved February 8, 2011 from http://www.cjcj.org/files/The_California_Miracle.pdf.
- Center on Juvenile and Criminal Justice. (2010). *AN UPDATE: Closing California's Division of Juvenile Facilities: An Analysis of County Institutional Capacity*. October 2010. CA: CJCJ. Retrieved February 8, 2011 from http://www.cjcj.org/files/An_Update_Closing_Californias_Division_of_Juvenile_Facilities.pdf.
- Center on Juvenile and Criminal Justice. (2011). *Closing California's Division of Juvenile Facilities: An Analysis of County Institutional Capacity 2009-2010*. February 2011. CA: CJCJ.
- Criminal Justice Statistics Center (2010). *Juvenile Justice in California 2009 (annual)*. CA: Office of the Attorney General, California Department of Justice.
- Criminal Justice Statistics Center. (2011a). *Felony Arrests 2000-2009* [Unpublished data file]. CA: Office of the Attorney General, California Department of Justice.
- Criminal Justice Statistics Center. (2011b). *2009 Direct Files by County* [Unpublished data file]. CA: Office of the Attorney General, California Department of Justice.
- Juvenile Research Branch. (2009). *Characteristics of Population*. December 2009. Sacramento, CA: CDCR. Retrieved February 7, 2011 from http://www.cdcr.ca.gov/Reports_Research/docs/research/DEC2009-CHARACTERISTICS.pdf
- Juvenile Research Branch. (2011). *Parole Region and County of First Commitment, 2009* [Unpublished report]. Sacramento, CA: CDCR.



(Source: CJSC, 2011a; JRB, 2011)

| Number of direct adult criminal court filings and number of youth confined in DJF by county, 2009 | | |
|--|--|------------------------------|
| Counties | Direct adult criminal court filings | DJF population (Dec.) |
| Alameda | 13 | 66 |
| Alpine | 0 | 0 |
| Amador | 0 | 0 |
| Butte | 5 | 5 |
| Calaveras | 0 | 0 |
| Colusa | 0 | 0 |
| Contra Costa | 17 | 45 |
| Del Norte | 0 | 0 |
| El Dorado | 4 | 2 |
| Fresno | 11 | 97 |
| Glenn | 1 | 3 |
| Humboldt | 3 | 4 |
| Imperial | 4 | 2 |
| Inyo | 0 | 0 |
| Kern | 28 | 125 |
| Kings | 32 | 23 |
| Lake | 0 | 5 |
| Lassen | 1 | 1 |
| Los Angeles | 39 | 445 |
| Madera | 9 | 8 |
| Marin | 2 | 1 |
| Mariposa | 0 | 1 |
| Mendocino | 0 | 2 |
| Merced | 1 | 37 |
| Modoc | 0 | 1 |
| Mono | 0 | 0 |
| Monterey | 4 | 40 |
| Napa | 9 | 10 |
| Nevada | 0 | 1 |
| Orange | 97 | 80 |
| Placer | 6 | 8 |
| Plumas | 0 | 0 |
| Riverside | 65 | 66 |
| Sacramento | 77 | 64 |
| San Benito | 1 | 2 |
| San Bernardino | 128 | 80 |
| San Diego | 15 | 101 |
| San Francisco | 4 | 6 |
| San Joaquin | 19 | 31 |
| San Luis Obispo | 2 | 4 |
| San Mateo | 12 | 31 |
| Santa Barbara | 15 | 22 |

| | | |
|--------------|------------|--------------|
| Santa Clara | 19 | 27 |
| Santa Cruz | 9 | 8 |
| Shasta | 5 | 8 |
| Sierra | 0 | 0 |
| Siskiyou | 1 | 1 |
| Solano | 12 | 14 |
| Sonoma | 11 | 6 |
| Stanislaus | 15 | 23 |
| Sutter | 8 | 7 |
| Tehama | 3 | 2 |
| Trinity | 0 | 0 |
| Tulare | 15 | 51 |
| Tuolumne | 0 | 2 |
| Ventura | 35 | 27 |
| Yolo | 11 | 4 |
| Yuba | 1 | 3 |
| Total | 769 | 1,602 |

(Source: CJSC, 2011b; JRB, 2009)

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