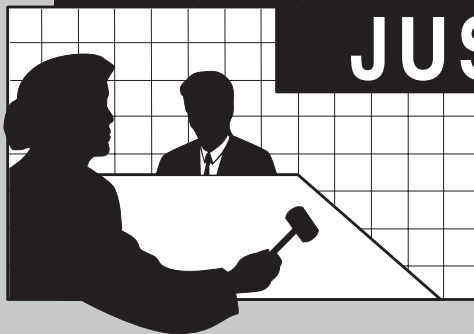


JUDICIAL & CRIMINAL JUSTICE



LAO 
65 YEARS OF SERVICE

2006-07 Analysis

MAJOR ISSUES

Judicial and Criminal Justice



Automatic Spending for the Entire Judicial Branch Is Not Justified

- The Governor's budget proposes to expand the use of formula-based budgeting to the entire Judicial Branch. However, the proposal lacks a clear policy rationale and would likely lead to over budgeting of the courts. We recommend rejection of this proposal. (See page 15.)



Various Department of Justice Requests Lack Justification

- The Governor's budget proposes to expand a number of programs administered by the Department on Justice, including programs relating to methamphetamine, gang suppression, identity theft, and the underground economy. The budget fails to provide adequate justification for these proposed expansions. We recommend rejection of several requests totaling \$15 million, pending receipt and review of additional information. (See page 23.)



Recidivism Reduction Proposal Requires Modification

- The Governor's budget includes funds to develop and expand a number of prison inmate and parole programs designed to reduce recidivism. While some aspects of this proposal have merit, many aspects lack important staffing and implementation details, and it is questionable that the department will be able to successfully implement so many programs at one time. We identify steps that the state should take to improve programming in state prisons, and recommend a reduction of approximately \$28 million pending receipt and review of additional information. (See page 35.)

**Custody Assistants Would Save State Money**

- Some county jails utilize non-peace officer personnel (“custody assistants”) for custody-related tasks that do not require direct control of inmates. Instead of using such “custody assistants,” state prisons rely on correctional officers for all custody-related work. The creation and use of a custody assistant classification in state prisons would reduce state costs and improve efficiency, while reducing staff vacancies in state prisons. (See page 63.)

**Settlement Requires Improvements in Inmate Dental Care**

- In December 2005, the state entered into a settlement agreement in the *Perez v. Hickman* lawsuit, which requires the state to increase inmate access to dental care in the prisons over a multiyear period. The Governor’s budget request is consistent with the requirements of the agreement. However, we recommend that the Legislature (1) limit the department’s funding and position authority pending receipt of a court-required staffing study, and (2) direct the department to report on its progress in improving the dental program. (See page 58.)

**Telemedicine Expansion Would Save State Money**

- The California Department of Corrections and Rehabilitation’s telemedicine program allows the department to deliver health care services to inmates without transporting them to outside medical facilities. Our review finds that opportunities exist for the department to significantly expand its use of telemedicine, thereby improving public safety and reducing the cost of providing inmate health care. We recommend legislation be enacted that requires the department to take steps to expand the use of telemedicine in prisons, which would potentially reduce transportation and medical guarding costs by several million dollars. (See page 51.)

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OVERVIEW

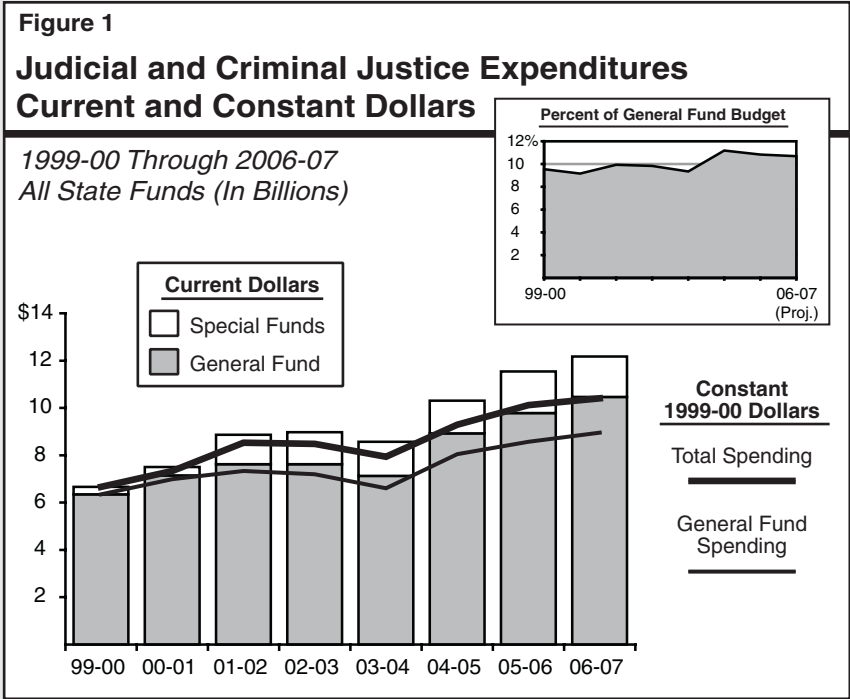
Judicial and Criminal Justice

General Fund expenditures for judicial and criminal justice programs are proposed to increase by 7 percent in the budget year. This increase reflects (1) inflation adjustments for various departments, including the Judicial Branch, (2) projected growth in the adult prison population, (3) costs for implementation of various court settlement agreements in the California Department of Corrections and Rehabilitation, and (4) proposed new and expanded programs. Although the Governor has proposed over \$3 billion in bond spending for construction and renovation of courts and correctional facilities, the budget does not reflect any expenditure from these funds.

EXPENDITURE PROPOSAL AND TRENDS

Budget Year. The budget proposes General Fund expenditures of \$10.5 billion for judicial and criminal justice programs, which is about 11 percent of all General Fund spending. This amount represents an increase of \$687 million, or 7 percent, above estimated current-year spending. Most of the increase in this area is proposed for the California Department of Corrections and Rehabilitation (CDCR). Other significant increases are proposed for the Judicial Branch and the Department of Justice (DOJ).

Historical Trend. Figure 1 (see next page) shows expenditures from all state funds for judicial and criminal justice programs since 1999-00. These expenditures have been reduced to reflect federal funds the state has or is expected to receive to offset the costs of incarceration of undocumented felons. The figure shows that General Fund expenditures for judicial and criminal justice programs are projected to increase by \$4.1 billion between 1999-00 and 2006-07, an average annual increase of 7.4 percent. General Fund expenditures increased during this period mostly due to (1) the state's assumption of primary responsibility for funding trial court operations enacted in 1997 and (2) increased labor costs to operate the state corrections system, as well as court-ordered expansions of inmate and ward programs.



SPENDING BY MAJOR PROGRAM

Figure 2 shows expenditures from all sources for the major judicial and criminal justice programs in 2004-05, 2005-06, and as proposed for 2006-07. As the figure shows, CDCR accounts for the largest share of total spending in the criminal justice area, followed by the Judicial Branch. Spending is proposed to increase in each of the three major programs.

While DOJ would experience the largest percentage increase from all sources relative to its estimated current-year spending, the largest percentage increase from the General Fund is for the Judicial Branch which includes the Trial Court Funding program and the judiciary (the Supreme Court, Courts of Appeal, and Judicial Council). By comparison, proposed new spending from all funds for CDCR appears relatively modest.

Figure 2**Judicial and Criminal Justice Budget Summary**

*2004-05 Through 2006-07
(Dollars in Millions)*

	Actual 2004-05	Estimated 2005-06	Proposed 2006-07	Change From 2005-06	
				Amount	Percent
Department of Corrections and Rehabilitation					
General Fund ^a	\$6,750.4	\$7,480.8	\$7,860.4	\$379.6	5.1%
Special funds	2.5	2.5	2.7	0.2	7.4
Reimbursements and federal funds	194.1	210.9	195.2	-15.7	-7.4
Totals	\$6,947.0	\$7,694.2	\$8,058.3	\$364.1	4.7%
Federal Offset for Undocumented Felons	-\$83.8	-\$107.1	-\$114.1	-\$7.0	6.5%
Judicial Branch^b					
General Fund	\$1,614.1	\$1,757.0	\$1,980.9	\$223.8	12.7%
Special funds and reimbursements	688.5	1,032.3	948.0	-84.2	-8.2
County contribution	475.0	475.0	475.0	—	—
Totals	\$2,777.6	\$3,264.2	\$3,403.9	\$139.6	4.3%
Department of Justice					
General Fund	\$326.9	\$344.7	\$387.2	\$42.6	12.4%
Special funds and reimbursements	259.3	304.0	318.9	14.9	4.9
Federal funds	35.7	44.7	38.9	-5.8	-13.0
Totals	\$622.0	\$693.4	\$745.0	\$51.6	7.4%
^a Includes Proposition 98, and excludes capital outlay and debt service.					
^b Excludes Commission on Judicial Performance and Judges' Retirement System contributions.					

MAJOR BUDGET CHANGES

Figure 3 presents the major budget changes for judicial and criminal justice programs. These and other changes are described below.

Population, Employee Compensation, and Inflation. The budget funds projected changes in the inmate and ward populations, as well as in the parole populations (\$68 million). It provides for the full-year cost of compensation adjustments that took effect in the current year (\$64 million). Finally, it provides an inflation adjustment for operating expenses and equipment (\$60 million), as well as an adjustment for cost and utilization of pharmaceuticals and contract medical care provided by CDCR (\$68 million).

Corrections Court Settlement Agreements. The budget proposes new spending for the continued rollout of previous court settlements, such as *Valdivia* relating to the parole revocation process (\$12 million), *Plata* relating to inmate medical care (\$21 million), *Coleman* relating to mental health care (\$14 million), and *Farrell* relating to various conditions of confinement within youth correctional facilities (\$50 million). The budget proposes \$21 million for a new settlement agreement—in *Perez v Hickman*—relating to inmate dental care.

Inmate and Parolee Programs. In addition to providing for the full-year cost of previously approved program expansions, the budget proposes to further increase funding for “recidivism reduction strategies.” The Governor’s budget adds approximately \$23 million for new and expanded programs in 2006-07, and proposes to further expand these programs in subsequent years increasing total spending for the recidivism reduction initiative to \$95 million in 2008-09. The administration, however, provides no estimate of the potential fiscal and programmatic effects of these investments. We examine this proposal and offer recommendations for legislative consideration in the “Adult Corrections” section of this chapter.

Judicial Branch Spending. The budget proposes several augmentations for the Judicial Branch. These consist of \$105 million for inflation and growth adjustments for trial courts based on the year-to-year change in the State Appropriations Limit (SAL), \$58 million to restore a one-time reduction, \$19 million for court security, \$16 million for court information technology, and \$12 million for employee compensation. In addition, the budget includes \$5.5 million from the General Fund to begin to phase-in 150 new judge positions over the next three fiscal years.

Figure 3

Judicial and Criminal Justice Proposed Major Changes for 2006-07 All Funds

Department of Corrections and Rehabilitation	Requested:	\$8.1 billion	
	Increase:	\$364 million	(+4.7%)

- + \$68 million for projected changes in the inmate and ward populations
- + \$64 million to fully fund current-year salary increases
- + \$60 million for price increases
- + \$50 million for *Farrell v. Hickman* remedial plans
- + \$68 million for inmate medical services
- + \$21 million for inmate dental services

Judicial Branch	Requested:	\$3.4 billion	
	Increase:	\$140 million	(+4.3%)

- + \$105 million growth and inflation adjustment for trial courts
- + \$18 million growth and inflation adjustment for judiciary and judicial officer salaries
- + \$58 million to restore one-time reduction
- + \$19 million to increase security at some trial courts
- + \$16 million for trial court information technology enhancements
- + \$12 million for trial court employee salary increases
- + \$5.5 million to phase-in 150 new judgeships over three years

Department of Justice	Requested:	\$745 million	
	Increase:	\$52 million	(+7.4%)

- + \$6.5 million for gang suppression and enforcement activities
- + \$6 million for narcotics enforcement activities
- + \$3 million to tribal gaming compliance and enforcement
- + \$3 million to replace radio communications equipment
- + \$2 million to address workload growth in forensic services

Judicial Branch Policy Changes Proposed in Budget. The budget reflects various policy changes relating to the Judicial Branch. First, it proposes to expand the application of the SAL inflation and growth funding adjustment to include trial court judge salaries, as well as all spending for the judiciary, thereby placing the entire Judicial Branch budget under this automatic funding approach. Second, the budget proposes to continuously appropriate the Trial Court Trust Fund, as well as a newly established Judiciary Operations Fund.

2006 Bond Proposal for Corrections and Courts. As part of its Strategic Growth Plan, the administration proposes—for voter approval in 2006—over \$3 billion in bond spending for construction and renovation of courts and correctional facilities. This consists of \$2 billion for jail construction, \$800 million for court facilities, \$200 million for a new DNA laboratory, and approximately \$200 million for state correctional facilities. However, the budget does not reflect any expenditure from these bond funds.

DEPARTMENTAL ISSUES

Judicial and Criminal Justice

JUDICIAL BRANCH (0250)

The California Constitution vests the state's judicial power in the Supreme Court, the Courts of Appeal, and the trial courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state-supported. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts. Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle), shifted fiscal responsibility for the trial courts from the counties to the state. California has 58 trial courts, one in each county.

The Judicial Branch can be thought of as consisting of two components: (1) the judiciary (the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center) and (2) the Trial Court Funding program, which funds local superior courts.

The *2005 Budget Act* merged funding for the judiciary and Trial Court Funding programs under a single "Judicial Branch" budget item. It also shifted local assistance funding for a variety of programs, including the Child Support Commissioner program, the Drug Court Projects, and the Equal Access Fund from the Judicial Council budget to the Trial Court Funding budget.

Budget Proposal. The Judicial Branch budget proposes total appropriations of approximately \$3.4 billion in 2006-07. This is an increase of \$140 million, or 4.3 percent, above estimated current-year expenditures.

Total General Fund expenditures are proposed at \$2 billion, an increase of about \$224 million, or 12.7 percent, above current-year expenditures. Total expenditures from special funds and reimbursements are proposed at about \$1.4 billion, a decrease of \$84 million, or 5.6 percent. Approximately 89 percent of total Judicial Branch spending is for the Trial Court Funding program, and the remainder is for the “judiciary” program, which includes the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center.

The overall net increase in the Judicial Branch budget is primarily due to annual adjustments for growth and inflation (\$122 million), the restoration of one-time reductions (\$58 million), and annualization of prior-year employee compensation adjustments (\$12 million). Most of this increase is for the Trial Court Funding program. Figure 1 shows the revenue sources for the entire Judicial Branch, while Figure 2 shows proposed expenditures for these two major program areas in the past, current, and budget years.

