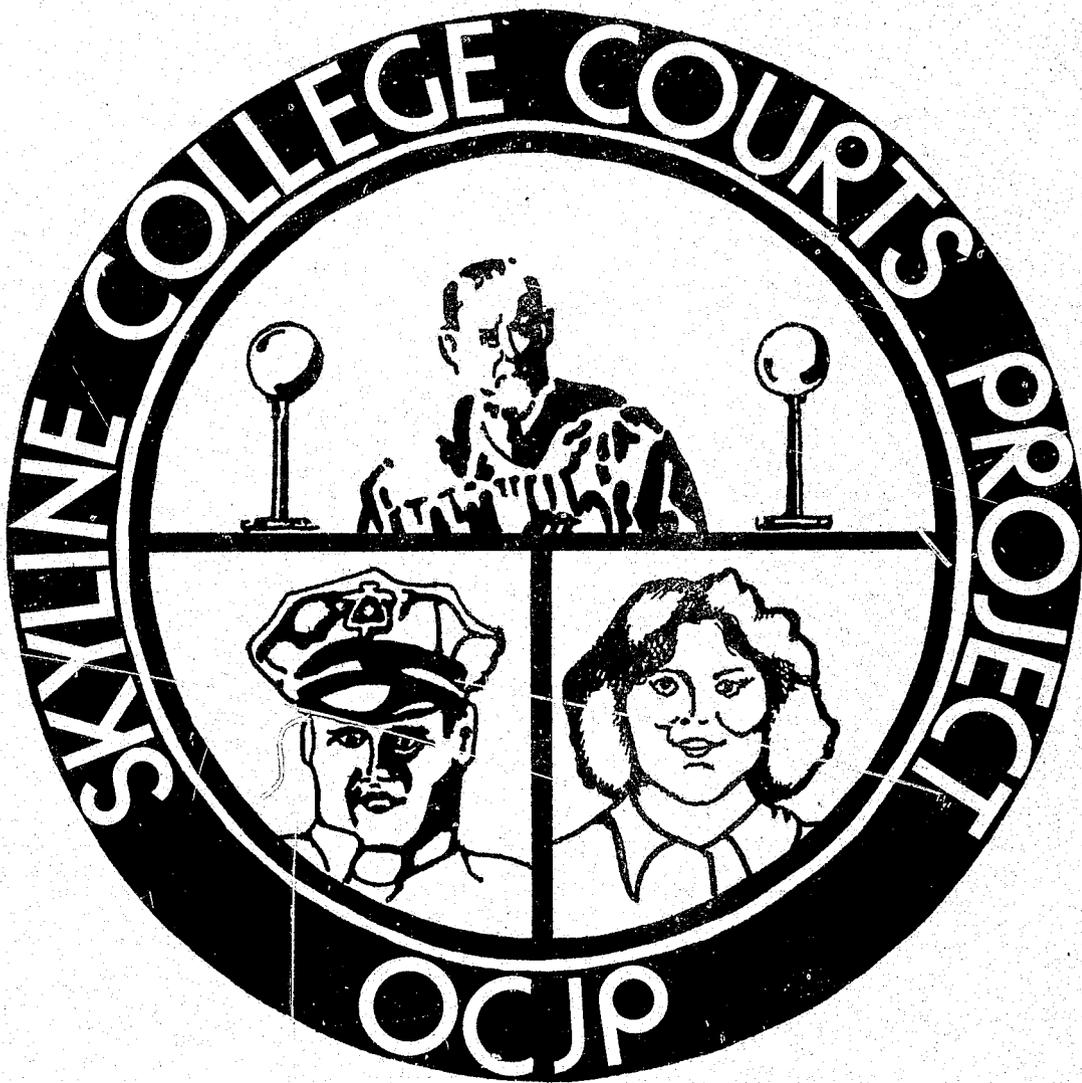


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THE ADMINISTRATION OF
JUSTICE IN CALIFORNIA



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ACQUISITIONS

The administration of justice is not an exact science. Its subject matter encompasses very nearly the totality of human experience, and is concentrated upon that area of life least subject to mathematical precision: relationships among persons. Furthermore, the administration of justice is a personal venture; no machine has yet been devised that can do justice, and none seems likely in the near future.

- Federal Judge Irving R. Kaufman

INTRODUCTION

THE TIME: 10:53 p.m.

The emergency telephone line of the Santa Barbara Police Department rings. The officer at the desk presses the record button on the telephone tape recorder.

"Santa Barbara Police Department, Officer Peterson speaking." A female voice frantically blurts out, "Help! I've been robbed by a man with a gun! He took all the money from my cash register! Please Help!"

