



ROBERT B. TAYLOR  
Chief Probation Officer

COUNTY OF LOS ANGELES  
**PROBATION DEPARTMENT**

**Carl Washington, Division Chief**

Intergovernmental Relations and Community Outreach Services

9150 E. IMPERIAL HWY., DOWNEY, CA 90242

Tel: (562) 940-2746

Fax: (562) 658-9961



November 1, 2006

**TO:** Probation Commission

**From:** Carl Washington *Carl*  
Division Chief

**SUBJECT:** California Legislative Opinion

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

August 16, 2006

Honorable Karen Bass  
Room 2117, State Capitol

**PROBATION COMMISSION: LOS ANGELES COUNTY - #0619191**

Dear Ms. Bass:

**QUESTION**

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

**OPINION**

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

**ANALYSIS**

Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code<sup>1</sup> 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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<sup>1</sup> 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<sup>2</sup> 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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<sup>2</sup> 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.

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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."<sup>3</sup>

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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<sup>3</sup> 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.<sup>4</sup>

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

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

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

Very truly yours,

Diane F. Boyer-Vine  
Legislative Counsel

By

Felicia A. Lee  
Deputy Legislative  
Counsel

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