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YOUNG ADULTS UNDER THE YOUTH AUTHORITY

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Since early 1952 the American Law Institute has been preparing tentative drafts of a Model Penal Code. One phase of this project is the development of provisions to deal with the sentencing and treatment of young adults over juvenile court age. Extended thought has been given to this subject both because of its intrinsic importance and because in 1940 the Institute had promulgated a Model Youth Correction Authority Act which proposed a novel structure and procedures for dealing with this group. A part of the task that confronted the Reporters on the project, therefore, was to determine whether, within the framework of a comprehensive Code dealing in detail with crimes, sentencing, and correction, the old Y.C.A.A. or some variation of it should be incorporated. Even before the Penal Code project was launched, the Institute had given a close scrutiny to the programs in several jurisdictions that had borrowed some of the policies and provisions of the Y.C.A.A.[1]

[1] The Model Youth Correction Authority Act provided for the establishment of an autonomous three-member Authority to determine and administer policies for the correctional treatment of serious offenders between the ages of 16 and 21. The Act empowered the Authority to establish and operate new (but not existing) facilities for the treatment of such offenders; to submit its wards to probation; to release on parole, revoke parole, and discharge. It might maintain indefinite control over individuals considered dangerous to the public by making orders from time to time for such sustained control, subject to confirmation by court review. It was contemplated that, except for final discharge, most of these functions would be performed by subordinates, the Authority confining itself in the main to the administration of its policies. The "authority states" have deviated from the policy of the Model Act, *inter alia*, in focusing upon the juvenile rather than the young adult, in putting the existing juvenile correctional facilities under the direction of the authority or its director, and in making the board itself a multiple functional, rather than merely a policy making, agency. In these states the power to sentence to probation has been retained in the courts. For a detailed analysis of practice in certain of these jurisdictions, see BERTRAM BECK, *5 States*, American Law Institute 1951. The present article is concerned primarily with the problems that may arise through vesting broad administrative as well as parole powers to deal with young adults in an autonomous authority and its director.

Since 1952 these programs as well as other approaches that have developed to deal with young adults have been carefully reviewed and reconsidered. Many authorities who have worked with this age group in various states have been consulted in the effort to arrive at a policy that might result in a more effective rehabilitation, correction of youthful offenders and prevention of their offenses. As a consequence of all this the Institute printed in May of 1955 a set of tentative proposals for the sentencing and treatment of young adult offenders.[2] This draft incorporated the conclusion that the existing "youth authorities" have not focused specialized effort upon the young adult group, that the Y.C.A.A. has nowhere been followed at all closely, and that that Act ought not to be followed in the Model Penal Code. It was believed that a new effort should be made along different lines to secure a concentrated attention upon the treatment of young adults.

The failure to attempt again to promulgate the authority plan as a part of the Penal Code was not, of course, a repudiation of such excellent work as has been accomplished in a number of jurisdictions in the prevention and treatment of juvenile delinquency. Nor did the policy in the 1955 proposals fail to acknowledge the strides that have been made in some states in dealing specially with offenders over juvenile court age, progress that has been influenced in considerable part by the impetus that the Y.C.A.A. gave to efforts in behalf of this group. Indeed, the proposals that were formulated drew in large measure upon practices and programs that have developed in several jurisdictions in recent years, notably in New York, the Federal system, and in California. They reflected the considered judgment, however, that the administrative scheme proposed in the Y.C.A.A. and the variants adopted in a number of states in which a single board was given wide powers relative to sentencing, classification, correctional administration, parole, and community programs, was not the best arrangement for dealing with young adults under a new Model Code. These conclusions were given some currency in an article in which the author summarized briefly the tentative proposals of Draft No. 3.[3] This material provoked a spirited response from Mr. Justice Youngdahl[4] and critical reactions from some of the administrators in "authority" jurisdictions. The Institute concluded that before Code draft materials were developed it would be desirable to reconsider the current program and experience in California and the Federal systems. The writer, having observed again in 1956 the program in California, with the very generous cooperation of authorities there, and discussed its operation with various administrators, has set down some of the views and interpretations that emerged. He has been advised that it might be useful to publish them because of the general interest in the issues involved.

California and the Model Penal Code

In considering the relevance of experience under the Youth Authority in California to policy and proposals of the Model Penal Code, several matters should be made

[2] Model Penal Code, Tentative Draft No. 3, A.L.I. 1954.

[3] Tappan, *The Young Adult Offender under the American Law Institute's Model Penal Code*, 19 Fed. Prob. 20, Dec., 1955.

[4] Youngdahl, *Give the Youth Corrections Program a Chance*, 20 Fed. Prob. 3, March, 1956.

clear at the outset: First, the organization and procedures of government relating to the juvenile law violator do not come within the proposed scope of the Code. Therefore, policy and practice in California or elswhere relating specifically to the juvenile age group have only quite limited significance for dealing with the young adult. Secondly, the Model Penal Code is not a "Uniform Code", proposed for adoption throughout the country. Indeed, it is not intended that Code policy or provisions should lead to change of practice in jurisdictions or in phases of criminal or correctional law where (as in the case of youth corrections in California) the existing legislation and procedures are found to function satisfactorily. On the contrary, recent experience in certain jurisdictions has highlighted the folly of attempting to superimpose a new set of legal provisions and a new administrative system upon a well established pre-existing structure with which they are incompatible, notably in Wisconsin's ill fated effort to establish a version of the youth authority and in the very limited development of that scheme in other jurisdictions. The Code purpose is, rather, to provide guidance to states where there is a recognized need for change in some area or areas of penal law and where the provisions of the Code appear to be adaptable to their requirements. It is quite clear that where change is sought there is no single design that is universally applicable: critical adaptation is required in accordance with the varying needs of different jurisdictions and, in particular, with the structure, practice and policy that they have previously employed.