THE TIME: 10:54

This one-minute telephone call, multiplied by thousands of others received each day, are the sparks that activate a complex series of events involving tens-of-thousands of people. The series of events that follow this robbery rely on a vast and intricate system composed of local agencies, county organizations, regional facilities, State offices, associations, councils, and agencies. The tens-of-thousands of people and these numerous agencies have one thing in common: they are all part of a loosely-knit system...the California administration of justice system.

It is the purpose of this booklet to provide you with an overall picture of how justice in the State of California is administered. After reading this booklet, you should have a good idea of how this vast system

works together. In addition, you should be more aware of the important role played by each person employed in this system.

The most important point for you to remember while reading this booklet is that any attempt to thoroughly cover the administration of justice in California is impossible in a booklet of this size--and possibly in a book of any size. With this in mind then, let's begin a journey through the maze of legal words, official titles, offices, organizations, and agencies that make up this vast system.

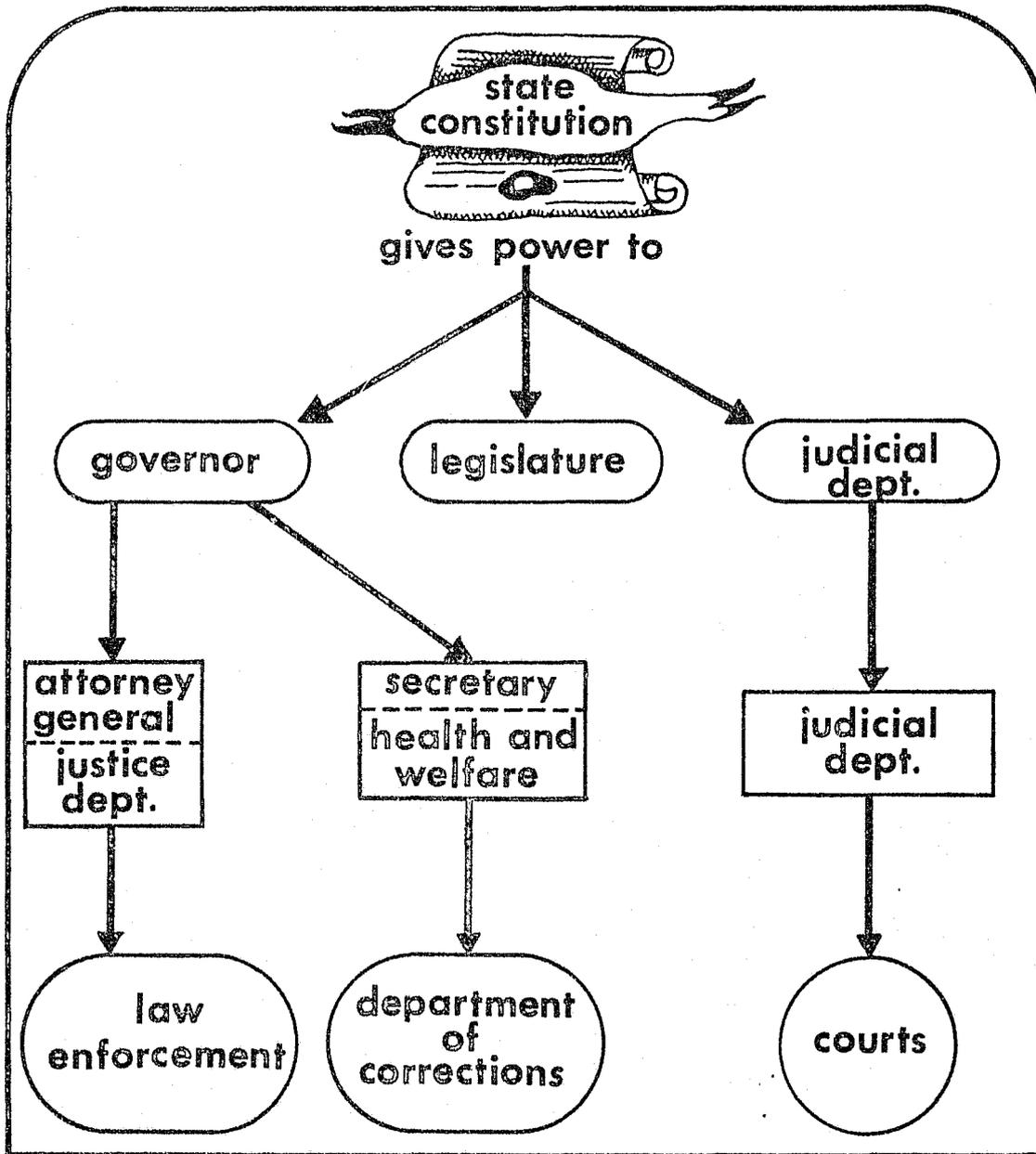
COMMENTARY

THE SYSTEM

The system of administering justice in California is a combination of many official public agencies, private organizations, and quasi-official organizations. For example, an official public agency is the California Department of Justice, a private organization is Burns Security Patrol, and a quasi-official organization is a half-way house for offenders released from a correctional facility. The variety and number of organizations and agencies involved in the administration of justice make it difficult to clearly understand the system as a whole. However, like the familiar quote, "Yes, Virginia, there is a Santa Claus." --Yes, in fact, there is a system.