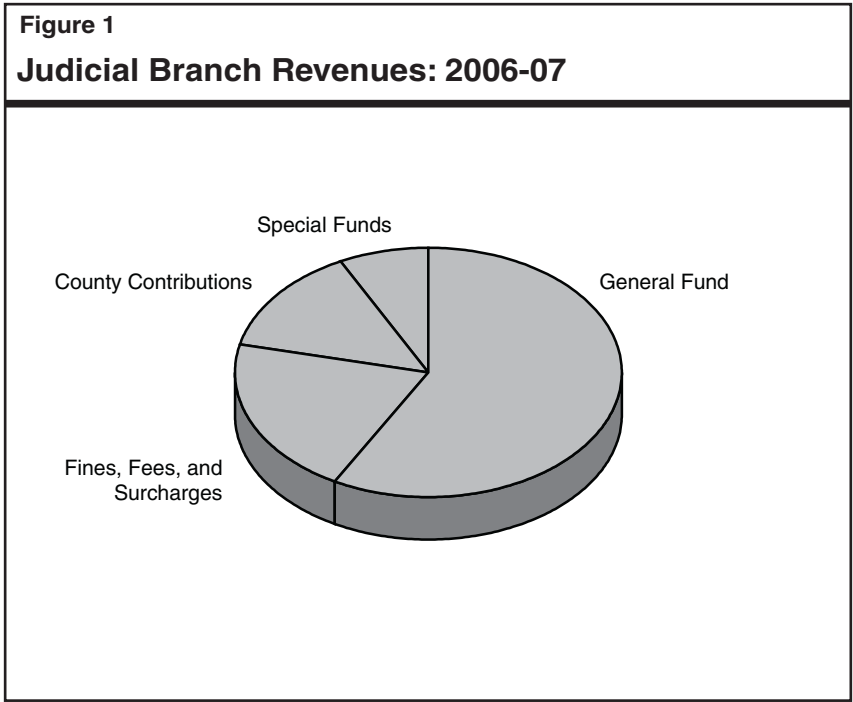


Figure 2**Judicial Branch Funding—All Funds***(In Millions)*

	Actual 2004-05	Estimated 2005-06	Proposed 2006-07	Change From 2005-06	
				Amount	Percent
Judicial Program					
Supreme Court	\$39.4	\$40.8	\$41.6	\$0.8	2.9%
Courts of Appeal	166.2	178.1	182.1	4.0	2.3
Judicial Council ^a	176.0	144.1	134.5	-9.7	-6.7
Habeas Corpus Resource Center	10.1	11.4	12.9	1.5	12.9
Subtotals	(\$391.7)	(\$374.4)	(\$371.0)	(-3.4)	(-0.9%)
Trial Court Funding Program^b	\$2,385.9	\$2,889.8	\$3,032.9	143.1	5.0
Totals	\$2,777.6	\$3,264.2	\$3,403.9	\$139.7	4.3%

^a Includes funding for the Judicial Branch Facility program.

^b Includes local assistance funding formerly in the Judicial program.

Detail may not total due to rounding.

AUTOMATIC SPENDING FOR ENTIRE BUDGET NOT JUSTIFIED

We recommend rejection of the Governor's proposal to expand use of the State Appropriations Limit (SAL) adjustment to the entire Judicial Branch. The proposal provides no clear rationale as to why the SAL adjustment should be applied to the entirety of the Judicial Branch and will likely lead to over funding of the courts budget. (Reduce Item 0250-001-0001 by \$1.2 million, Item 0250-112-0001 and Item 0250-112-0556 by \$1.6 million, Item 0250-111-0001 and Item 0250-101-0932 by \$14.6 million, and Item 0250-101-0001 by \$447,000.)

Background

Use of SAL for the Trial Court Funding Program. Chapter 227, Statutes of 2004 (SB 1102, Committee on Budget) changed the process for budgeting the Trial Court Funding program from the traditional state process—in which annual adjustments are separately requested and approved based on demonstrated need—to a process in which the amount

of new funding for this program is based on a formula and does not require demonstration of need. Specifically, current law requires use of the year-to-year growth in the SAL (referred to as the “SAL growth factor,” which is described in the nearby box) to adjust the trial court budget every year. The language requires that the SAL growth factor be applied to trial court operating costs, excluding judicial officer salaries. This establishes a minimum funding level for the courts, which can be provided from any combination of the three revenue sources: the General Fund, filing fees and surcharge revenues, and the fixed county contribution. Additionally, under current law the Judicial Council can request additional funding above and beyond the SAL adjustment for (1) nondiscretionary costs that are growing faster than SAL or (2) operational or programmatic changes that require additional funding.

What Is SAL?

The State Appropriations Limit—or SAL—was established in the State Constitution in 1979 by Proposition 4, and later amended by Propositions 98 (1988) and 111 (1990). The purpose of the SAL is to provide a limit on annual spending for state and local government appropriations from tax revenues. Every year, the SAL is adjusted to account for changes in the cost-of-living (COLA) and population using the following specific measures:

- The COLA measure is defined to be the percent change in the state’s per-capita personal income,
- The “population” measure is a weighted average of growth in California’s civilian population and K-14 average daily attendance.

Although written into law as a statewide limit, the SAL growth factor is also used to provide annual budget adjustments for some state entities. It is currently used to establish minimum spending growth for trial court operations. Also, growth in the Legislature’s overall budget is limited annually to the increase in the SAL.

Over time, the SAL grows roughly in line with the state’s economy, and somewhat faster than statewide inflation-plus-population. Its growth rate can also fluctuate substantially from year to year, depending on numerous economic factors. From 2000-01 to 2005-06, the SAL growth factor has averaged 5.3 percent, but has varied from a low of 0.5 percent in 2002-03 to a high of 9.7 percent in 2001-02.

Rationale for Use of SAL. Use of the SAL growth factor was thought to benefit the trial courts for three reasons. First, it was intended to provide stability and predictability to the Trial Court Funding program during periods of state fiscal crisis. Second, it was believed that more predictable funding for the trial courts would improve the process for adjusting local court employee salaries. Specifically, use of the SAL would allow local court administrators to know how much they could expect to receive from the state prior to negotiating salary increases with local court employees. Finally, since the Trial Court Funding program represents the vast majority of Judicial Branch spending, using SAL also provided a greater degree of financial independence and flexibility for the Judicial Branch.

Although the 2005-06 budget merged funding for the judiciary and Trial Court Funding program into a Judicial Branch budget item, it did not extend the application of the SAL to the judiciary.

Governor's Proposal Expands Application of SAL

The Governor's budget proposes to make several changes in the use of the SAL growth factor for the courts. Most notably, the budget proposes to apply the SAL growth factor to portions of the trial court funding program that are not included under current law (for example, superior court judge salaries), as well as the judiciary. The budget requests \$17.9 million to fund these proposed changes. Also, the proposal would require that the annual SAL adjustment be funded entirely from the General Fund. Figure 3 (see next page) summarizes the major provisions of the proposal as compared to current law.

No Clear Policy Rationale for Expansion of SAL to Judiciary

Judiciary Already Has Budget Stability and Independence. One of the key reasons given for the proposed expansion of the SAL funding methodology is the need for budget stability and independence. According to Administrative Office of the Courts (AOC) staff, using the SAL growth factor would ensure that the courts experience steady growth, and would prevent the courts from being subject to significant budget cuts during times of state fiscal crisis. However, our review of historical funding shows that the judiciary has, in fact, experienced relative budget stability. Figure 4 (see page 19) shows General Fund expenditures for the judiciary from 1990-91 through 2005-06. As the figure illustrates, the judiciary budget generally experienced steady upward growth during this period. In fact, our analysis shows that spending for the judiciary has been more stable than the General Fund and slightly outpaced growth in General Fund expenditures.

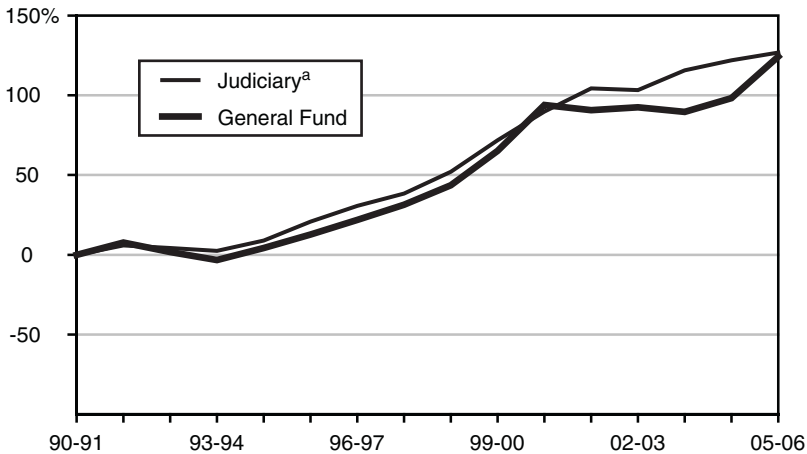
Figure 3
Governor’s Proposal Expands Use of State Appropriations Limit (SAL)

Current Law	Governor’s Proposal
<p><i>SAL Applies Only to Trial Court Operations.</i> Under current law, the SAL growth factor is applied to the Trial Court Funding program (excluding judicial officer salaries).</p> <p><i>Adjustment Not Tied to Particular Funding Source.</i> The annual SAL adjustment is not tied to any particular fund source. As such, the Legislature could fund the adjustment from the General Fund, or special fund revenues derived from court fees and penalties, or a combination of the two, so long as the combined funds equaled the amount required by SAL.</p> <p><i>Council Can Request Additional Funds Separately.</i> The Judicial Council may separately request additional amounts for trial court operating costs that grow faster than the SAL and costs resulting from new laws.</p> <p><i>Judicial Branch Appropriations Must Be Spent in the Budget Year.</i> Like most other programs, funding for the Judicial Branch must be spent in the year in which the monies are appropriated. New appropriation authority must be obtained before expenditures can be made in future years, even if the fund contains a surplus from the previous year.</p>	<p><i>SAL Applies to Entire Judicial Branch Budget.</i> In addition to trial court operations, the SAL growth factor would be applied to judicial officer salaries and to the entire judiciary budget (Supreme Court, Courts of Appeal, etc.). This would make the entire Judicial Branch budget subject to growth by SAL.</p> <p><i>Adjustment Tied to General Fund.</i> All growth from the SAL adjustment is to be paid from the General Fund. This creates a General Fund guarantee for Trial Court Funding and does not allow the Legislature to use funding from a different source, such as increases in fine and fee revenue.</p> <p><i>More Restrictive Guidelines for Requesting Additional Funds.</i> The Judicial Council can only request additional funding for (1) extraordinary circumstances and (2) costs resulting from new laws.</p> <p><i>Most of Judicial Branch Budget Appropriated Without Regard to Fiscal Year.</i> The majority of the Judicial Branch budget would be appropriated without regard to fiscal year, allowing the Judicial Branch to carry over funds from one fiscal year to the next.</p>

Figure 4

Judiciary Budget Has Experienced Relative Stability And Outpaced General Fund Expenditure Growth

Percent Change Since 1990-91



^aIncludes the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center.

Automatic Spending Is Not Good Fiscal Policy

In addition to questioning the overall policy goals, we have several concerns regarding the fiscal and budgetary effects of the Governor's proposal, as discussed below.

Use of SAL Will Likely Lead to Overbudgeting. Based on our review, we find that expanding use of the SAL to the entire Judicial Branch will likely lead to overbudgeting. Below we provide two examples to demonstrate how this would occur.

- Superior Court Judge Salaries.*** Under current law, superior court judges receive salary increases equivalent to the average pay increase for California state employees. The trial courts receive annual budget adjustments to account for these raises. The Governor's proposal would instead adjust funding for judge salaries by using the SAL growth factor. We believe this method is flawed. For example, in the 2006-07 budget, judge salary increases are estimated to be 3.7 percent, while the SAL growth factor is estimated at 4.7 percent. Because of this difference, the courts would receive an additional \$2.3 million beyond what is needed to fund judge salary increases.

- **Judiciary Budget.** Since the late 1990s, the fastest growing portion of the judiciary budget was AOC, the administrative staff of the Judicial Council. As the trial courts became a state-funded entity, the role of the Judicial Council began to grow, requiring additional staff to meet increasing workload. However, now that this statewide administrative structure has been established, it is not likely that the funding requirements of the AOC will grow at the same pace as the trial courts. Although the trial court funding budget is likely to experience continued growth, this is primarily due to cost increases and should not require a proportionate increase in administrative staff at the AOC. Because significant growth is not expected, providing a budget adjustment using SAL will likely lead to overbudgeting.

Not Accounting for Changes in Court Filing Fee and Surcharge Revenues Could Lead to “Double Dipping.” Under the Governor’s proposal, changes in court filing fee and surcharge revenues have no impact on the General Fund guarantee for the courts. Should these revenues increase, the courts would consequently receive a funding increase greater than SAL. As the SAL adjustment is intended to provide the courts with funding to account for inflation and growth, we see no justification for allowing the courts to receive increases in fee and surcharge revenues in addition to the SAL adjustment.

Removing Annual Appropriations Limits Legislative Oversight. Allowing most of the Judicial Branch to be appropriated without regard to fiscal year limits the Legislature’s oversight. Under the proposal, over 90 percent of the Judicial Branch budget would be appropriated without regard to fiscal year. Unspent funds would no longer lose appropriation authority at the end of the fiscal year and would be available for use at the discretion of the Judicial Branch during future years. Given that total funds annually exceed \$3 billion, this provision would reduce oversight and the Legislature’s ability to respond to a fiscal crisis.

Conclusion. Overall, we find that the Governor’s proposal to expand use of the SAL adjustment to the entire Judicial Branch lacks a clear policy rationale and will likely lead to overfunding of the courts. The proposal also reduces legislative oversight by making the vast majority of Judicial Branch funding appropriated without regard to fiscal year. Because of these concerns, we recommend rejection of the Governor’s proposal to expand the use of SAL to the entire Judicial Branch. This would result in a savings of \$17.9 million. We would note that there are funds for the budget year in Item 9800 for a salary increase for judges serving in the superior, appellate, and supreme courts.

Information Systems Request Not Justified

We recommend rejection of the request for \$12.3 million in information systems funding for the trial courts. The proposal contains no detail on how the funding will be used and does not provide sufficient information to demonstrate that funding is needed above and beyond the \$105 million proposed for the trial courts through the State Appropriations Limit adjustment. (Reduce Item 0250-101-0001 by \$12,300,000.)

Trial Courts Are Transitioning to Statewide Systems. In conjunction with becoming a state-funded entity after enactment of the Trial Court Funding Act of 1997, there has been a significant effort to provide statewide information systems for the trial courts. Because counties are no longer required to provide administrative services or information technology support to the courts, the courts must have these services available internally. The AOC has developed several information management systems, and has begun to transition the courts to these systems. There are 15 programs currently being developed and implemented for the trial court system. A few major programs are listed below.

- **Court Accounting and Reporting System (CARS)**—A statewide financial accounting system for the courts. Currently 20 of 58 counties have fully implemented CARS.
- **California Case Management System**—A statewide system for tracking court cases, scheduled to be implemented statewide by the 2009-10 fiscal year.
- **Courts Human Resources Information System (CHRIS)**—A statewide trial court human resources information system. The CHRIS is currently anticipated to be utilized by all 58 trial courts by the 2009-10 fiscal year.

In 2005-06, the trial courts will spend an estimated \$63 million on project implementation and \$73 million for ongoing maintenance of these systems. Expenses have increased significantly as new projects have been established.

Request Lacks Justification. The Governor's budget requests \$12.3 million in ongoing funding for the continued development and implementation, as well as maintenance of the 15 information systems for the trial courts.

Although the implementation of new software is important in order to replace the administrative role previously played by the counties and to improve the accountability of trial courts, the request does not provide any detail on how this funding will be used. In particular, the proposal

does not specify the amount of funding that will be designated for each individual project, nor does it identify specific progress that will be made on each project in the budget year. More importantly, the AOC has not provided information to demonstrate that these trial court programs require an augmentation beyond the \$105 million SAL adjustment already included in the budget to fund the cost of inflation and growth in trial court operations. For these reasons, we recommend a reduction of \$12.3 million.