Relative to the two points of emphasis above and with particular regard to California, perhaps it should be emphasized, though it is quite generally recognized, that this State has developed an exceedingly fine quality and variety of classification and treatment facilities under its particular Authority schemes. Against the background of a scandalized and impoverished correctional system that had existed there, California has gradually developed and since 1940 rapidly modified its institutions, programs, organizational structures and powers dealing with both juvenile and adult offenders. A number of special circumstances has influenced this development, such as the functions of the previously existing Board of Prison Terms and Paroles, the traditional limitations on the powers of the judiciary in sentencing and the long sentences established in the penal law. The result of employing a high calibre of personnel, particularly in administrative positions, and of a climate favorable to correctional development has been the establishment of experimental policies in treatment and a variety of institutional facilities that is impressive.

The California system of correctional administration, as it relates to young adults and their parole, appears awkward at some points to the foreign observer, as will be noted in some detail below. The Youth Authority system has been modified quite continuously through a succession of statutory and administrative changes, however, and further changes are contemplated. The present consequence is a correctional organization that appears to operate effectively as a progressive and experimental system that will continue to improve through the zeal and imaginativeness of its leaders. The rapid and steady progress there appears not to be the consequence of the particular administrative schemes of youth and adult corrections in operation, but rather a reflection of the personnel, budgets, and attitudes, referred to above.

One further limitation on the significance of California experience should be

stressed. California is the second largest state in the United States with a rate of population growth (53.3 percent between 1940 and 1950) greater than that in any other state. Its crime rates and prisoner populations have increased even more rapidly, and only New York has a slightly larger prisoner population (16,530 as compared to 14,572 in 1955). Only one other additional state holds more than 10,000 prisoners in its institutions (Ohio) and there are only six other jurisdictions where more than 5,000 prisoners are contained in state institutions. The unique situation in California accounts in some part for the rapid increase and diversification of facilities there. Moreover, the size of the problems of crime and corrections in California suggests that administrative structures and methods appropriate to that state may be quite wrong elsewhere. In particular, where an authority scheme involving an autonomous board may arguably have merit for youth corrections in a state where there are roughly 1,000 committed offenders in the young adult age range (18 to 21), it may be quite inappropriate to a state where there are few of these ages.

Control over Juveniles and Young Adults in California

One of the major policy problems involved in the utilization of authority plans lies in the great power and the multiplicity of functions that are generally entrusted to authority boards. Extensive as were the functions proposed in the Model Youth Correction Authority Act, these have been enlarged considerably under the particular (and varying) versions of the Youth Authority that prevail in California and certain other jurisdictions. One major variation from the Model Act has been the extension of Board power to include children from the juvenile courts. While in most of the jurisdictions that have adopted some version of the authority plan, the boards and commissions involved have been charged exclusively with juveniles (in contrast with the Model Act's specific exclusion of this group), the California board deals with the juvenile and youth groups. Its orientation is primarily toward the former. This is significant to the Model Penal Code, since as we have noted the Code does not propose to deal with the sentencing and treatment of juvenile delinquents.

Evidence that the orientation of the Youth Authority is primarily toward juveniles can be found in the official statistics. It will be observed from the data in Table I that the great majority (2,066, or 75.8 percent) of the 2,724 commitments to the Youth Authority in 1955 were of juveniles under the age of 18. Among those under 18 years of age, 2050, or 99.2 percent, were committed by juvenile courts. Of those over the age of 18 (658), 564, or 82.7 percent were committed by criminal courts. In fact, 97.2 percent of youths 19 or over committed to the Youth Authority were sentenced by the Superior Courts of criminal jurisdiction. Thus, it appears clear, while under the law juvenile courts may take jurisdiction of individuals up to the age of 21 in California, in actual practice most youths of 18 or over who are committed to the Youth Authority are dealt with by the courts as felons or misdemeanants,[5] while juvenile court commitments to the Youth Authority are concentrated preponderantly in the range below 18 years of age at the time of offense. Not infrequently, however, juvenile courts maintain control and recommit individuals who have previously been under their jurisdiction after they reach 18.

[5] The Youth Authority is empowered to remove the felony status for those youths who have successfully completed parole.

TABLE I

FIRST COMMITMENTS PLACED UNDER AUTHORITY CUSTODY DURING 1955 BY COMMITTING COURT*

Age	Total		Juvenile Count		Criminal Court	
	Number	Per Cent	Number	Per Cent	Number	Per Cent
8	4	0.1	4	0.2		
9	6	0.2	6	0.3		
10	9	0.3	9	0.4		
11	28	1.0	28	1.3		
12	61	2.2	61	2.9		
13	151	5.6	151	7.0		
14	322	11.8	322	15.0		
15	491	18.0	491	22.9		
16	538	19.8	536	25.0	2	0.4
17	456	16.8	442	20.6	14	2.4
Total 8–17	2,066	75.8	2,050	95.6	16	2.8
18	270	9.9	83	3.9	187	32.2
19	213	7.8	7	0.3	206	35.5
20	143	5.3	3	0.1	140	24.1
21	32	1.2	1	0.1	31	5.4
Total 18–21	658	24.2	94	4.4	564	97.2
Grand totals	2,724	100.0	2,144	100.0	580	100.0

* Adapted from DELINQUENCY AND PROBATION IN CALIFORNIA, 1955, Table 7, p. 87.