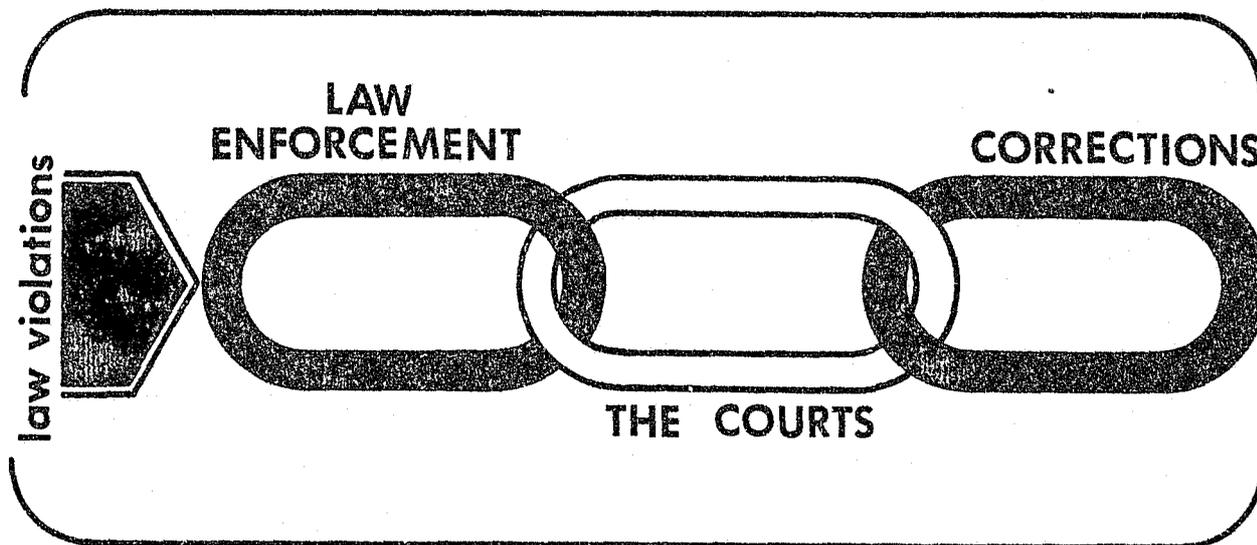
The word "system" is defined as a series of parts that have a common relationship. Basically, the justice system is divided into three main parts: law enforcement, courts, and corrections. Each of these major divisions are, in turn, sub-divided into various departments, agencies, and offices.

The following graphic illustrates how these three general divisions look on paper:



In order to provide a concrete example of how these three divisions might work together, let's return to that one-minute telephone call mentioned at the beginning of this booklet: The frantic caller reported an armed robbery to the Santa Barbara Police Department. Armed robbery is a felony violation of section 211 of the California Penal Code. When a possible violation is reported to the local city police, the law

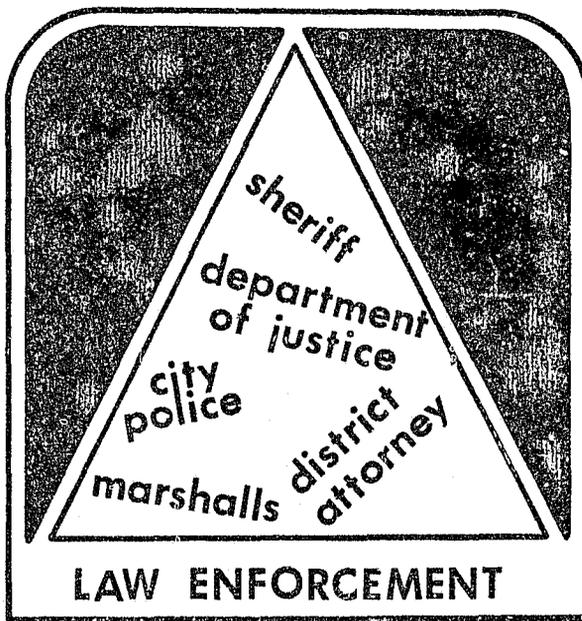
enforcement division becomes involved. If, after investigation, a suspect is arrested, then the courts division becomes involved. And, if the suspect is found guilty by the courts, then the corrections division becomes involved.



This simple chain-reaction example is intended to give you a brief overview of the general purpose and function of each of these three major divisions in the California justice system. Actually, the terms "law enforcement", "courts", and "corrections" are very broad categories that include a large number of agencies, personnel, and organizations. Imagine three pyramid-like shapes with one of these three major categories placed at the bottom of each pyramid. Now let's take a closer look at what makes up the remaining portions of each of these three pyramids.