DEPARTMENT OF JUSTICE (0820)

Under the direction of the Attorney General, the Department of Justice (DOJ) enforces state laws, provides legal services to state and local agencies, and provides support services to local law enforcement agencies. The budget proposes total expenditures of approximately \$745 million for support of DOJ in the budget year. This amount is approximately \$52 million, or about 7.4 percent, above estimated current-year expenditures. The requested amount includes \$387 million from the General Fund (an increase of \$43 million, or 12 percent), \$277 million from special funds, \$39 million from federal funds, and \$42 million from reimbursements.

Several Requests Lack Adequate Justification

We recommend rejection of several requests, pending receipt of additional information, and recommend shifting some costs from the General Fund to the Indian Gaming Special Distribution Fund. (Reduce Item 0820-001-0001 by \$15 million and increase Item 0820-001-0367 by \$376,000).

Budget Proposal. The Governor's budget includes numerous augmentations for DOJ, including funding and positions for law enforcement activities related to financial crimes, methamphetamine use, and street gangs. The budget also requests funds to address workload growth in the Division of Gambling Control. Our main concern with most of the requests is that the department (1) does not provide data demonstrating the need to expand existing programs and (2) does not provide workload justification to support many of the new positions it seeks to establish. We discuss our concerns regarding each of these requests below.

- **Special Crimes Unit Staffing Request.** The department requests \$1.3 million and 13 positions to handle increased workload in the area of complex financial crimes and identity theft. According to the department, it does not have enough investigative and paralegal staff in its Special Crimes Unit to permit the timely in-

vestigation and prosecution of complex financial crimes. We have two concerns with this proposal. First, the department indicates that some of its workload results from local district attorneys being unwilling or unable to prosecute cases involving complex financial crimes. The department further indicates that part of its workload involves providing assistance to federal investigators. The department should provide detailed information on the level of assistance provided to local and federal investigators, so that the Legislature can evaluate whether, and to what extent, these entities should share in the cost of these services. Second, the department provides no information on workload for the paralegals and investigators to justify its request. It simply indicates that the attorney caseload has grown from an average of 15 cases in 1988 to an average of 25 cases in 2006. While this does demonstrate that there has been an increase in workload, it does not explain how that increase relates to the specific level of staff resources requested. The department should provide detailed workload justification for the investigator and paralegal positions requested. We recommend rejection of the \$1.3 million pending receipt and review of this information.

- ***California Methamphetamine Strategies Program.*** The Attorney General requests \$6 million and 31 positions, mostly special agents, to provide technical assistance to local law enforcement in less populated areas of the state where some methamphetamine production occurs. Without prejudice to the request, we note that it provides no information on the potential distribution of methamphetamine production by region, no information on the existing level of local resources dedicated to methamphetamine enforcement, and no workload data to justify the requested number of positions. The department should provide this information so that the Legislature can determine the level of resources, if any, that should be dedicated to these activities. The department should also evaluate and report on the extent to which it may be able to redirect resources within its narcotics enforcement division. It should also be noted that the state Office of Emergency Services administers the War on Methamphetamine grant program, which provides grants totaling \$9.5 million to a number of counties for methamphetamine-related law enforcement activities. The Governor's budget proposes to continue funding for the grant program at its current-year level. It is unclear how the requested \$6 million and related 31 positions would be coordinated with the activities currently funded at the local level through the War on Methamphetamine grant program. In evaluating this request, the Legislature should ensure that all available resources are ef-

fectively targeted to areas of the state with the greatest need. We recommend rejection of the \$6 million (and 31 positions) pending receipt of additional information.

- ***Gang Suppression Enforcement Teams.*** We recommend rejection of the request for \$6.5 million (and 34 positions) pending receipt of additional information. The request suggests that there has been a significant increase in gang-related activity but provides no data to support this assertion. Additionally, most gang activity continues to be concentrated in regions that have a long history of dealing with gangs locally, such as in southern California and the Bay Area. The department's request does not provide information to describe how these regions, which have developed expertise in dealing with the gang problem, would benefit from the presence of DOJ special agents. Pending receipt and review of this additional information, we recommend rejection of the request for \$6.5 million, which is proposed to grow to nearly \$10 million in 2007-08.
- ***Division of Gambling Control.*** Based on our review of the department's request for \$3.3 million and 19 positions for workload growth in the Division of Gambling Control, we recommend approval. However, we recommend that the division's operations continue to be supported entirely by the Indian Gaming Special Distribution Fund (SDF) and the Gambling Control Fund. Revenues for these funds come from tribal-state gambling compacts, as well as fines and fees collected from gambling regulation. The administration now proposes to provide a portion of the funding for the division's expansion from the General Fund. The rationale given by the administration is that some tribes' payments go directly to the General Fund rather than SDF; and, therefore a proportion of the costs of operating the division should also be paid from the General Fund. However, state law and the tribal compacts allow funding for all gambling related regulatory activities to come from SDF, which is projected to have a fund balance of \$113 million at the end of 2006-07. Accordingly, we recommend continuing to fund the division entirely from SDF and Gambling Control Fund for a General Fund savings of \$367,000. (The Governor's budget proposes a related expansion of the activities of the Gambling Control Commission. We discuss that proposal in the "General Government" chapter of this publication.)
- ***Underground Economy.*** The budget requests \$556,000 and 4.3 positions to establish an Underground Economy Statewide Investigation and Prosecution Unit within the Public Rights Division. This unit would work as part of the Joint Strike Force on the Underground Economy (JESF), a multi-agency coalition which is

headed by the Employment Development Department (EDD) and includes DOJ. It would also work in conjunction with the Economic and Employment Enforcement Coalition (EEEC), another multi-agency coalition established July 1, 2005 that includes four state entities (Divisions of Labor Standards Enforcement and Occupational Safety and Health in the Department of Industrial Relations, EDD, and Contractor's State Licensing Board in the Department of Consumer Affairs) and the U.S. Department of Labor. According to DOJ, the focus of the unit would be the investigation and prosecution of various underground economy cases, including unfair competition cases seeking restitution for unpaid wages, and criminal cases dealing with theft of labor, withholding of wages, and tax evasion. While we recognize the importance of efforts to combat the underground economy, we have two concerns with this request. First, DOJ asserts that the unit will work together with other members of JESF but does not specify the role of the unit with respect to other members of the strike force. Second, the proposal identifies several potential sources which would generate workload for the unit, most notably the newly created EEEEC and local prosecutors that lack the expertise to litigate these cases. However, the department does not provide information to demonstrate that such workload exists. It should be noted that several agencies involved in EEEEC have in-house legal staff that represent the agencies in cases against employers. Moreover, other affected agencies, such as the tax and licensing agencies, use current DOJ staff when their assessments are challenged in court. Since EEEEC has only been in existence for less than a year, it may be premature to establish an ongoing unit within DOJ. It is possible that future DOJ workload created by EEEEC could be absorbed using existing resources. For these reasons, we recommend rejection of the request.

Conclusion. We note that all but one of the requests discussed above are expansions of existing programs at DOJ. Our recommendations would not reduce any base levels of funding; they would only reject the requests for expansion. However, we note that in some areas, it may be possible to improve program outcomes by more effectively targeting existing resources. This could include shifting staff and other resources from their current use to an activity that is a higher priority. These actions should be considered before the programs receive additional funding.

DEPARTMENT OF CORRECTIONS AND REHABILITATION (5225)

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections (CDC), Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 11 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates eight juvenile correctional facilities, including three reception centers. In addition, CDCR manages 13 Community Correctional Facilities, 44 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and 202 adult and juvenile parole offices.

BUDGET OVERVIEW

Budget Proposal

The budget proposes total expenditures of \$8.1 billion for CDCR in 2006-07. This is \$364 million, or about 5 percent, above the revised estimate for current-year expenditures. The primary causes of this increase are projected increases in the prison and parole populations, salaries, inmate medical and dental care, and implementation of *Farrell v. Hickman* remedial plans to address conditions of confinement in youth correctional facilities. Figure 1 shows the total expenditures estimated in the Governor’s budget for the current year and proposed for the budget year.

Figure 1				
Total Expenditures for CDCR ^a Programs				
(Dollars in Millions)				
Program	2005-06 (Estimated)	2006-07 (Proposed)	Change	
			Amount	Percent
Administration ^b	\$473.7	\$495.9	\$22.2	13.3%
Juvenile Institution and Parole Operations	413.7	456.6	42.9	10.4
Adult Institution and Parole Operations	6,721.2	7,016.3	295.0	4.4
Board of Parole Hearings	85.4	89.5	4.1	4.8
Totals	\$7,694.1	\$8,058.3	\$364.2	4.7%
^a California Department of Corrections and Rehabilitation.				
^b Includes Corrections Standards Authority and Community Partnerships programs.				
Detail may not total due to rounding.				

General Fund Expenditures. Proposed General Fund expenditures for the budget year total \$7.9 billion, an increase of \$380 million, or 5 percent, above the revised current-year estimate.

Federal Fund Expenditures. The CDCR budget includes \$41 million in federal funds in the budget year. Most of these funds are distributed to local governments for criminal justice programs. The budget-year total represents a decrease of \$17 million, or 29 percent, from estimated current-year receipts, due primarily to the sunseting of certain federal grants for local correctional construction projects.

In addition, the Governor's budget assumes that the state will receive about \$114 million from the federal government during 2006-07 as partial reimbursement of CDCR's costs (estimated to be more than \$700 million in the budget year) for incarcerating inmates in prison who are illegally in the United States and have committed crimes in California. The federal funds are not included in CDCR's budget display, but instead are scheduled as "offsets" to total state General Fund expenditures. The recently proposed federal budget, however, contains no funding for this purpose.

Current-Year Deficiency

The department's budget proposes \$183 million in additional General Fund expenditures in the current year compared to the *2005 Budget Act*. This amount is slightly lower than recent budget deficiencies for CDC. In each of the past five years, CDC received deficiency funding of at least \$200 million dollars, including \$247 million in 2004-05. Figure 2 shows the most significant components of the additional spending estimated for the current year. Each of these proposals is described in more detail below.

Figure 2

Department of Corrections and Rehabilitation 2005-06 Deficiency

(In Millions)

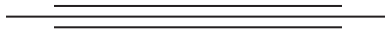
Deficiency Item	Amount
Population adjustments	\$64.5
Basic Correctional Officer Academy expansion	25.4
Payments to counties for state use of local jail beds	85.1
<i>Farrell v. Hickman</i> remedial plan	5.2
Miscellaneous	3.0
Total	\$183.2

Inmate, Ward, and Parolee Population Adjustments. The CDCR requests \$65 million to fund projected changes in the inmate, ward, and parolee populations. Of this amount, about \$59 million is to fund projected growth in the adult inmate and parole populations. The department is requesting about \$6 million in additional funding to manage the juvenile population. We discuss the department's request for population-related funding in more detail later in this chapter.

Basic Correctional Officer Academy Expansion. The proposed budget includes \$25 million in additional funds in the current year to increase the department's training capacity for new correctional officers, youth correctional officers, and parole agents. The department is requesting these funds to address estimated vacancies in the current and budget years.

Payments to Counties for State Use of Local Jail Beds. The CDCR budget request includes \$85 million for payments to counties for the incarceration of parole violators. Of this total, \$55 million is to pay outstanding claims from prior years. The remaining \$30 million is to address estimated increases in current-year claims, primarily due to the state's increased use of local jails to house parole violators.

Farrell v. Hickman Implementation. The administration requests \$5 million to begin implementing the Safety and Welfare Remedial Plan as part of the *Farrell v. Hickman* settlement agreement. The plan proposes a number of changes over a multiyear period designed to transform CDCR's Division of Juvenile Justice into a rehabilitative model of care and treatment for youthful offenders.



ADULT CORRECTIONS

WHO IS IN PRISON?

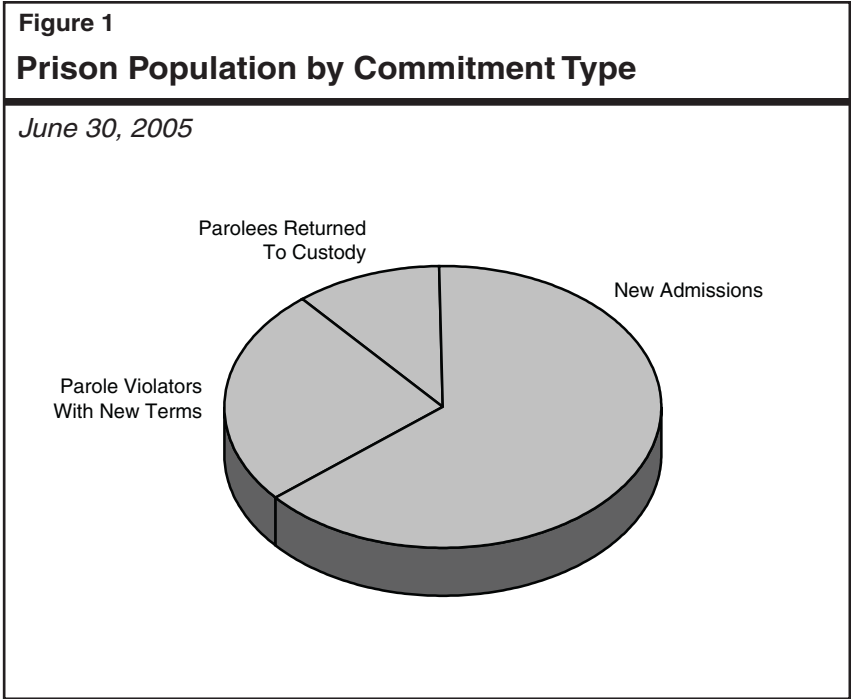
There were 164,179 inmates in the prison population as of June 30, 2005. About 93 percent of the population is male. Other demographics of the inmate population include the following:

- About 50 percent of inmates are incarcerated for nonviolent offenses.
- About 65 percent of all inmates were committed to prison from southern California, with about 33 percent from Los Angeles County alone and 8 percent from San Diego County. The San Francisco Bay Area is the source of about 12 percent of prison commitments.
- About 47 percent of all inmates are between 20 and 34 years of age, with the number of inmates falling dramatically starting at age 50.
- The prison population is divided relatively evenly among whites, blacks, and Hispanics.
- About 64 percent of the inmates are new admissions from the courts, 25 percent are offenders returned by the courts for a new offense while on parole status, and 11 percent are parolees returned to prison by administrative actions for violation of their conditions of parole (see Figure 1, next page).

INMATE AND PAROLE POPULATION MANAGEMENT ISSUES

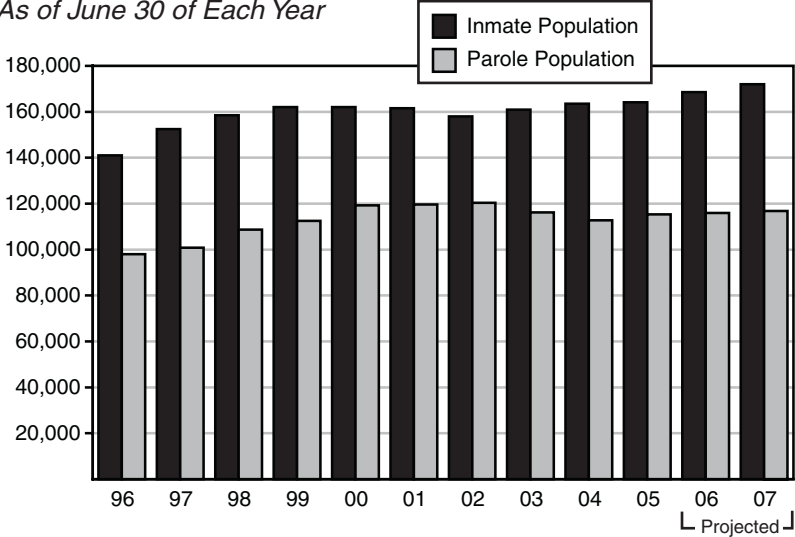
Inmate Population Projected to Increase

The California Department of Corrections and Rehabilitation (CDCR) is projecting the inmate and parolee populations to increase in the current and budget years.