Relative to the young adult group (aged 18 to 21) two circumstances prevail in California that are of special significance in their implications for Code consideration. First is the split pattern of criminal court commitment of these offenders. While juvenile court commitments are generally made to the Authority, the criminal courts may sentence in the alternative either to the Youth Authority or to the Director of Corrections (the adult correctional system, under which releases are at the discretion of the Adult Authority). It will be observed in the Table above that 658 youths over 18 were committed to the Youth Authority in 1955. In 1954, according to figures provided by the Bureau of Criminal Statistics 244 youths in this age range were committed to the Director of Corrections. It has been suggested by some California authorities that the proportion of youth commitments to the Director would be larger were it not that the result would be unconscionably long sentences for these young offenders under the existing penal law there. [In this regard, see Table V and the discussion of the composition of the population and the release procedures at the Deuel Vocational Institution, below.]

Secondly, while juveniles in nearly all cases are committed to facilities that are under the administration of the Youth Authority, the 18 to 21-year-olds, even those committed to the Youth Authority, in most instances are processed through the reception-diagnostic facilities of the Department of Corrections and imprisoned in its institutions (both at Deuel Vocational Institution and at the several state prisons) where they are subject to the policy and programs of the adult Department.

There appears to be a recognition that this group, and especially the behavior problems in the age range of 18 and over are better handled and treated within the adult correctional system, not under a juvenile administration. Study of Table III below will reveal that out of 2,392 individuals of all ages sentenced to the Youth Authority during the year 1953–1954 (resident on June 30, 1954), 851, or more than 30 percent, were confined in facilities administered by the Department of Corrections. Comparison with the figures given above indicates the policy of placing young adults in institutions operated by the adult Department because they are too mature for juvenile facilities. Only in the Youth Authority forestry camps, fed primarily from the Deuel population and where the average offender age is a little more than 19, is there a significant number of young adults in facilities under the youth board. The camp groups are not large, however.

TABLE II

AGE OF ADMISSION TO INSTITUTIONS OF DEPARTMENT OF CORRECTIONS, MALES YEARS ENDING JUNE 30, 1953, 1954*

Age in years	Number	Total Percent	1953	1954
Total	7,657	100.0	3,595	4,062
Under 20	198	2.6	89	109
20–24	2,128	27.8	999	1,129
25–29	1,926	25.2	903	1,023
30–34	1,172	15.3	547	625
35–39	749	9.8	363	386
40–44	583	7.6	266	317
45–49	393	5.1	184	209
50–54	240	3.1	108	132
55–59	130	1.7	61	69
60 and over	138	1.8	75	63
Median Age 28.7 years				

* From Department of Corrections, Biennial Report, 1953–1954, p. 68.

It may be clear from the tables and what has been said above that the population of the Deuel Vocational Institution and the exercise of powers there is of greatest significance so far as the young adult population is concerned. It is the primary facility for 18 to 21-year-olds. It would be difficult to find anywhere a nicer illustration of the awkward arrangements of function and power, reflecting at least in part, disparities in philosophy, that can emerge in dealing with this age group. At the present time some two-thirds (in round numbers, 800) of the D.V.I. population has been committed to the Youth Authority and one-third to the Department of Corrections. The institution is administered, however, by the Department of Corrections. Assignments to Deuel come in part from the Department-operated Deuel Guidance Center, most of these criminal court commitments to the Youth Authority; in part from Department of Corrections reception centers at Chino and San Quentin, these in general commitments to the Director of Corrections; and in part from the Youth Authority Reception Centers at Perkins and Norwalk, mainly repetitive

TABLE III

YOUTH AUTHORITY RESIDENT POPULATION, JUNE 30, 1954 BY INSTITUTION*

	Age Range	Population
Youth Authority Administration		
Fricot	8–15	146
Nelles	8–15	306
Paso Robles	14–17	235
Preston	15–21	570
Forestry Camps	16–21	242
Los Guilucos	8–16	138
Ventura	15–21	185
Waterman Reception	8–18	52
Northern Reception	8–18	115
Department of Corrections Administration		
California Medical Facility	18 up	7
Deuel Vocational	No specific limits	624
State Prisons	18 up	39
Reception Centers	18 up	181
County Jails		23

* Adapted from California Youth Authority, Biennial Report, 1953–1954, p. 45.

offenders who have previously spent time in the Youth Authority facilities or young serious offenders. It should be noted also that in recent years a considerable number (usually from 50 to 100 Youth Authority wards) have been transferred to San Quentin, generally because of their failure to adjust at Deuel, and some are allocated to Soledad Prison.