LAW ENFORCEMENT

The purpose of the law enforcement division is to enforce the thousands of laws set forth in such documents as the Vehicle Code, Penal Code, Health and Safety Code, and Civil Code--just to name a few. The effective and efficient enforcement of the law on the state, county, and



city level is a monumental job. It is a job that relies on expensive and sophisticated equipment, millions of man hours, and a great deal of cooperation and coordination. In this section, we will take a close look at how law enforcement is accomplished on both the state and local levels in California's justice system.

STATE LEVEL

The Attorney General. The attorney general is the "police chief" for the entire State of California. He is an elected official whose importance is second only to the governor. The State Constitution is the source of power held by the attorney general. In Article V, Section 13 of the Constitution are listed the responsibilities of this important State officer.

Some of them are:

...It shall be his duty to see that the laws of the State are uniformly and adequately enforced. He shall have direct supervision over such other law...Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases he shall have all the powers of a district attorney...

The Attorney General carries out his responsibility for the enforcement of both civil and criminal State laws through the Department of Justice. The Attorney General's office is also the legal counsel for the State of California and most State agencies. This includes giving legal advice and providing legal representation in court proceedings.

In addition to his function as chief law officer for the state, the Attorney General has authority over areas where local law enforcement has become disrupted or chaotic (a rare occurrence). The office of the Attorney General also provides assistance to local law enforcement agencies. For example, at the request of a County Grand Jury or city official, the Attorney General's office might do a special survey or assessment of local law enforcement facilities and standards. Also, the Attorney General's office would most likely be involved in highly sensitive criminal or civil proceedings.

As you can see from the brief descriptions, the Attorney General holds a great deal of power over law enforcement activities in the state. Much of this power is exercised at the discretion of the Attorney General or at the request of local agencies or officials. Essentially then, the Attorney General is a key person in law enforcement on both the state and local levels.

Now let's take a close look at the Attorney General's "strong right arm": the Department of Justice.

The Department of Justice. Through the Constitutional office of the Attorney General, the Department of Justice provides legal and law enforcement services to the State of California. The Department has three main goals:

1. To provide professional legal and investigative services insuring that all state laws are adequately and uniformly enforced. For example, the Department of Justice provides assistance to local district attorney offices and serves as legal counsel for state offices, boards, and commissions.
2. To attempt to eliminate fraudulent, unfair, and illegal activities from all phases of public activities.
3. To provide identification, criminal, informational, investigative, statistical, and communication services to criminal justice agencies (state and local). Within the scope of these services comes the additional responsibility of suppressing and controlling traffic in narcotics and other dangerous drugs.

The Department of Justice has three major divisions for accomplishing the above three main functions: law enforcement, legal services, and administration. The Department's largest and most complex division is law enforcement. It is composed of the following six subdivisions:

1. Bureau of Criminal Identification and Investigation
2. Bureau of Narcotics
3. Bureau of Criminal Statistics
4. California Law Enforcement Telecommunications System (CLETS)
5. Criminal Justice Information System
6. Organized Crime Unit

Each of these divisions provide essential services to both state and local law enforcement agencies. For example, most police agencies

are hooked up, by a computer terminal, to CLETS. This system provides immediate information that is essential for a coordinated enforcement of laws throughout the state.

The legal services division of the Department consists of four subdivisions: criminal law, civil law, compliance, and office management. This division provides every type of legal service for official state agencies and may also provide legal services to local agencies. For example, in a highly controversial criminal trial, the criminal law subdivision may be asked to provide assistance to the local district attorney.

One of the most important responsibilities of the Department of Justice is to coordinate law enforcement activities throughout the state. The second most important responsibility is to encourage a spirit of cooperation between all law enforcement agencies. It is through effective coordination and cooperation that the Department is able to accomplish, in varying degrees, the three main goals stated at the beginning of this section.

Up to this point we have examined law enforcement on the state level. Now let's take a look at law enforcement on the local level.

THE LOCAL LEVEL

For the purposes of this booklet, "local level" means either the city or county. On the local level, there are three agencies whose main purpose is law enforcement: the district attorney's office, the county sheriff's office, and the city police department. Let's begin with the

role of the district attorney in local law enforcement.

The District Attorney. When a crime is alleged to have been committed, it is the responsibility of the district attorney's office to begin investigations into the alleged crime and to prosecute if it is likely that a crime has been committed. The district attorney is the lawyer (or prosecutor) for the citizens of the state. He/she represents the State of California in prosecuting public offenses. The district attorney is an elected county officer whose staff varies in size from approximately 200 deputies in Los Angeles County to only one part-time officer in some small counties.