Inmate Population Increase. As of June 30, 2005, CDCR housed 164,179 inmates in prisons, fire and conservation camps, and community correctional facilities. The CDCR forecasts the inmate population will increase to 172,019 by June 30, 2007, a projected two year increase of 7,840 inmates, or about 5 percent, compared to the beginning of the current fiscal year. The state has not experienced a two-year increase in the prison population of this magnitude since the late 1990s. The projected increase in the inmate population is primarily the result of a recent trend of increasing admissions to prison from county courts. Figure 2 shows the year-end inmate and parole populations for the period 1996 through 2007.

Parole Population Increase. As of June 30, 2005, CDCR supervised 115,371 persons on parole. As shown in Figure 2, CDCR projects the parole population to increase to 116,847 by the end of the budget year, an increase of 1,476, or 1 percent. This increase is primarily a result of the increase in the number of inmates released to parole after serving their prison sentence, as well as a decrease in the number of parolees discharged from state supervision.

Figure 2**Inmate and Parole Population 1996 Through 2007***1996 Through 2007**As of June 30 of Each Year*

Fiscal Implications of Population Changes. As a result of the projected increase in the adult inmate and parole populations, CDCR is requesting additional funds of about \$89 million in the current year (\$59 million in prison and parole costs and \$30 million in payments to counties for jail beds), growing to \$149 million in the budget year (\$138 million for prisons and parole and \$12 million for county jail beds).

Housing the Projected Growth in Inmate Population. The Governor's budget proposes an inmate housing plan to accommodate the additional 7,840 inmates that CDCR expects to receive by the end of the budget year. The plan has the following major elements:

- ***Full Activation of Kern Valley State Prison.*** The CDCR will fully activate a new prison in Delano County that opened in spring 2005. By spring 2007, the prison will be able to hold an additional 4,600 inmates compared to the beginning of the current year.
- ***Community Correctional Facilities.*** The CDCR would occupy about 5,300 community correctional facility beds, an increase of almost 600 beds from the end of 2004-05. In addition, the Governor's proposed budget includes budget bill language allowing the

department to contract for up to 8,500 additional beds from this source beginning in 2007-08.

- ***Overcrowding of Existing Prison Space.*** The housing plan assumes that, by the end of the budget year, an additional 2,600 inmates would be placed in gymnasiums, dayrooms, and dorms in CDCR prisons that are intended to be temporary housing.

Potential Risks to Accuracy of Projections. As we have indicated in past years, the accuracy of the department's latest projections remains dependent upon a number of factors, changes to any of which could result in significantly higher or lower populations. These factors include sentencing law, crime rates, and local criminal justice practices.

Caseload Will Likely Require Further Adjustment

We withhold recommendation on the 2006-07 budget request for caseload funding pending receipt of the May Revision because recent data indicate that the population is trending higher than the department's projections. We recommend that the administration provide, as part of its updated spring population projections, an estimate of the impact of the Governor's policy proposals on the inmate and parole populations. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision.

Actual Inmate Population Increased Significantly in Recent Months. The fall 2005 projections anticipated that the inmate population would grow by about 2,200 inmates during the first half of 2005-06. Instead, it increased by about 3,900 inmates. According to the department, this population increase is attributable to a higher-than-anticipated number of inmates sentenced to state prison by the courts. The CDCR will issue updated population projections in spring 2006 that form the basis of its May Revision proposal. At that time, we will review whether adjustments to CDCR's funding for inmate and parole caseloads are warranted.

Budget Does Not Reflect Population Impact of Governor's Policy Proposals. The department's budget includes current- and budget-year expansions of various inmate and parole programs designed to reduce the likelihood that felons under CDCR's supervision will commit new crimes and return to prison. (See our discussion of Recidivism Reduction Strategies later in this chapter.) To the extent that these programs ultimately prove to be successful, one would expect a reduction in the prison population compared to what would occur in the absence of these expansions. The Governor's budget does not include any estimate of the likely population and associated fiscal effects of its proposed program expansions. We recommend that the department provide such an estimate as part of the May Revision process.

Analyst's Recommendation. We withhold recommendation on the 2006-07 caseload funding request, though we recommend that the department adjust their request to reflect the likely impact of recidivism reduction programs proposed in the Governor's budget. We will continue to monitor CDCR population, and make recommendations as appropriate at the time of the May Revision.

CORRECTIONAL PROGRAMS

Recidivism Reduction Proposal Requires Modification

The California Department of Corrections and Rehabilitation proposes to expand various inmate and parole programs designed to reduce reoffending and recommitment to state prison. While some aspects of the proposal have merit, the department has not provided sufficient justification for other parts of the proposal. We recommend approval of specific components of this proposal and rejection of other components pending further information. We also recommend additional steps the department should take to improve rehabilitative programs in prisons. (Reduce Item 5225-001-0001 by \$28.4 million.)

Governor Proposes to Put the "R" in CDCR

In creating the new CDCR, the administration emphasized a mission of rehabilitation (as well as incarceration) for offenders in state prisons as a means of improving public safety. The administration also emphasized the need to rely on research to develop evidence-based programs to reduce the likelihood that offenders will commit new crimes and return to prison.

To carry out this new mission, the department requested—as part of the 2005 May Revision—a total of \$15 million in 2005-06 and \$30 million in 2006-07 to expand adult inmate and parole recidivism reduction programs. However, because CDCR was unable to provide adequate detail on its proposal, the Legislature reduced the funding to \$7.5 million for the current year and required the department to provide an implementation plan prior to expenditure of funds. This plan was received in January 2006.

Budget Request. The Governor's budget proposes a total of \$52.8 million for new and expanded programs in the budget year. Under the Governor's proposal, this amount would grow to \$79.3 million in 2007-08, and \$95.3 million in 2008-09. This money would be used to develop and expand a wide range of programs designed to reduce recidivism, including education, rehabilitation, and treatment programs for inmates and parolees. The request also includes funds for a new local grant program

administered by the Office of Community Partnerships, as well as funds for program research and evaluation, staff training, and support services in headquarters. Figure 3 shows the department's request by program area. We discuss each major component of the request in more detail below.

Figure 3

Recidivism Reduction Funding Request by Program Area

(In Millions)

	2005-06	2006-07	2007-08	2008-09
Prison Programs				
Inmate education	\$2.6	\$21.1	\$26.4	\$26.1
Rehabilitative programs	0.1	6.0	6.9	4.3
Treatment	1.0	3.9	3.8	3.8
Totals, Prison Programs	\$3.7	\$31.0	\$37.1	\$34.2
Parole Programs	\$1.5	\$7.8	\$27.5	\$48.1
Administrative Support				
Community partnerships	\$1.9	\$7.7	\$7.7	\$7.7
Research and implementation	0.2	5.1	4.9	4.7
Training and development	—	0.5	1.5	—
Support services	0.2	0.6	0.6	0.6
Totals, Administrative Support	\$2.3	\$13.9	\$14.7	\$13.0
Totals	\$7.5	\$52.8	\$79.3	\$95.3

Inmate Education. In the current and budget years, the single largest component of the department's request is for expansion of inmate education programs. Among other things, the department would assess inmate education needs, increase the availability of academic and vocational programming in prisons, and provide new books and educational equipment. The department proposes to increase funding for inmate education by \$2.6 million in the current year, growing to \$26.1 million by 2008-09. The latter amount represents a 16 percent increase over estimated expenditures for inmate education in 2004-05. The department's inmate education funding request includes about 20 different components. We summarize the major components of this request below, which account for 40 percent of the new proposed educational funds in the budget year.

- **Needs Assessment.** The department's proposal includes \$675,000 in the current year, growing to \$5.4 million in 2008-09 to develop

a needs assessment tool, as well as provide the staffing necessary to administer the test and process the results. According to the department, prisons do not have a systematic way to assess inmates' treatment needs, including diverse factors such as education, substance abuse, mental illness, anger, and parenting.

- ***Specialized Education for Some Inmates.*** The budget includes a total of \$454,000 in the current year, growing to \$2.4 million in 2008-09 to develop and provide specialized education programs to certain inmates. This includes funding to develop a specialized curriculum for female inmates. In addition, the department proposes to implement education programs in housing units for inmates with serious mental illness, as well as those who have disciplinary problems.
- ***Expanded Vocational Programs.*** Approximately \$2.8 million will be used to establish 19 new vocational programs in prisons throughout the state beginning in the budget year. The department has not yet identified what types of vocational programs will be implemented or in which prisons.
- ***Alternative Education Delivery Models (AEDM).*** The department proposes \$674,000 in the current year, growing to \$7.0 million in 2008-09 to implement AEDM. According to the department, AEDM consists of providing alternative approaches to academic education in prisons. For example, the department would expand on its limited use of distance learning, independent study, and half-day education programs.

Rehabilitative Programs. Under the department's request, institutions would provide more rehabilitative programming through the development of services to increase inmate visiting, reduce serious inmate misconducts, as well as provide comprehensive correctional services specific to female inmates. The department proposes \$100,000 in the current year, growing to \$4.3 million in 2008-09 for six rehabilitative programs. We describe four of the components of this request below.

- ***Female Offender Housing and Rehabilitation.*** The department proposes \$100,000 in the current year, growing to \$2.3 million in 2008-09 to implement various programs and conduct research specific to female inmates. This would include providing substance abuse programming for women at a community correctional facility, implementing a family reunification program, and contracting with experts in the field to develop policies, classification, and program services designed for women offenders.

- **Estelle Transitional Program.** This program would be designed to prepare inmates in Security Housing Units and the Psychiatric Services Unit—for inmates with histories of serious in-prison disciplinary problems—for transition back to general population housing units. This program is estimated to cost \$360,000 for equipment costs in the budget year and \$2.2 million in 2007-08 to operate the program.
- **Additional Visiting Day Pilot.** Beginning in the budget year, the department requests \$1.6 million to establish an additional day of visiting at three institutions.
- **Right Prisons, Right Missions.** The department requests \$745,000 in the budget year, decreasing to \$395,000 in subsequent years to develop and implement its “Right Prisons, Right Missions” (RPRM) strategy. The RPRM is an effort recently begun by CDCR to assess which prisons are best suited for different types of inmates based on factors such as prison design and age, staffing issues, and inmate demographics and rehabilitative needs. For example, CDCR is attempting to determine which prisons are most able to accommodate the department’s increasing mental health population in light of difficulties recruiting mental health staff in some areas, as well as the ability to provide treatment space. This request would provide one-time funding of \$350,000 in the budget year to hire subject matter experts to develop an implementation plan for RPRM. In addition, the department requests ongoing funding of \$395,000 beginning in the budget year to form compliance teams to ensure the successful implementation of RPRM. Implementation of this strategy may require significant changes to the missions and programs at individual prisons, as well as the transfer of many inmates within the state.

Treatment Programs. The department’s proposal includes \$1 million in the current year, growing to \$3.8 million in 2008-09 for treatment programs. Most of this funding would be used to implement a new substance abuse program at Kern Valley State Prison. The remaining \$100,000 in the current and budget years would be to contract with outside experts to research and develop in-prison treatment programs for mentally ill, dually diagnosed (with both mental health and substance abuse issues), and sex offender inmates.

Parole Services. By 2008-09, about half of the funding requested in this proposal will be for parole services. This funding would be used to develop new, and expand existing, community-based housing and services for parolees such as homeless parolees and sex offenders. The department is propos-

ing \$1.5 million in the current year, growing to \$48.1 million in 2008-09. The three primary components of this proposal are described below.

- **Residential Multi Service Centers (RMSC).** Currently, the department uses RMSCs to provide housing, as well as a variety of other services, for parolees who would otherwise be homeless. The department is currently budgeted for 775 RMSC beds. This proposal would add 1,250 new beds by 2008-09 at an annual cost of \$22.3 million when fully implemented.
- **Community Based Coalition.** The department proposes \$1.5 million in the current year, growing to \$22.7 million in 2008-09 to partner with counties to provide various services to parolees to assist them in the successful reintegration into communities. According to the department, this funding would be used to contract with counties to provide services such as housing (600 beds), vocational development, and job placement.
- **Sex Offender Housing.** Currently, the department does not provide housing specifically for sex offender parolees. Under this proposal, the department would spend \$2.2 million annually beginning in the budget year to contract for housing for 80 sex offender parolees.

Division of Community Partnerships. The department's budget includes \$1.9 million in the current year, growing to \$7.7 million in subsequent years to establish the CDCR Division of Community Partnerships. This proposal would establish nine positions to develop collaborations with counties and community groups, as well as administer a few million dollars in grants. According to the department, the focus of this office would be to promote reentry services for inmates as they reenter communities.

Research and Implementation. In order to accomplish its goal to develop evidence-based practices and programs, the department proposes \$195,000 in the current year, growing to \$4.7 million in 2008-09 for research and evaluation. This funding would increase CDCR research staff, fund research contracts with outside researchers, and update departmental information technology (IT) systems to incorporate program data.

Training and Development. The department requests \$500,000 in the budget year and \$1.5 million in 2007-08 for training. The department's request does not specify how these funds will be utilized.

Support Services. The department proposes \$200,000 in the current year, growing to \$600,000 in 2008-09 for seven positions. According to the department, these legal, IT, accounting, and management staff are the minimum necessary to provide sufficient support to ensure the success of the various program initiatives in this proposal.

Proposal Could Make Sense, but Is Incomplete and Too Ambitious

The department's request has merit in that it attempts to address major programmatic deficiencies that contribute to recidivism. For example, several of the proposals attempt to address common problems among offenders—low literacy and job skills, substance abuse, and housing instability upon return to the community. In addition, the needs assessment and evaluation components of this request are meant to address the department's limited ability to determine the programmatic needs of inmates and assess CDCR's ability to address those needs while incarcerated. Despite these positive aspects of the proposal, we have significant concerns with this request. We discuss these concerns below.

Limited Detail Provided. Many of the specific components of the department's proposal are accompanied by only limited detail. Many of the individual components of the proposal do not include sufficient detail to justify the request, including the lack of implementation plans, workload estimates, and clear evidence from the research that the proposed programs are likely to be successful at reducing recidivism. For example, the department has not yet identified what vocational programs will be activated at which prisons, despite the fact that the department will need to hire staff, purchase supplies and equipment, and perhaps make capital improvements before implementing the new programs. In addition, the department has not provided workload analyses to justify the number of positions requested for support services or project managers. The department also has not provided evidence from the research literature to support several of its proposals, including, for example, the alternative education programs and the Behavior Modification Unit.

Department Does Not Identify State Benefits. Should the strategies proposed by the administration be successful at reducing recidivism, there should be some future fiscal benefits to state and local governments through reduced criminal justice costs. However, the department's request does not estimate what those benefits are likely to be, nor does it suggest how it will identify those benefits in the future. These benefits are not likely to be significant in the current year, and it could take several years before the benefits are fully realized. However, it is important for the department to identify these potential benefits to weigh against the costs of developing and operating these programs. To the department's credit, the proposal does include research staff which would work to evaluate program effectiveness and outcomes, information which ultimately could be the foundation for more thorough cost-benefit analyses in the future.