For obvious reasons the disparity in commitment provisions to the Deuel facility for young adults results in more or less serious inequity in the treatment of youths and may well confirm them in their antisocial attitudes. Offenders of similar age may be committed for the same crime (sometimes as criminal associates), one to the Youth Authority, another to the Director of Corrections, with very significant differences in their institutional retention as a consequence. Thus the Youth Authority ward may be released after serving twelve to fifteen months (or, indeed, at any time) on a 1st degree robbery conviction while his partner under the Department of Corrections will be retained for two and a half or three years or longer before parole. The Youth Authority meets twice each month at Deuel, generally paroling its candidates at an early date. [See comment below relating to the apparent preoccupation of the Youth Authority with releasing inmates in order to make space for others awaiting entry.] The Adult Authority interviews young adult candidates for parole at Deuel once each month, and the average duration of retention of these Department of Corrections prisoners is significantly longer. Strictly comparable data on length of retention of Youth Authority as against Adult Authority cases at Deuel or other institutions of the State are not available. Tables IV and V are informative, however, in showing average length of imprisonment of Youth Authority cases and of Department of Corrections prisoners. Note, in comparison to the short duration of the Y.A. commitments, the relatively long average terms spent by Department of Corrections offenders for the crimes prevalent among youths: burglary, theft, and

TABLE IV

BOYS RELEASED ON PAROLE FROM YOUTH AUTHORITY INSTITUTIONS DURING 1953 BY TIME IN INSTITUTION (MONTHS)*

Time in Institution (Months)	Total		1st Release		Other Release	
	Number	Percent	Number	Percent	Number	Percent
Total	2,666	100.0	2,011	100.0	655	100.0
Less than 3	57	2.1	24	1.2	33	5.0
3–5	302	11.3	210	10.5	92	14.0
6–8	633	23.8	455	22.6	178	27.2
9–11	832	31.2	662	32.9	170	26.0
12–14	537	20.1	412	20.5	125	19.1
15–17	205	7.7	169	8.4	36	0.5
18 and over	100	3.8	79	3.9	21	3.2
Median	9.8		10.0		8.9	
10th Percentile	4.9		5.2		3.8	
90th Percentile	15.0		15.2		14.2	

* From a Statistical Report of Youth Authority Activities, 1953 Annual Summary, p. 26.

TABLE V

OFFENSE AND TIME SERVED BEFORE RELEASE: MEN PAROLED FOR FIRST TIME, 1953*

Offense	Number	Median Sentence (years)	Median Time Served (months)	Statutory Sentence (years)
Total	2,185	5	30	
Homicide				
Murder 1st	40	Life	144	Life
Murder 2d	39	12	65	5–Life
Manslaughter	55	6	36	0–10
Robbery				
Robbery 1st	278	6	41.5	5–Life
Robbery 2d	103	5	30	1–Life
Assault, deadly weapon	79	5	30	0–10
Burglary				
Burglary 1st	61	6	39	5–Life
Burglary 2d	383	5	27	1–15
Grand Theft, except auto	112	5	24	1–10
Auto Theft	112	4	26.5	1–10
Forgery and checks	421	5	24.5	0–14
Rape	49	7	45	0–50
Lewd and lascivious	57	7	50	1–Life
Narcotics	115	4	24	0–10
Escape from jail	38	4	21	0–10
Offense groups, less than 25 men	243			

* From Department of Corrections, Biennial Report, 1953–1954, p. 69.

auto theft. The Y.A. parolees are released to its field service officers, the A.A. parolees to agents of that Authority.

There appears to be little if any sound justification for the parallel provisions of reception centers, parole agencies, and field service staffs for the largely repetitive and serious offenders of 18 to 21 who are sent to Deuel and to the state prisons. One

sound and appropriate aspect of the system is the administration by the Department of Corrections of the excellent treatment and training facility at D.V.I. It is believed that the role of the Youth Authority there is uneconomical and confusing to the inmate population as a whole, regardless of any efforts which may be made to minimize the importance of the differences in the sentencing and release of the Youth Authority as against Department of Corrections prisoners.

It thus appears that except for parole, the Youth Authority in California does not deal with young adult offenders in any large sense. Therefore its experience bears little relation to Model Penal Code policy. This observer strongly questions the justification for its operation in the area of parole at Department of Corrections institutions.

Powers and Functions of the Youth Authority in California

As we have previously observed, the statutory provisions and the day-to-day practices of the Youth Authority have changed rapidly since the original legislation was enacted in 1941. Revisions have been made in 1943, 1945, 1947, 1949, and 1953. Currently a study of Youth Authority administration is being conducted by the Department of Finance. Some idea of the large volume of Youth Authority activities in 1952 when this was a board of only three members, including the Director, may be observed in the summary report of its activities published in 1953.[6] At that time the Director observed, "Such a load precludes opportunity for the careful consideration necessary for protection of society and for individualized treatment. The apparent solution is an increase in the membership of the Authority."[7] In response to this plea the board was enlarged to five members in 1953 and the Director was made specifically responsible for a number of administrative functions.

At the present time the Youth Authority Board as such is made responsible by law for the following major functions:

1. the acceptance or rejection of commitments
2. the designation of detention for its wards
3. classification, assignment and transfer of its wards to institutions or facilities
4. parole release or discharge from commitment; may petition court for extension of term up to the maximum term for the offense
5. determination of conditions of parole and release of its wards
6. orders for return to court for redisposition
7. orders of return of non-residents to places of residence
8. adoption of standards and qualifications of personnel
9. revocation or suspension of paroles and reconfinement or renewed release (may suspend or cancel parole without notice)
10. make examination and studies of its wards and reexamine them at least once each year to determine whether existing orders and dispositions should be modified.

The Director of the Youth Authority is made responsible for further important functions which, however, he may delegate to subordinates:

11. transfer of wards

[6] California Youth Authority Progress Report, 1948–1952.

[7] California Youth Authority Progress Report, 1948–1952, p. 19.