The district attorney has a variety of duties and responsibilities. Some of them are:

1. Review evidence prior to an arrest.
2. Review evidence after an arrest.
3. Determine specific charges.
4. Initiate formal accusations (file a complaint).
5. Take action to terminate a case when appropriate.
6. Negotiate with the defendant (or defendant's attorney) for a recommended sentence or reduction of a charge.
7. Represent the state in all court proceedings dealing with public offenses.
8. Consult with parole officers.
9. Present evidence to the county grand jury.
10. Participate in training programs for local law enforcement officers.

One of the most critical stages in the criminal justice process occurs when the D.A. must determine whether or not to press charges. It is this decision that determines the workload of the court's criminal

division, the Probation Department, and the correction facilities. This decision also determines the "unwritten policies" each D.A.'s office creates in terms of the kind of offenses prosecuted. For example, some D.A.'s offices are more tolerant of marijuana possession violations than others.

The district attorney's office must work very closely with the local county sheriff's office or city police department. Simply stated, the county sheriff or city police are responsible for enforcing the law and the D.A. is responsible for making sure violators are prosecuted in a court of law. In the next section we will take a close look at the local "enforcers" of the law: the county sheriff and the city police department.

City Police and County Sheriff. Local law enforcement agencies are important parts of both the state criminal justice system and the local community. These agencies (which include peace officers, deputy sheriffs, marshals or constables), are the bridge between the community and the state legal system. They are primarily responsible for enforcing the law and keeping the peace. At the same time, these agencies are able to exercise considerable discretion in determining whether or not violations of the law have taken place and whether citizens shall be arrested and charged with particular criminal offenses.

The local law enforcement agencies perform a variety of services that extend beyond their law enforcement role; arbitrating family disputes, acting as youth counselors, and participating in community and youth-oriented programs.

In California, the primary law enforcement unit in a city (an

incorporated area) is the city police department. It is responsible for enforcing laws within the limits of the city.

Each county in California has an elected sheriff who has jurisdiction over the unincorporated areas (areas outside of the city limits). The sheriff provides support services for other local law enforcement agencies, detention and rehabilitation of convicted persons, custody of the accused before and during trial, and civil process service for lawyers and plaintiffs.

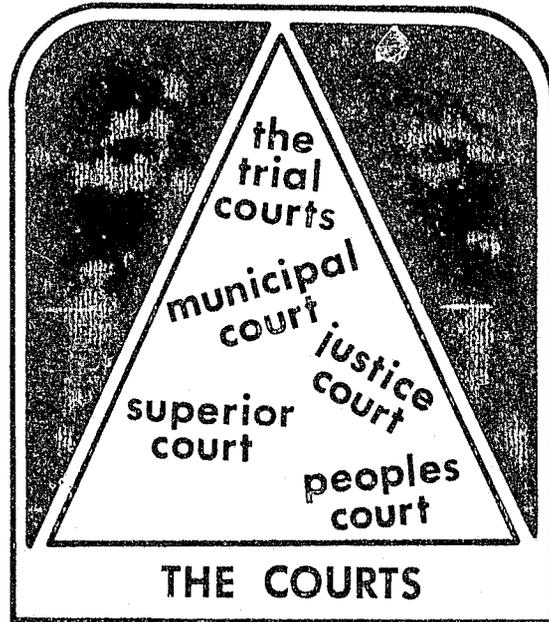
The relationship of the sheriff's office to the court is twofold. First, the sheriff provides for the housing of prisoners and for their transportation to the courthouse for arraignments, preliminary hearings, trial and sentencing. Second, the sheriff's (or marshal's) office assumes responsibility for the general security of the courthouse by providing bailiffs to serve and secure every municipal and superior courtroom.

Up to this point, we have taken a brief look at the "law enforcement pyramid" in the administration of justice in California. We have seen that law enforcement is an organized and comprehensive system; beginning with the Attorney General's Office on the state level, to the local policeman/policewoman on the local level.

The next pyramid in this journey through the administration of justice in California is the "The Courts". The main purpose of a court of law is to provide a neutral or objective setting for the peaceful settlement of conflicts, disputes, or legal questions; and to determine the innocence or guilt of persons who may have violated the law. Basically, courts are responsible for interpreting and imposing the law. They are the second "link" in our administration of justice "chain."

THE COURTS

The importance of the State courts is frequently overlooked because of the prestige of the national judiciary. Yet the State courts often affect the lives of ordinary California citizens much more intimately. Many citizens will never be a party or witness in a federal court case; but there are few who have not paid a traffic ticket to the local municipal court.



Since, under the American federal system the State exercises law enforcement power, the criminal jurisdiction of the California courts is extensive; covering violations of State law and municipal ordinances, from murder to parking in a red zone. The California courts are also responsible for dealing with a variety of controversies arising under the State's civil law. For example, breach of contract proceedings, suits for damages, divorces, wills, and disputes having to do with real estate are all under the jurisdiction of the State courts.