Too Much, Too Quickly. We are also concerned that this proposal may contain too many components for the department to implement in the proposed timeframe. As we described in the *2005-06 Budget: Perspectives*

and Issues, CDCR is a large department with geographical dispersion of institutions but without an established infrastructure for implementing many rehabilitation programs. Moreover, the department has experienced program implementation failures in its recent history, including implementing legislatively mandated parole reforms such as electronic monitoring and substance abuse programs.

We are also concerned that several of the parole proposals would require contracts with community providers that may be difficult to secure on the scale envisioned in the department's request. For example, the department is requesting to expand the number of RMSC beds funded in the budget from 775 to 2,025, despite the fact that the department currently has only 376 beds under contract. We would also note that the department is currently in the process of implementing several other major statewide initiatives with which the various components of this request will compete for attention and resources, possibly delaying or preventing successful implementation. These other initiatives include completing the department's reorganization, managing the growth of the inmate population, and implementing lawsuit settlements related to inmate health care, parole revocations, and juvenile justice programs.

Finally, the department's request proposes to address a wide range of offender problems with a variety of programmatic efforts. However, it is possible that a more focused approach could also be more effective. Specifically, rather than spreading its resources across so many program areas, a potentially more effective approach to reducing recidivism would be for the department to focus its resources on improving and expanding a few programs that evidence shows are most effective at reducing recidivism. Our review of the literature suggests that such programs include classroom academic and vocational education, intensive substance abuse treatment, and cognitive behavioral therapy.

Operations Policies and Practices Limit Reach of Proposal

There are a few problems that have routinely limited the department's ability to provide programs. These problems are not addressed in this proposal. These include lockdowns, staff vacancies, the department's current funding structure, and the lack of incentives for inmate participation in rehabilitation programs. Unless the department addresses these issues, the proposed programs may not result in a significant increase in inmate rehabilitation. We address each of these issues below.

Lockdowns. During lockdowns, prison administrators confine large groups of inmates in their cells, typically in response to inmate violence or the threat of violence. When lockdowns occur, the prison keeps inmates—including those not involved in the incident that triggered the

lockdown—from participating in programs. While the use of lockdowns is necessary to maintain the safety of a prison, there is evidence that the department overuses this strategy by not targeting the use of lockdowns to the most serious situations. According to department records, there were almost 600 lockdowns in state prisons in 2002-03 lasting an average of about two months each. (See our write-up on the department's use of disciplinary confinement in the *Analysis of the 2005-06 Budget Bill*, page D-34.) As a result, department records show that inmates are absent from education classes, for example, 24 percent of the time due to lockdowns.

Staff Vacancies. Inmates do not attend programs when there are staff vacancies, such as for teachers and vocational instructors. According to a staffing report from the State Controller's Office, about 28 percent of the department's 1,300 teacher and instructor positions were vacant on December 31, 2005. These vacancies occur for a number of reasons, including difficulty hiring teachers in some locations and frequent lockdowns that reduce the need to fill teacher positions. In addition to permanent staff vacancies, teaching positions are often vacant when instructors take short-term leaves, such as for sick leave, vacation, and training. The CDCR reports that in 2004-05, teachers took an average of 23 days of leave during the year. Yet, despite frequent vacancies and leaves, the department does not utilize substitute teachers to fill vacancies, nor is it authorized to hire emergency credentialed teachers, steps which would help ensure that inmates continue their education program during staff absences. The department reports that inmates miss education classes 19 percent of the time due to instructor absences.

Current Funding Structure. The current process by which prison programs are funded contributes to inmates not getting to classes. This is because programs are not funded based on *actual* attendance, but rather based on *expected* attendance thereby limiting the incentive for prison administrators to ensure that programs are operating and inmates are in class. Under current practice, CDCR requests education funds, for example, based on the number and type of programs it plans on providing in the budget year, generally based on prior-year levels. The department then distributes these funds to each institution based on the number and types of programs expected to be operated at each prison.

However, the funding for these programs does not reflect the difference between projected enrollment and actual attendance levels that occur because of the frequent lockdowns and staffing vacancies described above. Because enrollment figures are usually higher than actual attendance, the department is budgeted to provide more educational services than it actually provides. Yet, there is no requirement that CDCR return education funding to the General Fund when prisons are unable to keep teacher

positions filled or when prison administrators choose to keep inmates in lockdown much of the year.

In contrast, funding for public schools primarily reflects average daily attendance (ADA) rates which measure how often students are actually in class rather than the number of students enrolled in a school. In so doing, this provides incentive for schools to do as much as they can to ensure that students are in the classroom. Otherwise, the schools lose funding. No such incentive exists for prison administrators under the current funding structure. In other words, under the current funding structure, the department does not experience a fiscal consequence when enrolled inmates are not attending education programs because of lockdowns, vacancies, and leaves.

Fewer Incentives to Participate in Education Programs Than Other Programs. There is currently a disincentive for inmates to participate in education programs as compared to other prison programs. Most inmates who enroll in education programs earn work release credits equal to one day off from their sentence for each day in the program (commonly referred to as “day-for-day”). While these credits do provide some incentive to be in an education program, other programs provide greater benefits. For example, inmates who participate in conservation camps or drug treatment furlough programs can be released earlier than if they had participated in an education program. For example, inmates in conservation camps earn two days off of their prison sentence for each day in the program. Also, inmates assigned to a job in prison, such as working in the prison kitchen or laundry, not only receive day-for-day credits, but in addition, earn a small income, a benefit that participation in education programs does not provide. This structure, therefore, provides a relative disincentive for inmates to enroll in education programs as compared to other programs or prison jobs where they can earn income or greater work release credits.

Modify Proposal to Reflect More Realistic Implementation

We recommend approval of \$24.4 million of the department’s request for budget-year funding. We recommend rejection of the remaining components totaling \$28.4 million pending the receipt of additional information. In addition, we recommend that proposed out-year program expansions be separately requested and considered based on the department’s progress.

Approve Only Those Proposals With Sufficient Detail. We recommend that the Legislature only approve those components of this request where the department has provided sufficient detail to justify its request, including relevant implementation plans, workload analyses, and research evidence. We believe such components include the department’s

requests related to women's programs, substance abuse, and research, for example.

We recommend rejection of many of the remaining components of the proposal. Further, we would ultimately recommend rejection of any department proposals where CDCR is unable to provide additional information during the course of the budget process to justify its request. The specific programs with which we have significant concerns are identified below, as well as the reduction in budget-year funding that would occur from rejecting these particular program components should the department not provide adequate justification for the proposals.

- ***Inmate Education (-\$15,370,000).*** Based on our review of the research, we believe that in general inmate education programs can significantly reduce the likelihood that inmates return to prison. However, we are concerned that several of the department's funding requests related to education programs lack detail. Specifically, the department's proposals to expand vocational and life skills education, utilize alternative delivery models, and pilot a Behavior Modification Unit all lack important implementation details, including curriculum, number of inmate participants, and types of inmates targeted for the programs. Moreover, CDCR has not provided the research-based evidence for the above specific program approaches, as well as its peer education proposal. Finally, the department's proposal lacks detail on how it calculated its funding needs for standardized textbooks, library staffing, and program accountability and training.
- ***Rehabilitative Programs (-\$2,169,000).*** Several components of this proposal lack the necessary detail to justify the requested funds. The department does not provide much information on what the Offender Mentoring Program would do or achieve, particularly given the limited scope envisioned—with only 100 inmate participants each year. The Estelle Transitional Program would be designed to promote successful reentry for inmates with disciplinary problems. While we have recommended the use of reentry programs in the past, the department has not provided evidence-based research demonstrating that this particular model has been used successfully elsewhere. Further, we do not believe that the funds for the RPRM compliance teams are warranted in the budget year. The department is requesting funds in the budget year to both develop and implement its plan by using compliance teams. We suggest that the compliance teams, if necessary, would be better utilized in 2007-08, after that plan is developed. We recommend against funds to develop policies and practices for the Behavior Modification Unit. The CDCR has existing staff

in headquarters and institutions who are responsible for developing policies and procedures for the department. We believe the workload can be done by existing staff. Finally, we recommend a reduction in the Day Visiting Program of \$1.3 million due to an overestimate of the number of positions that will be necessary to operate the extra day of visiting in the three prisons.

- ***Treatment (-\$50,000).*** We recommend rejecting the department's requests for funds for two \$25,000 contracts with outside researchers related to behavior management and substance abuse programs for mentally ill patients. Given the small size of these contracts and their limited scope, we believe such research can be conducted by the department's existing mental health staff in conjunction with the newly established staff in the department's research office.
- ***Parole (-\$2,500,000).*** We recommend limiting the department's funding for the Community Based Coalition to current-year funding of \$1.5 million, rather than the proposed increase to \$4 million. The department proposes this new program as a pilot program, yet proposes to grow the program in each of the next three years. We believe it would be more appropriate to wait until the department has assessed the impact of the current-year program, particularly given the limited amount of information provided by the department regarding the specific nature of the state and local partnership, as well as what specific services will be provided with state funds.
- ***Division of Community Partnerships (-\$5,100,000).*** We recognize the importance of collaborative efforts between state and local governments in the area of criminal justice. Therefore, we recommend approval of most of the limited staff requested for the Division of Community Partnerships. However, we are concerned that the department has not provided significant detail as to how it intends to administer the proposed grants to local governments and community groups. In addition, most of the department's staff in the division will not begin until the budget year, raising a concern that the office will not be in a position to review grant requests and administer all grant funding at the start of the budget year as the request assumes. Therefore, we recommend reducing the request for community partnerships by \$5 million.
- ***Research and Implementation (-\$2,149,000).*** Part of the department's request for research funding is \$2.1 million and 13.5 positions for project managers and to incorporate program data into existing information systems used to create population

projections. We are concerned that the department’s request does not include any information on how it calculated its need for this level of funding and staffing. It is also unclear how this portion of the request benefits rehabilitation programs.

- **Training and Development (-\$500,000).** The department’s request includes little information on how it plans to utilize these funds. The department states that this component of the proposal would address workforce and training needs, but does not specify what those needs are or how the funds provided will address those needs.
- **Support Services (-\$595,000).** The department requests funds for seven administrative staff to help support expanded rehabilitation programs. While additional support services may be warranted, the department has not provided a workload analysis to justify this level of staffing.

Figure 4 shows the fiscal savings associated with our recommendations.

Figure 4			
California Department of Corrections and Rehabilitation			
Recidivism Reduction Proposal			
LAO Recommendations—2006-07			
<i>(In Millions)</i>			
Issues	Governor’s Request	LAO Recommended Funding Level	Savings
Inmate education	\$21.1	\$5.8	\$15.4
Rehabilitative programs	6.0	3.9	2.2
Treatment	3.9	3.8	0.1
Parole programs	7.8	5.3	2.5
Community partnerships	7.7	2.6	5.1
Research and implementation	5.1	3.0	2.1
Training and development	0.5	—	0.5
Support services	0.6	—	0.6
Totals	\$52.8	\$24.4	\$28.4

We would note that some program proposals that currently lack detail are promising approaches. For example, though the department has not provided an implementation plan for additional vocational programs, the research literature on vocational programs suggests that they can be effective at reducing recidivism when the vocational training provided to inmates matches a viable job market in the community. Also, the department suggests that it would like to more often utilize half-day academic education programs. While no implementation plan has been provided here either, we would note that many other states utilize half-day programs, allowing inmates to regularly participate in multiple prison programs during a day, including vocational education, substance abuse, mental health services, and inmate jobs in addition to academic education.

Funding Should Only Be for Budget Year. Given our concerns regarding the ability of the department to implement so many program initiatives at one time, we recommend that the Legislature only approve the funding request for the budget year and not the additional increases assumed for 2007-08 and 2008-09. The detail for the next round of program expansions should be identified with the release of the Governor's 2007-08 budget plan. At that time, CDCR could present the status of program expansions initiated in the current and budget years, allowing the Legislature to determine which further program expansions are warranted.

Adopt Policies and Practices That Facilitate Program Delivery

We propose additional steps that could be taken to improve program delivery in prisons, as well as recommend a reporting requirement to ensure legislative oversight.

Additional Changes to Improve Rehabilitation. As described earlier in this write-up, there are several issues that limit the successful provision of inmate programs, in particular education programs. We identify steps the Legislature and administration could take to reduce these problems, several at little or no cost to the state.

- ***Revise Policies Related to Lockdowns and Programming.*** We recommend that the department address its current policies related to lockdowns. In particular, the department should re-evaluate its current policies that result in inmates being barred from attending rehabilitation programs even when they were not involved in the incident that caused the lockdown. For example, the department should explore establishing a policy of allowing inmates in rehabilitation programs out of lockdown sooner than other inmates to attend their programs. This would not only promote the importance the department places on rehabilitation,

it could also provide a disincentive for programming inmates to participate in fights that could lead to lockdowns.

- ***Utilize Substitute Teachers.*** As described above, the department does not use substitute teachers when positions are vacant or teachers take leaves, such as sick leave and vacation. As a result, inmates do not attend education programs during these absences. If the department were funded for substitute teachers, this problem could be reduced. We estimate that it would cost less than \$10 million annually, about a 6 percent increase to the current education program budget, to provide sufficient funding for substitute instructors to fill in for the average amount of leave for all instructor positions. (Should the Legislature decide to implement this proposal, the substitute teachers could be funded out of the savings we have identified.)
- ***Permit Teachers With Emergency Credentials.*** Unlike public schools, CDCR cannot hire teachers with emergency credentials to fill vacancies, despite the fact that the department reports hiring difficulties in many locations. Current state job requirements bar prisons from hiring teachers without full credentials. We recommend that the State Personnel Board—the state agency responsible for setting classification requirements—amend classification requirements to allow prisons to hire teachers with emergency credentials in those locations where there is difficulty hiring and retaining fully credentialed instructors.
- ***Change Funding Formula for Education Programs.*** We also recommend restructuring the way that inmate education programs are funded at each institution. Instead of providing a base level of funding that is unaffected by actual attendance, as is currently the case, we recommend instituting an inmate education funding formula that is directly tied to actual inmate attendance, similar to ADA formulas used in public K-12 schools and adult education programs.

Under our proposal, the amount of total funding for education would be set in the Governor's budget proposal, and approved by the Legislature, just as it is now. However, this funding would be directly linked to projected attendance for academic and vocational programs. If actual attendance in academic programs falls short of these projections, a proportionate share of the education funding would revert to the General Fund.

Establishing an inmate education funding formula would provide a couple of benefits over the existing structure. First, an ADA formula would provide an incentive for the department to ensure

that inmates go to programs regularly, knowing that if inmate attendance is low, the department will lose funding. This could have the benefit of CDCR being more strategic in identifying the best locations to operate academic and vocational programs—for example, at the prisons with lower vacancy rates and fewer lockdowns—and being more proactive in finding solutions to vacancy and lockdown problems that lead to low attendance.

Second, the proposed formula would improve accountability by more accurately aligning budget authority for education programs with actual expenditures on in-classroom instruction. In other words, the Legislature would know that CDCR funds spent on inmate education were actually used to educate inmates.

- ***Various Incentives Can Be Used in Correctional Settings.*** There are a number of measures CDCR could take to provide incentives for program participation and rehabilitation. Corrections administrators and experts suggest that there are several aspects of prison life that inmates care about and that prison administrators can use as levers to encourage certain behavior, including participation and advancement in rehabilitation programs. Some of the aspects of prison life that inmates care the most about are inmate pay and access to canteen, food, visiting, and housing. If carefully structured, any of these aspects could be used by the department to motivate inmate participation in education programs.