12. establishment of the classification, transfer, and discipline policies of the Department (in conjunction with the Board, the Director to have final authority)
13. establishment and operation of treatment and training services and other appropriate services
14. creation of administrative districts; the employment and discharge of personnel needed
15. establishment or assistance in the establishment of councils and committees and work with agencies for the prevention of delinquency
16. contracting with colleges and other organizations for research and training of workers
17. collection of statistics and information
18. deposit or investment of inmates' funds
19. inspection of all public institutions and agencies that Authority is using or is authorized to use
20. power to establish and operate places for detention, places for examination and study [operates two reception centers], places of confinement [operates six institutions and three forestry camps], educational institutions, hospital and other correction and segregative facilities, institutions and agencies
21. development of conservation work with state and federal divisions, growing and harvesting of crops and protection of natural resources
22. investigate, examine, and make reports on adult and juvenile probation; establish standards for performance of probation duties; on request make investigations and recommendations to probation officers and judges; on request establish standards for juvenile halls and detention facilities
23. require treatment of wards by vocational, physical, educational and corrective activities; require conduct and mode of life in preparation for release; employ other methods of treatment conducive to correction.

It will be observed that the Youth Authority Board as such is assigned tasks primarily of classification, parole release, revocation, and discharge. Except for determining the facility to which the offender should be sent or transferred (and this only in the case of its own wards, not youths committed to the Director of Corrections), the Board functions relating to juveniles and youths are similar to those of any parole board. In the tasks of the Director of the Youth Authority, on the other hand, are found substantial departures from the orthodox correctional pattern of separating the functions of institutional administration from parole. It is notable, however, that the 1953 legislation established these administrative functions as the special tasks of the Director, as distinct from the Board. It is in accord with sound administrative practice that the single executive should be charged with such functions as the administration of diagnostic and treatment facilities, and the partial splitting off of these functions from the Authority Board in California appears to have been a very considerable improvement. Moreover, the specialization of function has been greater than appears in the statutes. The Director is charged with such a number and variety of important duties relating to juveniles and youths that he has little time for Board functions as such and, in the impression of the writer, has

tended increasingly to function like a director of corrections at the juvenile and youth levels. His representative does occasionally sit as a referee at hearings on classification and parole and, as opportunity permits, he does so himself, but there is decreasing occasion for this, in part because of the scope of his duties. Furthermore, it should be noted, the Director is assisted by Deputies in charge of Diagnosis and Treatment, of Field Services, and of Business Services, and by officers in charge of the more detailed phases of classification, training, parole field services, delinquency prevention and probation, etc. In major respects, the Department of the Youth Authority and its divisional staffs parallel the Department of Corrections *together with* the Adult Authority. However, whereas administrative duties and parole functions are strictly distinct at the adult level, they are in theory—and in some measure in fact—combined at the juvenile and youth level. What appears to be the normal and desirable separation of functions has been developing, however, both in the law and, to an even greater extent, in practice. This is a major and, it is believed, a desirable departure from the theory of the "authority plan." Perhaps it may reasonably be expected to continue to a point of complete severance.

Query: what will develop in relation to the young adult group between 18 and 21? They are now classified and assigned to institutions partly by the Department of Corrections, partly by the Youth Authority Board, and treated and supervised mainly in the diagnostic and correctional institutions of the Department of Corrections. They are released to the community by both the Youth Authority Board and the Adult Authority and supervised there by two different field staffs, one of which is responsible to the Director of the Youth Authority. A tradition of fifteen years development in California may either preserve some such splitting of powers and functions as this or conceivably even turn the treatment responsibility for the young adult group over to the Youth Authority entirely. The trend, however, is toward the policy that prevails in other states, that is, to submit yound adult offenders to a specialized treatment within an adult department of correction. This would seem reasonably to imply also the desirability of classification and release by the adult correctional and paroling agencies. The major barrier to this lies in the long terms provided under the California penal statutes (see Table V): terms which can be avoided by Youth Authority commitments that result in shorter duration of retention. Except in the cases of youthful recidivists and murderers, however, the Adult Authority could release in most cases as early as the Youth Authority now does, if that were the objective of policy.

Whatever may be the future course of development in California in relation to the young adult, it is clear that the Youth Authority Board does not function even in relation to juveniles either in the fashion contemplated by the A.L.I. Model Bill or under earlier California Youth Authority legislation. We have noted that the role of the Director as administrator of a system of institutions and programs has been partially severed from the Board itself. Moreover, Board "meetings" and orders appear to have come to be largely the actions of single individuals or pairs who sit and determine at the time what will be the institutional classification or the parole plan or release date, or whether parole shall be revoked. "Meetings," as noted in the table above, are not Board meetings in the ordinary sense and decisions are not

"Board decisions." Indeed, the Youth Authority Board is required to meet as a group under its rules, only bi-monthly and, while the members do sit as a board more frequently than this, the tendency has been for the action of the single member or referee to become the action of the Board.[8] This sort of phenomenon is common in parole board practices, of course, though it is dubious policy if decisions are intended to reflect group thinking. The result is to exaggerate the powers of the single board member over the life and liberty of the offender and over the security of the community, powers that are already very large. Put in general terms, it appears that, whereas the Youth Authority idea contemplated a Board formulation of general policies of reception, treatment and parole, with detailed instrumentation of these functions by agents of the Board specialized to deal with individual offenders, present practice imposes upon a single administrative director most of the broad policy making functions as well as the duty to administer juvenile correctional institutions (with the counsel, however, of the Youth Authority Board and, in a measure, the Board of Corrections) and the members of the Board make the individual case decisions.

