COUNTY OF LOS ANGELES PROBATION COMMISSION
9150 EAST IMPERIAL HIGHWAY
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(562) 940-2754

Joe Gardner
President

April 28, 2016

TO: **Board of Supervisors Working Group to Assess Oversight of the Probation Department**

FROM: **Joe Gardner, President, Probation Commission**

SUBJECT: **PROPOSAL TO IMPROVE OVERSIGHT OF THE PROBATION DEPARTMENT.**

Members of the Los Angeles County Probation Commission present this letter to the working group established by the Board of Supervisors tasked to assess oversight of the Probation Department. The commission offers this letter to clarify the functions and current authority of the Probation Commission and to provide a solution to improving oversight of the Probation Department.

At this time, interpretations of the commission's statutory[1] mission vary wildly from, for example, those expressed by County Counsel in its letter dated August 4, 2006 that the commission's sole duty is "to function in an advisory capacity to the Probation Officer" to a Legislative Counsel opinion dated November 1, 2006 whose view is that the Probation Commission has far-reaching oversight responsibilities over the Probation Department. An excerpt is provided from the Legislative Counsel Opinion below:

"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. 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 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."

A footnote in the same Legislative Counsel Opinion provides further clarification;

> *"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*

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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)

See Cal. W & I Code §§ 225-236, 240-243

Recommendations

The commission is therefore recommending the Board of Supervisors affirm what already exists in Sections 229, 229.5 and 230 of the Welfare and Institutions Code (see attached) and recognize the opinion rendered by the Legislative Counsel dated November 1st, 2006. (see attached) The commission suggests the Board of Supervisors consider passage of a county ordinance that would empower the commission through a separate grant of authority. The ordinance as suggested by the commission includes the following powers and duties:

- To conduct inspections of Probation Department juvenile facilities per Title 15, CCR, § 1313 no less than once a year;
- To submit a report to the Board of Supervisors on an annual basis summarizing the commission's findings;
- Provision for staff adequate to assist the commission in exercising its duties;
- The commission should be empowered to participate in the selection of the new Chief, perhaps to hear from finalists for the position, and make a recommendation to the Board of Supervisors;
- The Commission will provide an annual recommendation of confidence on the performance of the Chief Probation Officer to the Board of Supervisors;
- Subpoena power if necessary to secure the appearance of individuals before the commission;
- To conduct hearings on selected topics including the conditions of custody of detained minors, the services offered to youth under supervision in the field, etc. Witnesses to include members of the community and youth in addition to probation staff;
- To receive all fiscal audits of department funds whether internal or external;
- To receive all audits, reports, and/or studies from the Department of Justice, academic institutions, and all other governmental or non-governmental agencies regarding juvenile-related issues of the Probation Department and furthermore, to receive the responses promptly from the Probation Department on these reports;

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- To review proposed budgets for the department and submit comments to the Chief Executive Officer and the Board of Supervisors, if appropriate;

- To be granted access to statistics and data collected/kept by the department in the course of business;

- To be informed of all programs administered by county departments that provide services to juveniles and adults on probation;

- To receive input from appropriate community groups and individuals concerning county administered probation services programs;

- To review and make recommendations to the Board of Supervisors concerning legislation dealing with probation services;

- To make recommendations as necessary to various department heads to improve services to individuals on probation;

- To make recommendations as necessary to the Board of Supervisors on action to be taken to improve probation services.

These suggestions along with those duties under the law, outlined in the Welfare and Institution Code previously mentioned would go a long way to improving the commission's ability to perform oversight of the Probation Department.

History

As a brief overview, the Probation Commission was created in 1903 and is one of the County's oldest official bodies. There are fifteen members of the commission, appointed by the Board of Supervisors. Members are selected to represent the diversity of the community and each commissioner possesses expertise from a variety of professional disciplines, from education, public health, from the judicial system, youth advocacy and law enforcement.

Under the provisions of Section 240 et seq. of the California State the Welfare and Institution Code, the establishment of the commission is mandatory and consequently has a permanent status in county government. It also meets the additional requirement that each county in California have a juvenile justice commission. It is given this authority under Article IV, Section 14 of the Los Angeles County Charter. Pursuant to this County Charter, the commission is an executive office and serves as an advisory oversight body to the Chief Probation Officer and the Probation Department.

Functions

The Probation Commission conducts monthly public meeting at the Hall of Administration on the second and fourth Thursday of each month. All meetings are governed by the Brown Act. Attendees include representatives of the Probation Department and the general public.

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The purpose meetings are to discuss matters of concern and deficiencies identified by the commission with the mission of correction or remediation by the Probation Department.

The current functions of the commission include the inspections of Probation juvenile halls and camps. Each facility is inspected not less than once a year by a commissioner. The commissioner prepares a written report with his or her findings and circulates that report to the full commission, and appointing supervisors as well as to the department. Such reports have led to the exploration of critical issues such as the use of isolation in the facilities, the nutrition received by youth, and the physical environment within which the youth live. The commission provides annual reports to the Board of Supervisors and it annually shares the findings of its inspection reports with the Board of State and Community Corrections (BSCC).

Commissioners participate in routine exchanges of information with the Board of Supervisors through their Justice Deputies, the Probation Department and public at large. Members of the commission serve as ambassadors of the Probation Commission at Probation Department functions.

The Probation Commission also provides oversight and works in an advisory capacity to the adult side of the Probation Department through membership in the Countywide Criminal Justice Coordination Committee.