ORGANIZATION AND JURISDICTION

The California Constitution is the source of authority and power for the State court system. The administration of the State's judicial

system is the responsibility of the Judicial Council. The Administrative Office of the California Courts is the staff agency that carries out the Judicial Council's administrative duties and responsibilities.

California's court system is organized on four levels: municipal and justice courts (sometimes called The People's Courts), superior courts (sometimes called The Trial Court), Court of Appeals, and the Supreme Court. These four levels are independent within their assigned jurisdiction and they are cooperative and interdependent within state-wide jurisdiction.

The People's Courts .

In each county there is at least one municipal or justice court. Prior to 1950 the lower courts system in California constituted a bewildering maze. The courts of lesser jurisdiction had a variety of names and procedures, and often their legal responsibilities conflicted. However, a 1950 constitutional amendment provided for the reorganization of the lower court system into two types of courts - municipal and justice. The legislature was directed to establish municipal courts in judicial districts of more than 40,000 people and justice courts in smaller districts.

Municipal Courts

Municipal Courts handle the following cases:

1. Civil suits for damages of less than \$5000.
2. All non-juvenile criminal cases of a minor nature (misdemeanors) carrying penalties not exceeding one year in the county jail or a fine of \$1000.

3. Preliminary hearings in felony cases. When a judge decides there is sufficient evidence to warrant holding a defendant, the accused is "bound-over" to the superior court for further proceedings.

Justice Courts

The justice courts have a more limited jurisdiction than the municipal courts.

1. They are limited to civil suits involving \$1000 or less.
2. They have original jurisdiction in criminal misdemeanor and infraction cases with a penalty up to a \$1000 fine. A justice court judge decides if there is reasonable and probable cause to hold a felony defendant for further proceedings in a superior court.
3. Justice courts have original jurisdiction in civil cases not exceeding \$500.

The Trial Courts

The superior courts are the general trial courts of the State. While each county has only one superior court, a court may be authorized by the legislature to establish numerous judgeships. In larger counties, the superior court judges select one of their number to be the presiding judge. It is his/her duty to assign cases to each of the other judges.

The superior courts have "original" jurisdiction over:

1. All civil cases where the suit is for \$5000 or more, annulments, divorces, and the probate of wills regardless of the amounts involved.
2. All major criminal cases (felonies) carrying sentences of one year or more in a state prison.
3. All cases which involve minors.

Appellate jurisdiction is exercised by superior courts in all cases originating in the municipal and justice courts. However, there are

circumstances and procedures under which a case originating in the lower courts can be appealed beyond the superior courts to higher State courts.

Courts of Appeal

The State district courts of appeal are the intermediate level of appellate courts between the superior courts and the supreme court. The State is now divided into five districts with one appeals court in each district.

The jurisdiction of the district court is strictly appellate. They handle the following cases:

1. May review cases already tried in the superior courts.
2. Those cases pending before the California Supreme Court if the Supreme Court orders the case transferred to a court of appeal for its consideration.
3. Cases that have been transferred from a municipal or justice court to the appellate department of the superior court when the superior court requested the court of appeals to take a case or when the court of appeals has ordered a case transferred to it for hearing.

State Supreme Court

The Supreme Court is the most powerful court in the State. Its decisions are final and cannot be appealed unless the U.S. Supreme Court finds that a decision has violated the federal Constitution.

There are six associate justices of the Supreme Court and one chief justice. The jurisdiction of the Supreme Court is both appellate and original, but deciding appeals from the lower courts is the bulk of its

work. Almost all of the cases appealed to the Supreme Court originate in the superior court. Usually these cases are first appealed to a district court of appeals, and then appealed to the Supreme Court. Cases involving the death penalty are appealed directly from the superior court to the Supreme Court.

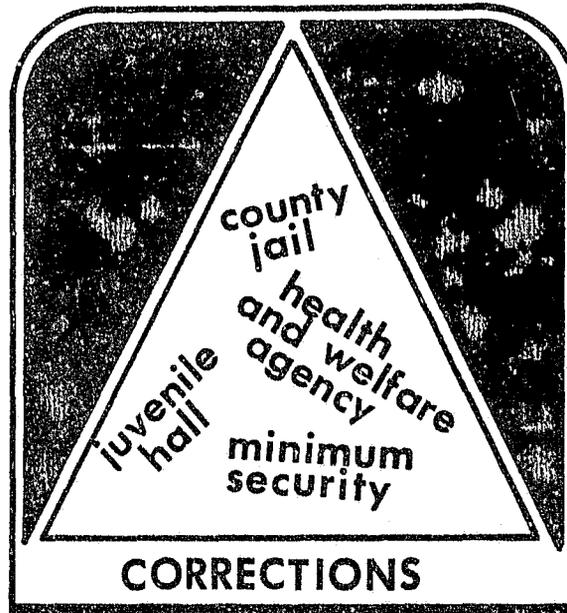
The Supreme Court has original jurisdiction to issue writs of mandamus, prohibition and habeas corpus. The meaning of these writs:

- | | |
|------------------------|------------------------------------------------------------------------------------|
| Writ of mandamus: | Compels a public corporation or officer to act in accord with legal obligations. |
| Writ of prohibition: | Prevents a lower court from exercising jurisdiction over a suit pending before it. |
| Writ of habeas corpus: | Brings a party before a court in order to prevent unlawful restraint. |

This brief survey of the court system in California is intended to provide you with a basic understanding of the middle "link" in the administration of justice "chain". The next link is corrections.