The writer has previously expressed his opinion that the powers formally entrusted to the Youth Authority are too wide and varied. This belief has been strengthened by his further observations in California. That this has not proven to be a very serious problem may be explained by the fact that the Board does not fully exercise the authority it possesses under the law and because there is close coordination of correctional and paroling agencies. The writer has observed a tendency of Board members to follow closely the recommendations, explicit or implicit, of institutional personnel in matters of classification and release. He is prepared to accept the view that the Board does not wield power as promiscuously as it might. But there appear to be two problems here: There should in fact be a specific allocation of responsibility for making decisions, whether in the individual case or on high levels of general policy. Moreover, some other board in this State or an analogous Board elsewhere might easily come to exercise its powers fully and unwisely. It is no easy feat to set up a board with the omnicompetence envisioned in the California Youth Authority law that would apply its powers in a restrained fashion and at the same time with appropriate, specialized functioning in each phase of the correctional processes.

There is another aspect of this problem that has not received the attention it merits. The youth authority idea, exemplified in California as well as other jurisdictions, is based upon a theoretical policy of vertical integration: a small board being entrusted with the entirety of powers and functions to deal with young offenders correctionally from start to finish (though, as we have noted, this is not the case

[8] "The Youth Authority Act provides that members of the board may meet in panels, and two members constitute a quorum for the transaction of official business. Members hold weekly panel meetings at the two reception centers and the Los Angeles and Sacramento offices. The weekly San Francisco meeting is conducted by a single member of the board acting as referee. Referee findings must be confirmed by another member of the Board. Meetings are also held at the six Youth Authority schools, three forestry camps, and the Deuel Vocational Institution at least once each month. Members hold meetings every three months at Department of Corrections facilities housing Youth Authority wards. These include San Quentin Prison, California Medical Facility, and California Institution for Women." CALIFORNIA YOUTH AUTHORITY, BIENNIAL REPORT, 1953–1954, p. 5.

TABLE VI

BOARD ORDERS ISSUED BY YOUTH AUTHORITY 1952*

Court Referral Considered	2,776
Cases Accepted	2,680
Cases Rejected	96
Ancillary Orders	6,407
Referred to Parole for plans	1,226
Referred to Parole for out-of-state placement	247
Order of furlough	154
Progress report (institutional)	1,282
Progress report (parole)	2,583
Miscellaneous board orders	915
Classification, Segregation, Parole	9,369
Assignment of facility (transfer)	3,105
Released on parole	2,533
Restored to parole	1,015
Parole revoked	692
Parole suspended	2,024
Discharges	1,677
Total Orders Issued	20,229
Number of Meetings	289
Orders per Meeting	69
Miles traveled	47,545

* California Youth Authority Progress Report, 1948–1952, p. 20.

in California so far as young adult offenders are concerned). This policy is based primarily upon a desire to achieve uniformity in diagnostic and treatment impact, "to individualize" handling of the offender through a single agency. The writer submits that this goal has not been and probably could not be achieved in fact. A board with nearly 2,500 wards in reception and treatment institutions and nearly 6,000 under its parole supervision, issuing from 20,000 to 30,000 orders each year, can not well individualize treatment in any very meaningful sense. It can do little more than review the decisions and recommendations of officers and agents employed at the various levels of the treatment process. Inspection of Table VI should give some idea of the size and variety of the tasks performed, quite aside from the function of administering institutions and field parole services. This leads us to a comparison with the more orthodox pattern of horizontal integration in the handling of correction of young adults, systems under which reception, classification, and treatment functions are carried on within a Department of Correction. Thus, in New York State, for example, the Elmira Reception Center, the Reformatory, and camp are administered by the Director of Correction through a Deputy in charge of youth corrections. Parole release is by the State Board of Parole. (Only in two authority states is the parole of some young adults, as well as juveniles generally, determined and administered by a board distinct from the ordinary board of parole.) The conduct of parole field services is the responsibility of a parole executive or administrator, who is generally charged with administration of all parole supervision in the field.

There appear to be several distinct advantages in this form of horizontal organization: Most obvious, perhaps, though not the most important, is its relative *economy*. There appears little justification for having two paroling boards traveling each month to institutions to hold hearings on cases of young adults, two sets of field agents carrying on investigations in the community. Duplication in the administration of institutions is obviated, as we have seen, by putting young adults generally in institutions under the Department of Corrections. The economic advantages of pooling in the fields of personnel, purchasing, and distribution are quite apparent, economies that are greatest under a system where young adult treatment is operated as a special phase of adult corrections. Furthermore, it should be apparent that where an autonomous agency is charged with the operations and budget of youth corrections, there may well result something less than an equitable distribution of state funds as between this group and others that require specialized correctional attention: first offenders, medical and psychiatric deviates, those requiring adult training or education, and other groups. It appears generally to be both more economical and fair to provide a single agency of institutional administration and a single parole board for dealing with young adults within a framework of adult correction.

It is apparent, too, that the orthodox hierarchal pattern of institutional administration—parole board release—parole field administration has the advantages of simplicity and specialization. Each agency is specialized functionally to perform its particular and limited correctional task. It may be argued that the administration of youth corrections is in some measure a different problem than the conduct of adult penology—and, indeed, it appears to be a major defense of the youth authority idea that specialization and integration may thus be achieved. However, where such diverse functions are involved as diagnosis and classification, institutional administration and discipline, parole release, field supervision, employee training, delinquency prevention, and research, it is highly dubious that any very real measure of specialization and integration could be achieved by a board, even if the same Authority members could follow the individual through from start to finish. In fact, however, panel composition varies under the circulation practices of the Authority. So far as youths from 18 to 21 are concerned, moreover, their correction is administered partly by adult, partly by juvenile authorities, and there are no discernible and reasonable lines of distinction.