For example, one approach would be to link inmate pay scales with different levels of educational programming. Thus, an inmate who has advanced to high school level classes, for example, would earn more in his prison job than when he was in the middle school level class. The top paying prison jobs, provided by the Prison Industry Authority, would be reserved for inmates with a high school diploma or equivalent. This approach would not only provide an incentive for inmates to enroll in school, but importantly, to successfully advance in their studies. In addition, CDCR could similarly provide benefits such as extra visiting or recreation time, choices of better housing or work options, or special meals for those inmates who advance to higher academic levels. Providing an incentive for inmates to advance in programs is particularly important because research demonstrates that achievement of certain education levels, such as basic literacy and high school equivalency, are even more highly correlated with reduced recidivism than just participation in education programs.

It is also possible to use an inmate's release date as an incentive for program participation and success. One option for legislative

consideration would be to enact a law providing “education release credits” for inmates who achieve certain levels of attainment while in prison. For example, an inmate who earned a vocational certification or high school diploma while in prison could receive specified credits towards his/her release date. As with all early release credits, they can be revoked if an inmate has serious disciplinary infractions while in prison. These bonus credits could be capped to ensure that no inmate earns an inordinate amount of time off of his/her sentence.

- ***Other Alternatives to Expanding Programs—Local Colleges.*** In recent years, some institutions have partnered with local universities and community colleges to offer college courses to inmates. For example, Patton University holds nightly college classes at San Quentin State Prison. Instructors are volunteers from the university, and the university’s costs are covered through private grant funding. There could be some additional costs to the state for security staff to supervise inmates in these programs. Currently, the Patton University program is the only such program operated at a state prison in California. The department should explore the possibility of creating similar partnerships at other prisons to expand education, as well as other rehabilitation services.

Department Should Report on Annual Basis. In order to ensure legislative oversight, we recommend the adoption of budget bill language requiring CDCR to report on the implementation status of any programs approved as part of this budget request. In subsequent years, the department should be required to begin providing annual reports on the estimated impacts of prison and parole programs. The following language is consistent with this recommendation:

5225-001-0001 Provision X. No later than January 10, 2007, the California Department of Corrections and Rehabilitation shall submit to the Chair and Vice Chair of the Joint Legislative Budget Committee, and the Committee on Budget in both the Assembly and Senate, a report providing the latest status of all programs approved as part of the Recidivism Reduction Strategies budget augmentation. This report shall, where applicable, include information on the number of actual inmate and parolee participants in each program, the timeline for full program implementation, and the reasons for any implementation delays.

CORRECTIONAL HEALTH CARE

Expanding Telemedicine Program Could Reduce Costs and Improve Health Care

Our review finds that opportunities exist for the California Department of Corrections and Rehabilitation to significantly expand its use of telemedicine in prisons, thereby enhancing public safety, generating cost savings, and improving inmates' access to care. We recommend the enactment of legislation to increase the use of telemedicine in prisons by requiring the department to (1) establish guidelines for the use of telemedicine, (2) provide more medical specialties via telemedicine, and (3) set annual performance targets.

The CDCR delivers health care services to inmates in several ways. Generally, primary care and psychiatric services are provided in prison by CDCR staff or contract staff. In addition, certain medical specialty care is provided in prisons by health care staff during regularly scheduled clinics. Inmates in need of other medical specialty care or hospital care are transported outside the prison to community health care facilities for treatment. In recent years, inmates also have received medical and mental health treatment through an alternative means known as telemedicine.

What Is Telemedicine? Telemedicine is the delivery of health care via interactive audio and video technology. Through the use of telecommunications systems, live images of the patient are transmitted over telephone lines to the doctor's office. Equipment such as exam cameras, monitors, and electronic stethoscopes allow physicians to treat patients without meeting them face-to-face. Telemedicine is often used by psychiatrists to evaluate and provide therapy to patients with mental health problems. Telemedicine is also used for initial and follow-up consultations in medical specialties such as dermatology and orthopedics. Orthopedists, for example, can use telemedicine to monitor patients with chronic back pain, or check a patient's progress following an operation. Medical consultations that require physical contact between a physician and patient, such as biopsies and surgeries, are not appropriate for telemedicine.

Telemedicine is used by public and private health care providers throughout the country to treat patients who otherwise would have to travel long distances to confer with a health care professional. In fact, the California Public Employees' Retirement System recently began offering telemedicine services to health plan members living in rural areas of the state.

Telemedicine is also used in many states to treat incarcerated persons. Currently, 26 state correctional systems, including California, use telemedi-

cine to provide care to inmates. With telemedicine, an inmate in need of care is directed to an in-prison examination room equipped with a monitor and camera. Prison health care staff introduces the inmate to the physician, who is off-site in an office (such as in a community hospital or clinic) also equipped for telemedicine. The interactive technology allows physicians to observe and speak with inmates about their medical or mental health condition without the need for an in-person consultation.

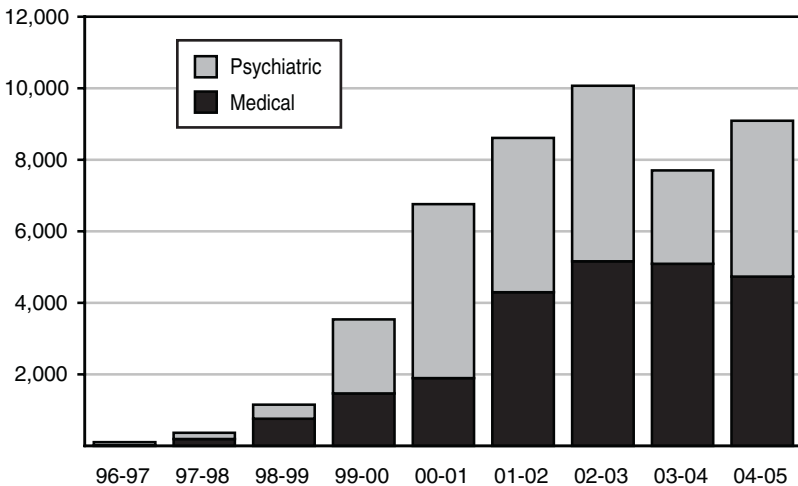
Benefits of Telemedicine in Correctional Settings. Correctional facilities have found that telemedicine is beneficial in multiple ways. First, telemedicine enhances public safety. This is because inmates who otherwise would have been transported into the community for medical treatment instead remain inside prison walls for their consultation. Second, telemedicine reduces costs associated with transporting ill or injured inmates to outside medical facilities. These costs include fuel and vehicle costs to transport inmates, as well as staffing costs for correctional officers to escort inmates to their medical appointment. Depending on the frequency with which prisons use telemedicine, the costs for telemedicine staffing, equipment, and maintenance can be more than offset by savings generated from avoiding medical trips. Contract costs with physicians may also be lower for correctional systems that deliver health care services using telemedicine as opposed to traditional in-person consultations. This is because telemedicine provides the opportunity to bid out contracts to a larger pool of physicians licensed to practice in a given state, rather than only to those contract physicians practicing in the region of a specific prison.

A third benefit of telemedicine is that it improves inmates' access to health care by enabling correctional systems to expand their provider network to include physicians located outside the immediate vicinity of prisons. Improved access is one of the major goals of the *Plata* settlement agreement under which the courts have required that the state improve its delivery of health care to inmates. Telemedicine is particularly beneficial for inmates housed in remote areas of a state with shortages of health care professionals. Under federal law, all inmates are legally entitled to medical and mental health care. In fact, research suggests that inmates who receive their health care treatment via telemedicine are more likely to be seen on a timely basis, often by the same doctor, than if their only option was a face-to-face consultation.

California's Correctional Telemedicine Program. The state's prison telemedicine program began in 1997 as a pilot project for mental health inmates at Pelican Bay State Prison (Crescent City). The prison's remote location made it difficult for the department to hire or contract with on-site psychiatrists. Consequently, inmates with mental health problems (including bipolar disorder and schizophrenia) were not seen regularly by clinical staff. The introduction of telemedicine allowed the department

to use psychiatrists assigned to a Sacramento-area prison to prescribe medications and provide therapy to inmates at Pelican Bay. The pilot project was successful at improving inmates' access to mental health care. Accordingly, the department decided later that year to expand the telemedicine program to provide mental health as well as medical specialty services at other prisons.

As Figure 5 shows, the program grew considerably within a few years, peaking at over 10,000 telemedicine consultations—about 5,200 of them medical specialty-related—in 2002-03. The department provided 9,100 telemedicine services in 2004-05, including 4,700 medical specialty consultations and 4,400 psychiatric consultations. Currently, 27 of the state's 33 prisons are equipped to provide telemedicine services. While the telemedicine program has been expanded to most of the state's prisons, the number of outside health specialists participating in the program is small. The department employs one infectious disease specialist, and contracts with a private medical group as well as four specialists from the University of California, Davis.

Figure 5**California Department of Corrections and Rehabilitation
Telemedicine Consultations Provided to Inmates***1996-97 Through 2004-05*

Until 2002-03, staffing and equipment for the telemedicine program were largely funded by the department using existing resources. Since a nurse must accompany the patient in the examining room to assist the off-site physician during consultations, prisons often pulled registered nurses from their regular duties in order to provide telemedicine services. As part of the *Plata* settlement agreement, however, the Legislature authorized one registered nurse position per prison dedicated to telemedicine, as well as one-time funding for additional telemedicine equipment and telecommunications lines at each prison. The purpose of these registered nurse positions is to increase inmates' access to specialty medical care by performing duties such as scheduling inmates for their telemedicine appointment, operating telemedicine equipment, and ensuring that physicians' orders are carried out. Under the settlement agreement, these resources are phased in at five to eight prisons per year beginning in 2002-03 and ending in 2007-08. As of January 2006, 22 prisons have participated in the rollout at a total annual ongoing cost of approximately \$1.8 million for the telemedicine nurse positions and about \$1.6 million in one-time costs for telemedicine equipment and lines. The *2006-07 Governor's Budget* provides about \$600,000 more for five additional prisons to receive telemedicine staff and equipment beginning January 1, 2007. By January 2008, all prisons will have received telemedicine staff and equipment.

The telemedicine program is administered by the Office of Telemedicine Services, a unit of CDCR's Division of Correctional Health Care Services. Currently, the telemedicine program is staffed by seven employees at headquarters. According to the department, the program's operating costs are more than offset by savings resulting from reduced transportation and medical guarding costs. The department estimates that it saves on average about \$850 in transportation and medical guarding costs for each outside medical visit that is avoided due to telemedicine. In total, approximately \$4 million in transportation and medical guarding costs were avoided in 2004-05 because of the program. The savings estimates appear to be reasonable based on our review of the department's methodology and the experience of other correctional telemedicine programs.

Department Is Underutilizing Telemedicine. Despite the growth of CDCR's telemedicine program since 1997, our review of the program finds that it is underutilized. We base this conclusion on a study done by the department's Office of Telemedicine Services. As a result, the benefits of telemedicine—including increased public safety, cost-effectiveness, and access to health care services—are not maximized.

In a 2003 study by the Office of Telemedicine Services, department staff reviewed a sample of records from actual medical specialty consultations provided by physicians to inmates in community medical facilities. The purpose of the study was to estimate the number of outside consultations

that could have been provided via telemedicine. Based on its own assessment of the records, CDCR estimates that increased usage of telemedicine could further reduce the number of outside medical visits department-wide by as much as 20,000 per year. (The study also concluded that about 10,000 medical specialty consultations per year are *not* appropriate for telemedicine.) The department estimates that if the 20,000 consultations had been done via telemedicine, it could have saved up to \$17 million annually in transportation and medical guarding costs. Savings could be even higher to the extent that increased usage of the program reduces contract rates with physicians. This is because the department can bid out contracts to specialists throughout the state, as opposed to only those practicing in the vicinity of a prison.

We have identified two factors that probably explain why telemedicine is underutilized by the department. First, CDCR encourages, but does not require, prison health care staff to use the program even when it could be effectively substituted for off-site medical appointments. Second, CDCR offers only a limited number of medical specialties through telemedicine. As a result, inmates that otherwise could be seen by a doctor using telemedicine are instead transported into the community for a face-to-face consultation. These findings are discussed in more detail below.

Prisons Not Required to Use Telemedicine; Policy Hinders Program Expansion. As noted above, 27 of CDCR's 33 prisons are equipped to receive telemedicine services. As Figure 6 (see next page) displays, however, prisons with telemedicine equipment vary significantly in terms of their usage of the technology. In fact, of 9,090 telemedicine consultations in 2004-05, almost two-thirds (5,740) were conducted at just five prisons. The other 22 prisons accounted for just over one-third (3,350) of total consultations. Nine of the twenty-seven prisons with telemedicine equipment did not use the system at all, and thus did not generate any savings by avoiding outside trips to medical facilities.

Our review finds that the variation in usage among prisons is due in large part to longstanding department policy that makes their participation in the telemedicine program strictly voluntary. Prison health care staff are given the option to use telemedicine or to rely instead on traditional in-person consultations in order to deliver health care services. Accordingly, the extent to which a prison uses telemedicine can depend on the preference of an institution's health care supervisors. This is true even for prisons that have received additional telemedicine resources as part of the *Plata* rollout. For example, it is our understanding based on discussions with department staff that health care managers who, under *Plata*, received a registered nurse position for telemedicine may opt to use the position exclusively to perform nontelemedicine-related duties at the prison. As a result, a number of institutions continue to send inmates with specialty

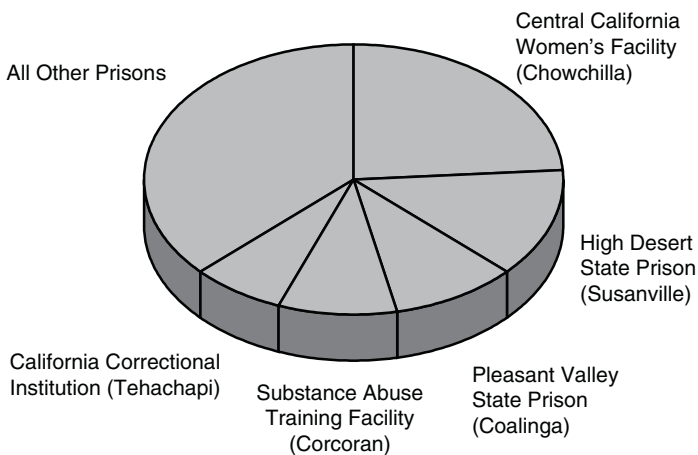
care needs to outside medical facilities rather than use telemedicine, which increases department costs and potentially compromises public safety.

Department Offers Limited Number of Medical Specialties Via Telemedicine. The department offers telemedicine services in psychiatry and about a dozen medical specialties, including dermatology, orthopedics, infectious diseases, neurology, and pain management. Unlike other correctional and noncorrectional telemedicine programs in the country, however, the department does not provide additional specialties via telemedicine such as cardiology; hematology; gastroenterology; and ear, nose, and throat. Our review finds that CDCR could increase inmates' access to health care services as well as generate additional savings by increasing the number of medical specialties it offers through telemedicine. For example, medical specialists performed roughly 4,500 cardiology and hematology/oncology consultations for inmates in 2004-05, including initial consultations and post-surgery follow-up appointments, both of which would be appropriate for telemedicine. Yet, none of these consultations were performed using telemedicine because the department does not currently contract with telemedicine physicians in these specialty areas. Consequently, the department is not taking full advantage of the cost savings that telemedicine could generate.