CORRECTIONS

After the court process (including sentencing) is completed, convicted offenders are sentenced to one or more of the following: a fine, time in the county jail, probation, or time in a state correctional facility. Three of these four sentencing possibilities involve the correctional



process. Thus, corrections is an important "link" in the administration of justice in California.

The main purpose of corrections is to provide a statewide system for the prevention of future criminal acts by known offenders. It is a fragmented process, occurring at both the state and local level, involving both correctional facilities and community supervision. Correctional responsibilities come under the jurisdiction of both law enforcement agencies (i.e., the county sheriff) and correction agencies (i.e., the county probation department or State Department of Corrections).

The main assumption behind corrections is that "treatment" be reserved for those serious offenders who pose a genuine threat to others. Most non-serious offenders (minor infractions and some misdemeanors) are subjected only to fines. Felony offenders and some misdemeanor offenders are sentenced to some form of "correctional treatment". In terms of

severity, probation is obviously less severe than commitment to jail, and commitment to a state correctional facility is considered the most confining and stringent of all "treatment".

THE HEALTH AND WELFARE AGENCY

The administration of corrections on the state level is the responsibility of the Secretary of the Health and Welfare Agency. The Secretary of the Health and Welfare Agency is responsible for the correctional "treatment" of youth (juveniles).

In this section on the correctional process we are concerned with four main areas: adult corrections, youth corrections, probation, and parole.

ADULT CORRECTIONS

The correctional process at the State level consists of the following: diagnosis and classification of all persons committed to the Department of Corrections; institutional treatment programs for all inmates; work programs ranging from forestry to clerical assignments; evaluation of in-custody needs (varying from minimum to maximum custody); and parole services.

At the local level, correctional "treatment" is the responsibility of the county jail and/or the city jail. These local facilities serve two important functions. First, they serve as a detention facility for in-custody defendants whose cases are in the process of adjudication.

Second, they serve as a local correctional facility for those defendants sentenced to "time in the city or county jail." The local jails are viewed by most persons as a kind of "junior prison." Generally, local jails house offenders for shorter periods of time and do not take maximum security precautions like the State correctional facilities.

It is important to keep in mind that there is a tremendous variation in local detention facilities throughout the State. The number and quality of staff, the numbers and types of local facilities, and the health and safety standards maintained by these facilities vary greatly from county to county and from jail to jail.

YOUTH CORRECTIONS

The State, county, and community correctional system for youth (juvenile) offenders has expanded rapidly in the last three decades. At present, the State basically provides a "back-up" system for community-based youth programs. The "back-up" services provided the local community are: financial subsidies, State correctional facilities, and a statewide juvenile delinquency prevention program. The Department of Youth Authority (California Youth Authority, CYA) is under the State Health and Welfare Agency. On the county level, juvenile "rehabilitation" and prevention programs are usually administered by the county Juvenile Hall and Probation Department.

Statewide, the trend is away from the expansive use of large correctional institutions for young offenders. Instead, the State provides subsidies for camps, ranches, and schools on the local level. These local facilities have a distinct advantage over State facilities

in terms of size, location, quality of staff, and per capita costs. It is important to note that within the past five years the populations of State juvenile facilities have decreased in numbers. However, the populations of these facilities tend to be older, more sophisticated, hardcore youth offenders. Recently, two promising trends have emerged in youth corrections. First, the length of stay in local juvenile facilities have been shortened without significantly affecting the rate of return. Second, innovative, community-based prevention and treatment programs are receiving statewide attention and support.

PROBATION

Probation is an action of the court allowing an offender to be free from serving "time", provided the offender remains on good behavior while under official supervision. Official supervision of an offender by the court is called summary probation. Official supervision by the county Probation Department is formal probation. Probation is usually granted to misdemeanor offenders. However, not all offenders are placed on probation. Whether or not an offender is placed on probation and the length and conditions of the probation depends on the offense committed and the offender's past record.

Every county in the State has a Probation Department. Some of the responsibilities of a county Probation Department are: administration of the county Juvenile Hall and juvenile prevention programs; preparation of pre-sentence reports (including recommendations to the court on case disposition); supervision of offenders placed on formal probation; development of "treatment" techniques and programs for persons on

probation; and notification of the court when probation has been violated.