It is submitted that the sounder pattern is commitment to an adult department of correction, classification by the department to an appropriate institution and release by the ordinary adult paroling agency. This should have the further advantage of greater uniformity and, therefore, a sense of more consistent justice. Conceivably the result might be a longer average duration of retention of young adults, though this is not necessarily so, and in any event policy in this matter should be determined by the needs of the individual and of the community, rather than by the contrasting philosophies of two paroling agencies. In this connection, it must be observed that the Youth Authority in California, in the writer's opinion, at least, has been too much impelled in its decisions on retention and release by a preoccupation, resulting from its interest in institutional administration, with making space for new inmates. This is a common phenomenon elsewhere where institutional administration and

release functions are combined, very generally at the juvenile level, but is greatly to be deprecated in age levels of more serious and repetitive offenders.

Finally, but not least in importance, horizontal integration of corrections provides a better distribution of power at points where power relations are most trenchant in their impact on justice. Checks and balances are "built in" in a system of coordinated but semi-autonomous phases of correction where institutional administration can in large measure correct errors of original classification, where a parole releasing agency can utilize but where appropriate can overrule institutional counsel, where supervision in the field may be guided by but can modify appreciably the immense influence of a parole board. The writer does not doubt that self-imposed restrictions of the presently constituted Youth Authority in California results in a fine coordination and a properly limited exercise of power. He does not believe that this exemplary situation is the customary result where great authority is vested and where political considerations may come to intervene in appointments and in agency functioning. It is believed that there has been an extraordinarily fine quality of liaison in California between each of the two Authorities and the Department of Corrections, a coordination that has been quite essential, considering the zones of potential controversy as to jurisdiction and power under the authority legislation there. It is believed, however, that integration can be achieved in more natural and permanent channels horizontally, between the several functionally limited levels of correction, than under a system in which authorities are granted very wide powers in the exercise of which they may at times display considerable jealousy.

Implications for the Model Penal Code of Experience in Other Jurisdictions

It is even more difficult to generalize about the significance for the penal code of experiments in other jurisdictions that have in some measure followed the authority idea than from the experience in California. In general they have not followed the Model Youth Correction Authority Act in its focus on the youth group but have been established instead as boards to deal with juvenile delinquents. For the most part the variegated "authorities" set up in the several states have taken over from State boards of welfare or their equivalents the functions of operating juvenile institutions, of release and after-care, and of delinquency prevention programs. Wisconsin, where the previously existing board was sufficiently powerful and well-established, is a notable instance of a failure to accomplish this withdrawal of control. In other jurisdictions the change-over has been accomplished with some difficulty while in California, on the other hand, the development of the Youth Authority was hastened by the ignominious discrediting of the preceding administration. It was characterized by a crusading zeal to expand and improve facilities and services, though expansion was imperative in any case, what with the rapidly increasing population and offense rates there.

As the late Charles Chute and Marjorie Bell, long of the National Probation and Parole Association, have described the authorities in a recent publication:

"The result has been the passage of acts in seven states and by the Congress with some of the provisions of the original act, but in no case bearing a close resemblance to it. None of them have carried out its basic purpose, to require that convicted youths *above* the juvenile court age, with

certain exceptions, must be committed by the courts to a state agency for disposition and treatment. State boards have been created in each of the seven states under varying names and with varying powers. Some of them are independent; others are attached to existing welfare or correctional departments. In every case commitment of youths as well as children is optional with the courts, and only a small percentage of juvenile delinquents and an even smaller percentage of youths have been so committed... All of the state boards are concerned chiefly with two functions, neither of them contemplated in the original act: (1) dealing with children committed by juvenile courts for transfer to suitable institutions for delinquents, and (2) administering those institutions. All of them have become primarily state juvenile agencies. As such they have performed a greatly needed service in improving the training schools and their release programs. In California, the only state where it has been given sufficient funds for the purpose the Authority has been successful in opening new institutions, schools, and camps for delinquent children and youth."[9]

Other than California, only Minnesota has been a partial exception to the focus on juvenile delinquency. In Minnesota, however, as in California, the major facility serving young adults—the State Reformatory at St. Cloud—continues under the direction of the adult correctional department rather than the Youth Conservation Commission. The six-member Commission is in charge of the state training schools and of two small youth-service facilities, the reception center located at the St. Cloud Reformatory, and a forestry camp. It does not have control over the program, discipline, or treatment of its reformatory wards; the situation is comparable to the Deuel institution in California. Also, as in California, two different parole boards release from the St. Cloud Reformatory. The Minnesota experience indicates a similar waste, duplication of effort, and morale problems of inmates serving disparate terms for similar crimes. It is on a smaller scale, but may be more serious in a sense in that funds for correctional staff are much more scarce there than in California.