Figure 6

**Telemedicine Consultations Provided
Largely by Five Prisons**

Total Consultations in 2004-05: 9,090



Establish Guidelines and Performance Targets for Telemedicine. In order to maximize cost savings potential, we recommend the enactment of trailer bill language that requires prisons to use the telemedicine program for all medical consultations that are appropriate for telemedicine consultations. Specifically, we recommend the trailer bill language require that, by January 2007, the department establish guidelines concerning the specific conditions under which telemedicine consultations be used in place of outside medical visits. Medical specialty appointments that meet these criteria would be provided via telemedicine. For example, a guideline could state that consultations with a dermatologist to evaluate rashes and other skin lesions take place via telemedicine unless physical contact between the doctor and inmate is required (such as for a biopsy). In order to promote the use of telemedicine whenever medically appropriate, the department also would be required to provide additional medical specialties to inmates (such as cardiology and hematology) via telemedicine.

We further recommend the trailer bill language require that, beginning in 2006-07, the department establish annual performance targets for prisons regarding the total number and percentage of medical specialty consultations that are conducted by telemedicine rather than at community medical facilities, and to report to the Legislature on its plans and performance. To establish reasonable targets, health care staff could review prisons' records of recent medical specialty visits to determine how many consultations outside prison walls could have been performed via telemedicine. The department's preestablished performance targets can later be compared with actual outcomes—as well as results from previous years—to measure CDCR's level of improvement and overall success at reducing costs. The eventual goal would be to limit in-person consultations in the community to only those that, due to the nature of the medical problem, must be conducted in a face-to-face encounter between physician and inmate. By requiring the department to report regularly on its efforts and results, the Legislature would be in a better position to hold the department accountable for its performance.

Initially, the new requirements for telemedicine usage and performance targets should apply to prisons that have already received telemedicine resources as part of the *Plata* rollout. In addition, the performance measurement system would need to recognize that there may be mitigating factors that prevent the department from meeting its performance targets, such as the changing prison population. The performance targets also would need to take into account the extent to which contract specialists are available to provide telemedicine consultations. Adoption of this recommendation would require the department to augment its medical provider network. For example, the network would have to at least double in size if it were to provide an additional 5,000 medical consultations annually. We believe that

this is feasible given the relatively small size of the telemedicine program's current provider network and the availability of other providers in the state that offer medical specialty services via telemedicine.

Costs to develop guidelines on telemedicine would be minimal, and could most likely be absorbed by the department using existing resources. The Office of Telemedicine Services could require a few additional staff (such as analytical and records staff) to support the program's expansion, though these costs likely would be fully offset by savings from the avoidance of outside medical visits. We recommend that the department report at budget hearings concerning any additional resources it would need to expand the telemedicine program.

Administration Agrees to Costly Inmate Dental Plan

The Governor's budget requests funds for the California Department of Corrections and Rehabilitation to comply with the Perez v. Hickman settlement agreement regarding inmate dental care, reached in December 2005. Overall, we find the department's budget request to be consistent with the requirements of the settlement agreement. However, we recommend adoption of budget bill language that restricts the department's funding and position authority to implement the agreement pending receipt and review of a court-required staffing study. We further recommend the adoption of supplemental report language to improve legislative oversight.

Perez v. Hickman Lawsuit and Settlement Agreement. In December 2005, *Perez v. Hickman* was filed in federal court contending that CDCR was in violation of the Eighth amendment of the United States Constitution by providing inadequate dental care to prison inmates. Some specific examples of key issues raised in the *Perez* class-action lawsuit include: (1) inadequate numbers of dentists and dental assistants, (2) lack of proper training and supervision of staff, (3) insufficient dental equipment such as examination chairs and x-ray machines, (4) poorly organized inmate dental records, and (5) unreasonably long delays for inmates to receive dental treatment, including prisoners with dental emergencies.

The lawsuit was filed concurrently with a settlement agreement reached between the state and the plaintiffs. The agreement committed the state to implement significant changes in the delivery of dental care services to inmates. The agreement requires the department to implement a number of newly developed policies and procedures at all 33 state prisons over a six-year period, beginning with 14 prisons in July 2006. The agreement focuses on improving inmate access to dental care, as well as the quality of dental care services provided in the prisons. For example, the policies and procedures require the department to treat inmates within

specified time frames according to the severity of the dental problem, and set standards of care that prison dental staff must provide.

Generally, the policies and procedures modify or reiterate existing state regulations. For example, under the agreement the department is required to provide a dental examination to inmates within 90 days of arriving at an institution from a reception center, and provide subsequent examinations annually for inmates over 50 years of age and biennially for inmates under 50. Title 15 of the California Code of Regulations currently requires examinations within 14 days of an inmate's arrival; current requirements for subsequent inmate dental examinations are consistent with the settlement agreement. According to the department, none of the 33 prisons currently complies with the policies and procedures.

Staffing Study Required. The settlement agreement also directs CDCR to complete a study of the types and amount of additional staff it will require to implement the policies and procedures according to the schedule in the implementation plan. This study must be completed by June 1, 2006. The department is then required to hire personnel based on the results of the staffing study.

The Budget Proposal. The administration presents a three-year funding proposal in response to the lawsuit. (The administration indicates that it will request additional resources in 2009-10 to implement the policies and procedures at institutions for the final three years of the six-year rollout period.) The ongoing annual cost of the three-year funding proposal is estimated to be \$42 million (an increase of 95 percent) with an additional commitment of 597 staff for this activity (an increase of 144 percent), as shown in Figure 7. The current inmate dental program consists of \$44 million and about 415 positions.

Figure 7 <i>Perez v. Hickman</i> Funding and Positions		
<i>2006-07 Through 2008-09</i> <i>(Dollars in Millions)</i>		
	Positions	Ongoing Cost
2006-07	326	\$21.2
2007-08	84	9.4
2008-09	187	11.4
Totals	597	\$42.0

In order to provide an increased level of dental care to inmates, the budget proposes an additional 326 positions and \$21.5 million in 2006-07. (Of this amount, only \$21.2 million will be an annually ongoing cost, as shown in Figure 7.) The request consists of 285 prison positions, mostly dentists and dental assistants, to be phased in throughout 2006-07 at a cost of \$13.1 million. The budget also proposes \$3.5 million for 41 headquarters positions to provide oversight of the dental rollout. In addition, the budget requests \$1.2 million in one-time contract funding to determine which prison dental clinics will need to be expanded in order to comply with the settlement agreement, as well as \$3.7 million in one-time funding to acquire dental equipment such as dental chairs and x-ray equipment.

Request is Reasonable, but Results of Staffing Study Still Pending. Our review of the request indicates that it is consistent with the settlement agreement. The proposal would add an average of four dentists and ten dental assistants to each of the rollout institutions over the course of the budget year. While we think this level of staff seems reasonable in light of the potential workload associated with the settlement agreement, this staffing level is not based on a staffing study as required by the court. According to the department, this is because there was not enough time to conduct the study prior to submittal of the budget request. The CDCR has indicated that a contractor has been hired to conduct the study, which is on track to be completed by June 2006.

Budget Bill Language Needed to Authorize Funding and Positions as Needed. Because the staffing study is not due to be completed until June 2006, it will probably be difficult for the Legislature to take its findings into consideration as part of the budget process. Consequently, we recommend the adoption of budget bill language that would allow the Legislature to adjust the funding and position authority as needed based on (1) the findings of the staffing study and (2) the department's progress in filling these positions. As regards the latter, we would note that the department currently has a 13 percent vacancy rate for dentists and a 15 percent vacancy rate for dental assistants. As such we question whether the department can fill the over 200 dentist and dental assistant positions requested in the budget year. To the extent the department is unable to fill positions in 2006-07, we believe that any unspent funds should revert to the General Fund.

In order to accomplish this, we recommend the Legislature appropriate \$21.5 million in a separate item of the 2006-07 *Budget Bill* and adopt budget bill language that provides a total of \$14.2 million to fund the establishment of 124 positions (\$9.3 million) on July 1, 2006, as well as provide one-time equipment and contract funding (\$4.9 million). The language would provide for authorization of the remaining funding and positions after the staffing study is completed and the Department of Finance certifies that

the staffing and funding provided in the budget act are consistent with the results of the staffing study. The following budget bill language for Item 5225-xxx-0001 is consistent with these recommendations.

1. Of the funds appropriated in this item, \$14,080,388 is to fund 124 dental staff positions, as well as equipment and contract costs, with a July 1, 2006 start date as part of the *Perez* settlement agreement.
2. The remaining \$7,406,612 to fund 202 positions may not be expended by the California Department of Corrections and Rehabilitation until the Department of Finance provides to the Joint Legislative Budget Committee a copy of the staffing study and a letter certifying that staffing levels are consistent with the findings of the staffing study. The Joint Legislative Budget Committee shall have 60 days to review the staffing study and letter prior to authorizing funding and position authority.
3. Unspent funds in this item shall revert to the General Fund at the end of 2006-07.

The benefit of this approach is that it appropriates the funding required to comply with the lawsuit, while at the same time ensuring that CDCR does not receive more positions than it requires based on the staffing study. It would also ensure that any salary savings resulting from the department's inability to fill the positions, should that be the case, are not redirected for other unrelated purposes.

Require Annual Report. Given the potential magnitude of the state's investment in the prison dental care system in the *Perez* court case, the Legislature should require CDCR to report periodically on a number of key indicators of its progress in implementing the policies and procedures. This would allow the Legislature to assess the extent to which the investment of public resources is moving the state toward full compliance with the court settlement agreement.

Accordingly, we recommend the Legislature adopt supplemental report language that directs CDCR to annually provide the Legislature information on the inmate dental care delivery system, including dental staff vacancy rates and compliance with the time frames required by the settlement, so that the Legislature may track the department's progress in improving the inmate dental program during the rollout period. The following supplemental report language is consistent with this recommendation.

The California Department of Corrections and Rehabilitation shall provide on December 1, 2006, December 1, 2007, and December 1, 2008 a report to the chairs of the fiscal committees in both houses and Joint Legislative Budget Committee on the status of the implementation of the *Perez* settlement agreement. The report to the Legislature shall identify specific outcomes relating to the settlement agreement and its goal of providing increased access and higher quality dental care services. The

report shall include information on dental staff vacancy rates, as well as the number and percentage of applicable inmates at each rollout prison that were (1) provided with an initial dental examination within 90 days of arrival at an institution, (2) provided with subsequent examinations annually or biennially, and (3) seen within appropriate time frames according to their designated treatment priority level.

Health Care Vacancies Raise Concerns; Cost the State

The California Department of Corrections and Rehabilitation has a significant number of vacancies at headquarters in its Health Care Services Division which limits its ability to effectively oversee required changes in health care delivery, and results in higher state costs for inmate health care. Our review also finds that the department has made little progress to date addressing health care vacancies in the prisons. We recommend that the department report at budget hearings on this issue.

Health Care Vacancies at Headquarters. The CDCR currently has approximately 390 positions at headquarters in its Health Care Services Division (HCSD). These positions are responsible for a variety of activities relating to the administration and oversight of the prison health care services delivery system. Based on a December 2005 report prepared by the State Controller's Office (SCO), about 135 of these HCSD positions (or 35 percent) were vacant. In fact, nearly 60 percent of all management positions in the division were vacant, including positions in such classifications as Chief Dentist, Chief Medical Officer, Physician and Surgeon, Pharmacy Services Manager, and Staff Services Manager.

Prison Health Care Vacancies. As we discussed in our 2005-06 *Analysis*, high vacancy rates in key health care provider positions have been a persistent problem in the prisons. (For more information, see page D-52 in our *Analysis of the 2005-06 Budget Bill*.) Our review of the December 2005 SCO report indicates that the department has made no progress during the last year in addressing the vacancy problem. For example, the report shows a vacancy rate of 30 percent for the physician and surgeon classification, 31 percent for registered nurses, and 42 percent for pharmacists. These vacancy rates are higher than those reported in 2004. This, in part, reflects the recent authorization of new positions. Nonetheless, the data illustrate that CDCR continues to struggle with hiring health care staff to work in the prisons. In December 2005, the federal judge in the *Plata v. Schwarzenegger* court case ordered the state to increase compensation for several classes of prison medical personnel (including physicians, nurse practitioners, and registered nurses) in an effort to reduce position vacancies and increase retention of staff.

We would note that many of the positions that remain vacant were provided by the Legislature in the current year to implement reforms required under the *Plata* settlement agreement. For example, all six facility captain positions provided in the current year to assist institutions with training officers in new protocols for escorting inmates to medical appointments pursuant to *Plata* are vacant.

Analyst's Concern and Recommendations. This level of vacancies raises concerns about the department's ability to implement changes required by the court. In addition, we note that chronic vacancies in some positions result in higher inmate health care costs to the state. For example, our discussions with the department indicate that hundreds of its contracts with community hospitals and other health care providers have expired. According to the department, a shortage of staff has prevented CDCR from establishing new contracts in a timely fashion. As a result, the department sometimes transports inmates to more distant hospitals where there are contracts in place, which results in higher medical guarding and transportation costs. The unbudgeted costs associated with this practice are unknown, but could be significant.

In view of the above, we recommend that the department report at budget hearings on why it has failed to fill vacancies at headquarters in HCSD, as well as provide as part of the May Revision a detailed plan for recruiting and retaining sufficient staff to oversee the delivery of inmate health care services. The department should also be required to update the Legislature as part of the subcommittee process on its progress in implementing the pay raises required by the federal court order.

CORRECTIONAL ADMINISTRATION

Custody Assistants Would Reduce State Costs and Improve Operations

The California Department of Corrections and Rehabilitation could improve prison operations and efficiency, as well as reduce state costs by utilizing a custody assistant classification similar to that used in some county jails. We recommend the adoption of budget bill language directing the department to develop a non-peace officer custody classification—custody assistants—for future use in state prisons.

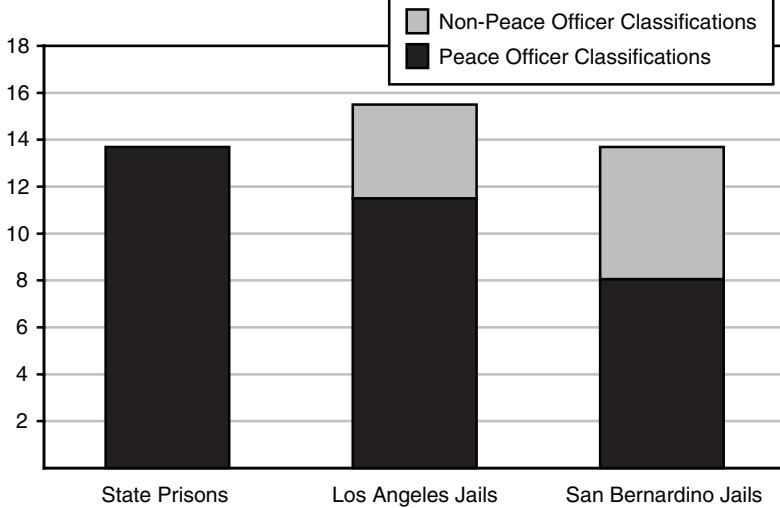
Custody Operations in State Prisons. Correctional officers are the primary staff in state prisons responsible for the supervision and control of inmates. The day-to-day duties of correctional officers vary among specific assignments in correctional facilities, and include such tasks as conducting cell searches, escorting inmates, and supervising housing units. Many

of these duties have inherent risks when, for example, officers respond to emergencies and control inmate altercations. Correctional officers are provided training to develop the skills necessary to handle these responsibilities, and the state compensates correctional officers accordingly for their training and the inherent risk of the job. There are approximately 23,000 correctional officer positions in state prisons supervising 168,000 inmates.