The Probation Department provides an excellent example of the interdependence and interaction between corrections and the courts. The courts rely on the Probation Department to provide important background material on an offender before imposing a sentence. On the other hand, the Probation Department relies on the courts to impose the original sentence if the conditions of probation have been violated.

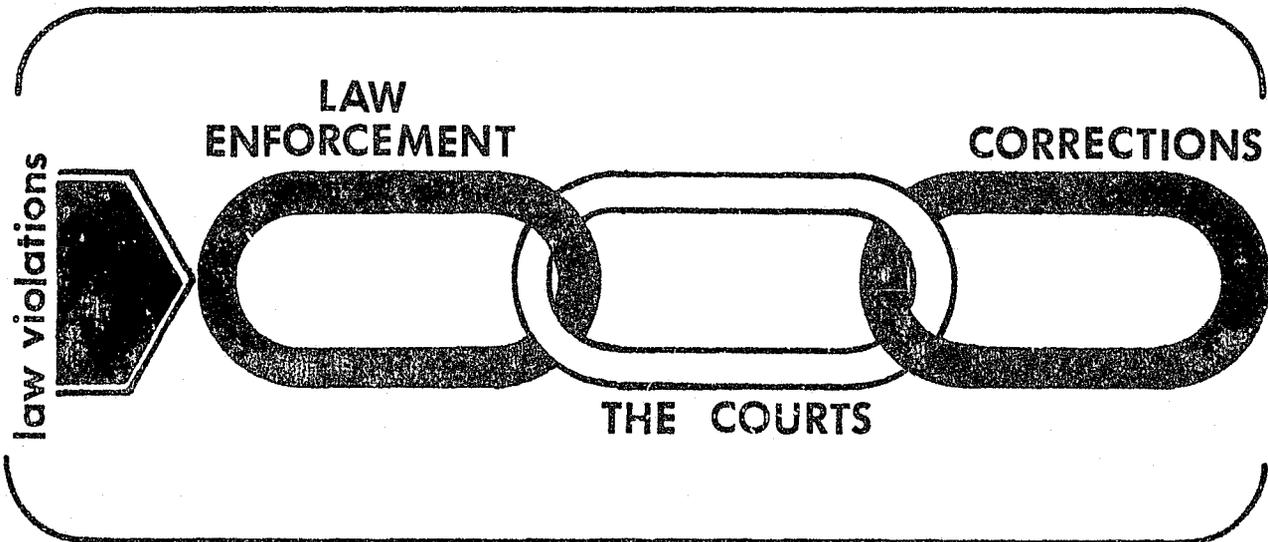
Parole. Parole is the conditional release of an offender from a correctional institution after a portion of the original sentence has been "served". The purpose of parole is to protect society by reducing the likelihood of further violations and to help the person on parole readjust to the community.

Under the Department of Corrections, the Adult Authority and the Women's Board of Prison Terms and Paroles are responsible for setting terms of sentence and conditions of parole. The State Department of Corrections is also responsible for continued supervision and treatment once an offender has been released. Those divisions responsible for supervision and treatment are Parole and Community Services and Institution-Community Reentry. In 1973 there were six regional and 54 unit parole offices throughout the State. These offices provide the case supervision for all parolees. In 1973 the average number of cases for each parole officer was 35.

Summary. The corrections "link" in the administration of justice system is a fragmented process. It functions at both the State and local level, involves both correctional facilities and community

supervision, and is under the jurisdiction of both law enforcement agencies and correctional agencies.

The concept of corrections is presently a topic of heated discussion among public and professional groups. Whether the purpose of corrections is strictly to punish a violator or whether its purpose is to "rehabilitate" the offender is one of the major points of controversy. Whatever may result from the current controversies, it appears that the entire area of corrections is going through a major period of transition, re-evaluation, and change.



The administration of justice in California is organizationally complex. Added to this complexity are the individual personalities and philosophies of its officials; the unique traditions and customs of each community; the local political climate; the general public attitudes; and hundreds of other variables.

Let's briefly review the main purpose of each of the three "links" that compose the administration of justice "chain". First, law enforcement protects society by enforcing laws. Second, the courts determine whether a law has been violated and impose appropriate punishment if it has been violated. Third, corrections attempt to punish and rehabilitate convicted offenders.

Taking the risk of stating the obvious, no system as vast and complex as this one is without problems and flaws. Also, no system is better than the men and women that make up that system. Perhaps the greatest improve-

ments in the administration of justice will not come from combined efforts to adopt sound management techniques in police departments; or from the establishment of a career program in the prosecuting attorney's office; or from the computerization of court records. Instead, perhaps the greatest improvements will occur when the administration of justice system consists of imaginative, dedicated, and educated individuals who honestly and sincerely care about how justice is administered in California.

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