Resources required

The Probation Commission performs all these duties, tasks and functions with only minimal support and funding from the county via the Probation Department.

The commission's current authority and mission have been hindered by its lack of resources; we have inadequate support personnel and funding. The additional roles of oversight responsibilities proposed herein require dedicated, capable staff, independent from the Probation Department able to assist with the important functions of the commission. Current resources provided by the Probation Department are two secretaries who work in other divisions. The secretaries must divide their time between their primary duties and the tasks and activities generated by the commission. That they are employees of the Probation Department has raised concerns about the commission's autonomy from the Probation Department which is necessary to conduct unbiased oversight. Members of the commission have voiced a need to be separate and unencumbered by the Probation Department. There is also a clear need for dedicated full-time support staff.

The duties of the commission require the services of a 1.0 Full Time Equivalent Administrative Analyst II position and one 0.3 Full Time Equivalent Legal Processing Specialist (LPS) to perform the following duties:

- Document management that includes preparation and distribution of the agendas, minutes, press releases and monthly recaps.

- The collection and maintenance of inspection reports, responses from the Department, commission bylaws and data ordered and generated by the commission.

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- Review of all documents prior to their official release to the public.
- Facilitating and coordinating twice-monthly meetings of the commission.
- Facilitating training and orientation of all commissioners.
- Maintenance of master calendar to assure inspection and reporting timelines and deadlines are met and meetings and other activities are scheduled.
- Maintenance of commission budget and expenditures.
- Coordination of website updates and revisions to assure public transparency.
- Responding to inquiries made to the commission.

In addition to the acquisition of an administrative analyst II and legal processing specialist, the commission requires office space, two computers, computer server space, shared printer and document scanner for staff to work and conduct the business outlined above. The commission would also require a public website and webmaster governed by a county entity outside of the Probation Department and modest budget to facilitate meetings and pay for stipends. In order to stay current with Board of State and Community Corrections best practices, it is essential that a budget include a line item for on-going annual training for the commissioners.

Conclusion

Appointed members of the Probation Commission are professional and dedicated to their role of assuring the humane treatment of those under the supervision of the Probation Department. The commission seeks to collaborate and support the Probation Department to deter recidivism with the primary goal of keeping our communities safe.

The commission will abide with decisions made in the greater interest of the public at-large and that provides the best oversight of the Probation Department.

I thank the Board of Supervisors Working Group in advance for reviewing this document and appreciate your consideration of the recommendations contained herein and for the work done by the Probation Commission.

Submitted,

Joe Gardner, President
Los Angeles County Probation Commission
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Attachment-Relevant Sections of the Welfare and Institutions Code

The language of the statue is clear that the Probation Commission exists in lieu of a county juvenile justice commission.

Underlined the portions of the code empower and require the Probation Commission to perform important duties and functions.

Note that the final section, 230 W.I.C. does not limit the commission's counsel and advice solely to the Chief.

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.

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. (b) In conducting its review, the commission shall respect the confidentiality of minors' records and other information protected under other provisions of law. It may review court or case records of a child provided it keeps the identities of minors named in those records confidential, and may review the financial records of a group home. However, the commission may not review the personnel records of employees or the records of donors to the group home. (c) The commission shall give the group home manager at least 24 hours' advance notice of a visit to a group home. If the commission believes that there is a serious violation of applicable licensing laws or regulations or that residents of a group home are in danger of physical or mental abuse, abandonment or other substantial threat to their health and safety, the commission shall notify the Community Care Licensing Division of the State Department of Social Services for appropriate action, shall consult with the presiding judge of the juvenile court and chief probation officer as to whether or not a visit is appropriate, and shall notify other juvenile justice commissions of its actions, as appropriate. (d) Upon the completion of a visit, if the commission finds any condition in the group home that poses a danger to its residents or otherwise violates any applicable law, ordinance, or regulation, the commission shall verbally advise the group home manager of its findings, unless it determines that the advisement could be detrimental to the children placed there, and shall send written confirmation of its findings to the group home manager

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within 14 days. The commission may also report its findings to the presiding judge of the juvenile court, chief probation officer, State Department of Social Services, or other juvenile justice commissions as appropriate. A group home manager may meet with the juvenile justice commission, chief probation officer, county welfare director, juvenile court, or the State Department of Social Services to resolve any problem or to submit a plan of correction.

230. A juvenile justice commission may recommend to any person charged with the administration of any of the provisions of this chapter such changes as it has concluded, after investigation, will be beneficial. A commission may publicize its recommendations.

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COUNTY OF LOS ANGELES
PROBATION DEPARTMENT

Carl Washington, Division Chief
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ROBERT B. TAYLOR
Chief Probation Officer

November 1, 2006

TO: **Probation Commission**

From: **Carl Washington**
Division Chief

SUBECT: **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 Code[1] 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

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

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 home[2] 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.

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[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).

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

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[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]).

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

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[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).

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

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OFFICE OF THE COUNTY COUNSEL

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RAYMOND G. FORTNER, JR.
County Counsel

August 4, 2006

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?

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]

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[1] Welfare and Institutions Code § 240.

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

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.

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[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.

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 homes[10], 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.

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[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.

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]

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[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.

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

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[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.

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.

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[24] Stats 1961 Chap. 1616 §§ 540-545.

[25] Stats 1987 Chap. 228 § 3.

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

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

[27] Welfare and Institutions Code § 209(b).

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,

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APPROVED AND RELEASED:

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GWT:bl

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[28] Welfare and Institutions Codes §§ 240, 243.

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