The only modern legislation dealing specifically with young adult corrections is the Federal Youth Corrections Act of 1950, focused on offenders beyond juvenile court jurisdiction. The federal act is of special interest, moreover, because it represented the culmination of long extended efforts to adapt the authority idea to federal sentencing and specifically to youth corrections. Whether it should be considered an "authority plan" in any strict sense is a nice question of definition. More than elsewhere this legislation reflected a consensus derived from divergent conceptions of need and policy. It may be noted in passing that the 1955 proposals submitted for the Model Penal Code relating to the administrative structure of corrections for the young adult most closely resemble the provisions of this federal legislation. The Youth Corrections Act provides, at the discretion of the court, for shorter sentences for offenders up to the age of twenty-two who have been convicted of crimes, for reception-diagnostic study, for classification to and treatment in institutions and agencies administered by the Federal Bureau of Prisons, and for release and discharge by a youth division (the size of which is not determined by law) of the eight-member Board of Parole. It is the responsibility of the Director of the Bureau of Prisons to classify and transfer, to determine treatment, and to operate the institutions, though the youth division is empowered to "make recommendations to the Director with respect to general treatment and correction policies for committed youth offenders [those who have been committed specifically under the shorter terms provided by

[9] CHUTE AND BELL, CRIME, COURTS, AND PROBATION, pp. 160–161.

the law]." It is perfectly clear from the statute, however, that correctional treatment planning and administration remains in the Bureau of Prisons, as a specialized phase of its total operations. The youth division is in fact a part of the Board of Parole, charged with paroling and discharging youthful offenders. It is entirely clear to the writer from his experience with the Board and the Bureau that only this horizontal arrangement of liaison and of split powers is effective as a method of treatment administration and parole release: the Board is specialized in parole, the Bureau in institutional corrections, and their responsibilities are so allocated by law.[10] The American Law Institute reporters have drawn from this experience in recommending that young adult corrections should be within a Department of Correction and that release should be by an independent parole board.

It may be clear from what has been said in the previous pages that the correctional treatment of the young adult offender has continued to be a responsibility of the departments serving adults in every state. Relative to the group over juvenile court age the youth authorities, where they have any function at all, act in the main merely to release a selected group of offenders. As a specialized paroling agency, they generally duplicate the functions of the ordinary adult parole board, often with inconsistent as well as uneconomic consequences.

One further issue remains to be considered: the potential utility of the authority ideal in arousing enthusiasm for the worthy cause of specializing and extending correctional treatment resources for young adult offenders. California has rallied its forces under the authority model to strengthen its facilities for juveniles and for delinquency prevention. The major facilities for mature youths have been developed by the adult department of corrections, however, both there and in Minnesota. In the latter state the development of institutional facilities has been very limited in any event, both before and since the creation of its youth commission.[11] During the same period when the juvenile authorities have emerged, other non-authority states have developed reception and classification centers, camps and forestry projects, prevention programs, professionalized paroling agencies, and other resources from which youth corrections has profited. New York, New Jersey, Michigan, Pennsylvania, and Ohio, as well as the federal system illustrate marked improvements in these areas without benefit of an autonomous and all-powerful board. Whether the "youth authority" as a slogan has power still today to stir the imagination of correctional authorities and generous impulses of legislators is a moot question. The reporter believes that any advantage which the authority ideal may be deemed to offer in this regard is outweighed by the general failure of the existing authorities to come to

[10] The testimony submitted to the Committees on the Judiciary prior to the enactment of the Federal Youth Corrections Act, as well as the terms of the statute itself, make it quite apparent that the traditional division of functions between parole board and correctional administration were to be maintained. See Hearings before Subcommittee No. 3 of the Committee on the Judiciary, House of Representatives, 78th Congress, 1st Session on H.R. 2139 and 2140, May 19 and June 10, 1943, Serial No. 4; Report from the Committee on the Judiciary, Senate, 81st Congress, 1st Session on S. 2609, October 17, 1949; and Public Law 865, 81st Congress, approved September 30, 1950.

[11] Minnesota has a reformatory for men opened in 1889; a reformatory for women opened in 1920; a prison established in 1851 and replaced by a new facility in 1913; two training schools, one founded in 1890, the other in 1911; a reception center started in 1948 at the Reformatory that accommodates 80 and a camp opened in 1951 for 60 male felons.

grips with those serious problems of the young adult offender with which the Institute was concerned when it developed the Model Youth Correction Authority Act in 1940. The quality and training of personnel, the variety and specialization of institutions, the vision and determination of administrators, the conduct of critical research: these are the elements of improved youth corrections, and it is submitted that they cannot be achieved either by a formal title or merely by providing wide powers to a small board.

What are the implications of the observations that have been made above for Model Penal Code policy? It is too early at this time to determine what will be the specific content of draft provisions for young adults. They remain to be formulated. It appears clear, however, that treatment and reception center administration for young adults should be in the hands of a department of correction and, where the scope of the problem justifies it, under a deputy in charge of this phase of the correctional program. Parole release should be entrusted to one board of parole, though there may be justification in some populous jurisdictions for a young adult panel of such a board to concentrate on the younger group. It is believed that special sentencing provisions should be made for young adults directed toward goals of rehabilitation and prevention of youth crime. Finally, while the material presented in this paper is not relevant to the point, it appears that the proposal for specialized courts of the Model Youth Court Act of the American Law Institute was basically sound. The establishment of specialized parts of the criminal courts will be recommended, therefore, to adjudicate cases of young adults in states where the volume of such cases may justify this measure of specialization. These proposals are drawn from the laws and practice of no single jurisdiction, obviously. They do not offer a simple formula to resolve the difficult problems of youthful offenses. They do rest upon the experience in a number of the states and the Federal jurisdiction where there has been a careful searching over the past generation for improved methods and policies.