In addition to the potentially dangerous duties performed by correctional officers, there are also a number of custody-related activities they regularly perform that do not require control of or significant contact with inmates. For example, correctional officers staff employee entrances, control booths, and mail and property rooms. The use of trained peace officers in positions that do not require significant contact with inmates suggests a mismatch of staff skills and duties.

Non-Peace Officer Custody Classification Used Widely in Some County Jails. Similar to the state, both Los Angeles and San Bernardino Counties use peace officers—deputy sheriffs—as the primary custody staff to supervise and manage the inmate population. However, these counties also utilize non-peace officer staff to assist deputy sheriffs in the operation of the jails. Generally, these non-peace officer classifications—known as custody assistants in Los Angeles and sheriff’s custody specialists in San Bernardino—have little direct contact with inmates, instead performing those custody-related duties that are not directly involved in the control of inmates. These duties include staffing employee entrances, reviewing videotape, working in control booths, and fingerprinting inmates. Figure 8 shows the use of peace officer and non-peace officer custody staff in Los Angeles and San Bernardino jails compared to state prisons.

Use of Custody Assistants Would Have Significant Benefits in State Prisons. Based on our visits to county jails and discussions with county personnel, we have identified several potential state benefits from converting some correctional officer posts to a non-peace officer custody classification similar to those used in Los Angeles and San Bernardino Counties. This conversion would involve creating a new custody assistant classification to be filled by new employees and moving current correctional officers to vacant posts that require more direct contact and control of inmates. The benefits from doing so would include the potential for improved prison operations and efficiency, as well as reduced state operating costs. We discuss each of these in more detail below.

Figure 8**County Jails Use Non-Peace Officer Custody Classifications While State Prisons Do Not***Custody Staff Per 100 Inmates*

- Improved Prison Operations.*** One of the recurring operational problems faced by the department is correctional officer vacancies in the prisons. According to a report prepared by the State Controller's Office, more than 1,700 correctional officer positions are currently vacant. In some prisons, as many as 16 percent of correctional officer positions are unfilled. In order to supervise and manage the inmate population, correctional officer posts are generally required to be filled at all times. When vacancies occur, prisons frequently use overtime to keep the posts filled. According to department officials, the frequent use of overtime is not ideal for prison operations because officers working overtime are tired and more prone to mistakes, illness, and injuries.

Utilizing custody assistants in those institution assignments that do not require direct control of inmates would free up existing correctional officers to permanently fill vacancies. For example, by reclassifying 25 positions at each of the 33 prisons, the department would free up enough correctional officers to fill 825 (or 47 percent) of its vacant positions. Filling these vacancies could result in improved prison operations to the extent that officers are more alert because they are working less overtime. We would also note that

addressing the vacancy problem is particularly important because correctional staff are due to receive an enhanced retirement benefit (3 percent at 50) under the Bargaining Unit 6 contract. The department projects this enhanced benefit will result in more than 1,500 additional vacancies by the end of the budget year. In fact, creation of a custody assistant classification might also help address future vacancy problems by serving as a potential recruiting pool within the department for correctional positions.

- **Improved Efficiency.** Correctional officers in CDCR are specifically trained to perform potentially dangerous work such as respond to emergencies and enforce department rules and regulations. Accordingly, using correctional officers in posts that do not require these skills on a daily basis does not allow the department to use its peace officers to their fullest capacity. Converting some posts to custody assistants would provide for greater efficiency by more closely matching the necessary level of custodial skills with the responsibilities of the posts.
- **State Operations Savings.** Conversion of some custody positions in prisons to custody assistants would result in state savings in a couple of ways. First, salaries and benefits for custody assistants would be less than correctional officers because custody assistants would have a lower level of duties and risk associated with working with inmates. In Los Angeles County, for example, the average annual salary for custody assistants is approximately \$15,000 lower than the average annual salary for deputy sheriffs. The actual employee compensation savings that would be achieved by the state from converting correctional officer positions to custody assistants would depend on the difference in salaries and benefits, as well as the number of positions converted. For example, assuming that custody assistants earned a salary \$15,000 lower than correctional officers, converting 25 positions to custody assistants in each of the 33 prisons—about 4 percent of all correctional officer positions—would save over \$12 million annually in salary costs. This does not include additional savings in health care, workers' compensation, and retirement from lower salaries and benefits likely to be earned by custody assistants.

Second, to the extent that utilizing custody assistants would reduce correctional officer vacancies as described above, the department would experience a commensurate decline in overtime costs for correctional officers. Correctional officers earn overtime pay at 1.5 times their normal pay. In 2004-05, the department paid about \$203 million in overtime costs for correctional officers. The reduc-

tion in correctional officer overtime might also contribute to fewer on-the-job injuries, sick leave, and workers' compensation costs. The department paid over \$200 million for workers' compensation in 2004-05.

State Should Establish Custody Assistant Classification. In order to achieve the operational and fiscal benefits described above, we recommend that the Legislature instruct CDCR to immediately begin the process required to develop a custody assistant classification for use by 2007-08. In order to provide legislative oversight and ensure that the department meets this requirement, we further recommend that the Legislature adopt budget bill language requiring the department to provide a report on which posts will be reclassified to custody assistants. The following budget bill language is consistent with this recommendation:

5225-001-0001 Provision X. The Department of Corrections and Rehabilitation shall immediately begin the process of developing a non-peace officer, custody classification to be used in state prisons called custody assistants. No later than January 10, 2007, the department shall submit to the Chair and Vice Chair of the Joint Legislative Budget Committee, and the Committee on Budget in both the Assembly and Senate, a report identifying the number and type of posts in each of its correctional facilities that it plans to convert to custody assistant positions, as well as when the conversions will occur.

Various Proposals Need Modification

We recommend a reduction of \$85 million requested in the Department of Corrections and Rehabilitation's budget for various costs that have not been justified. (Reduce Item 5225-001-0001 by \$85 million.)

The proposed 2006-07 CDCR budget includes increased funding for parolee supervision, gang management, medical guarding, case records staffing, private correctional facility security, the correctional officer academy, and inmate health care services. Based on our review, we recommend reductions for these proposals that we have found are not justified as discussed below.

Global Positioning Systems (GPS). We recommend the deletion of the department's request for \$5.1 million in the budget year—growing to \$18.6 million by 2009-10—to expand its use of GPS for tracking sex offenders and other parolees. By 2009-10, this proposal would provide funding for an additional 2,000 GPS units and other equipment, as well as increased parole agent staffing. The department began implementing GPS supervision for the first time in the current year for 500 sex offender parolees. Because this is a new technology for the department and because

there is little research evaluation on GPS nationwide, the department is having its current GPS program evaluated by University of California researchers to determine its effectiveness. We believe it is appropriate to wait until the pilot project and its evaluation have been completed before committing to significant program expansions. According to CDCR, the evaluation is expected to be completed in August 2007.

Gang Management Contract. We recommend rejection of CDCR's request for \$200,000 to enter into a contract related to gang management. While we agree with the department's assessment that it could benefit from improved gang management strategies, we are concerned that the department has not provided sufficient detail regarding the nature of the proposed contract. Based on our conversations with the department, it is unclear whether the purpose of these funds would be to research best practices in other states, develop new punishments for gang members, implement rehabilitation programs, create staff training tools, or some combination of the above. Without a clear plan as to the intent of the contract, it remains unclear what specific benefit will be achieved with the requested funds.

Medical Guarding. We recommend rejection of CDCR's request for \$818,000 and 9.5 PYs in the budget year for increased medical guarding of inmates. The department projects an increased need to transport and guard inmates at community hospitals based on the projected increase in the inmate population. We recommend rejection of this request for two reasons. First, the department already receives additional correctional positions because of the projected population increase, and a share of these positions could be used for medical guarding as needed. Second, CDCR could reduce its use of community hospitals and, hence, its reliance on medical guarding if it were to increase its use of telemedicine. (See our write-up on "Telemedicine" in this chapter.)

Case Records and Automation. We recommend that the Legislature reject \$10 million of the \$14.6 million requested by the department to improve its management of inmate records. According to the department, the \$10 million is required to increase pay for case records staff in order to reduce vacancies among these positions in prisons. In light of the existing vacancies and the importance of the work performed by case records staff, we believe that some level of increase may be justified to improve the department's ability to recruit and retain case records staff. However, this request is premature since the department lacks an implementation plan, and no analysis has been conducted to determine how much of a pay increase, if any, case records staff should get. Furthermore, it is our understanding that the Department of Personnel Administration has not yet approved CDCR's proposal. Accordingly, the Legislature has no way of knowing how much funding is required to implement the department's

proposal. For this reason, we recommend the Legislature reduce the request by \$10 million pending receipt and review of a more detailed proposal. We raise no concerns regarding the \$4.6 million requested to develop and implement a new case records information system.

Private Community Correctional Facility (CCF) Security. We recommend deletion of the department's request for \$453,000 in the budget year to provide additional custody staff at three CCFs. The department requests these funds because of concern that limited state correctional staffing at CCFs contributed to recent inmate disturbances. We recommend rejection of this request because inmate disturbances at CCFs are infrequent. In fact, there have only been a total of five inmate disturbances at the three facilities targeted for these funds in the last five years (though we would note that one of those facilities was closed for two years). Therefore, we do not believe the department has identified a sufficient need to justify this request of funds.

Basic Correctional Officer Academy (BCOA). We recommend approval of the department's request to expand the BCOA in the budget year in order to reduce vacancies. However, we recommend making the funding one-time based on our recommendations to develop a custody assistant classification by 2007-08. (See our write-up on "Custody Assistants" earlier in this chapter.) The use of custody assistants would reduce correctional officer vacancies, thereby reducing the demand to run an expanded academy in future years. Ultimately, the future capacity of the BCOA would depend on a number of factors, including changes in the number of authorized positions due to population and policy changes, staff attrition due to retirement and other factors, as well as the department's potential use of custody assistants. The CDCR should identify its projected correctional officer cadet need for 2007-08 based on these factors in the Governor's 2007-08 proposed budget.

Funding for Health Care Services. We recommend rejection of CDCR's request for a \$68.1 million increase in the department's baseline budget to fund health care-related costs. The department states that expenditures on pharmaceuticals, contract medical services, and medical guarding are exceeding budgeted levels, thereby creating an ongoing base shortfall. As a result, CDCR claims that it has had to redirect funding from various non health care programs to offset the deficiency, thereby reducing the effectiveness of these programs. However, the department was unable to provide information concerning how and the extent to which the redirections have negatively impacted the non health care programs. In the absence of such information, we can only assume that the department is overbudgeted in the non-health care program and that those funds can continue to be used for health care purposes.

Budgeting for Lifer Parole Hearings Requires Modification

The Board of Parole Hearings holds hearings to determine which inmates sentenced to a life term with the possibility of parole can safely be released into California communities. In recent years, many of these hearings have not been held in a timely fashion, resulting in a backlog of cases. In addition, we have found that the department's budget for lifer hearings is overstated. We recommend several steps the Legislature and department can take to reduce the backlog and more accurately budget this program. (Reduce 5225-001-0001 by \$503,000.)

Life With the Possibility of Parole. All offenders sent to state prison by the courts are sentenced to one of four types of terms: determinate, life with the possibility of parole, life without the possibility of parole, and death row. Most inmates are released from prison after serving a set, or determinate, sentence (less early release credits earned for good behavior). However, about 17 percent of all inmates are sentenced to life with the possibility of parole. These “lifers” are sentenced to prison terms such as 25 years to life, meaning they must serve a minimum of 25 years in prison and are only eligible for release to parole based on a decision by the Board of Parole Hearings (BPH), a division of CDCR. If BPH never approves parole release, the inmate would serve the remainder of his/her life in prison. Figure 9 shows the number of inmates who are sentenced as lifers with the possibility of parole compared to other sentence types.

Figure 9		
Prison Population by Sentence Type		
As of June 30, 2005		
Type of Prison Sentence	Number	Percent
Determinate	131,762	80.3%
Life with possibility of parole ^a	27,921	17.0
Life without possibility of parole	3,232	2.0
Death row	634	0.4
Other	485	0.3
Totals	164,034	100%
^a Includes 7,718 third strikers.		

Lifer Parole Hearings. There are two primary types of hearings BPH conducts related to lifers. (The BPH also conducts parole revocation hearings, but we focus only on lifer hearings in this piece.) First, BPH holds a

documentation hearing within three years of an inmate coming to state prison. At this hearing, a deputy commissioner reviews the inmate's criminal history and other factors, such as education attainment and substance abuse problems, to develop a parole plan for the inmate. This plan identifies the steps the inmate would need to take in order to become a possible candidate for release from prison. The BPH held between 700 and 1,000 documentation hearings in 2004-05. At the time our analysis was prepared, BPH was not able to identify the exact number of documentation hearings held because it does not track that data.

Second, beginning one year before the earliest date at which an inmate is eligible for release based on his prison sentence—referred to as the Minimum Eligible Parole Date (MEPD)—the BPH begins holding parole hearings. At these hearings, the parole panel—made up of one BPH commissioner and one deputy commissioner—reviews the inmate's case file and conduct while incarcerated to determine whether that inmate should receive parole. According to department staff, the panel's assessment of the danger the inmate poses to public safety is the most important factor in determining whether an inmate is paroled. If the board denies parole for the inmate, the inmate will be eligible for another parole hearing within one to five years. If the inmate is a murderer, he may be eligible for a maximum five-year denial. All other lifers may receive no more than a two-year denial. The BPH conducted about 3,300 parole hearings in 2005, with about 5 percent resulting in approvals of parole.

Lifer Hearing Backlog. Beginning in the late 1990s, the number of lifer cases that were not being heard by the due dates was growing significantly. By the year 2000, the backlog of cases had reached approximately 2,000. According to the department, the main cause of the backlog was the statutory requirement that parole hearing panels have three members, two commissioners and one deputy commissioner. With only nine commissioner positions and frequent vacancies in those positions, the department was unable to keep up with the lifer hearing workload, resulting in delays in the scheduling and hearing of individual cases. In response to the growing backlog, the Legislature enacted Chapter 131 Statutes of 2001 (SB 778, Burton) which, among other things, authorized the department to hold two-person panels, as it continues to do now. In addition, three commissioner positions were added to BPH in 2005 as part of the reorganization of correctional departments into CDCR. This increased the total number of commissioners to 12 allowing BPH to hold more parole hearing panels than in prior years.

Budget Request. The BPH currently has about \$3 million in funding dedicated for lifer hearings, including funds for 12 commissioners and seven deputy commissioners, as well as support staff. The Governor's budget requests an increase of \$1.3 million and 13 positions, mostly deputy

commissioners. The request is intended to address a projected growth of 4,500 lifer hearings, bringing the total hearings to 10,800 for 2006-07.

The department based its projected increase in hearings primarily on two factors. First, the request assumes a higher workload because the addition of three commissioner positions will allow BPH to operate more parole panels, thereby significantly increasing the number of parole hearings held in the budget year.

Second, as it has done historically, the department assumed an increase in lifer hearings commensurate to the projected increase in the total inmate population. The average daily inmate population is projected to increase by about 2 percent between the current year and the budget year.

Lifer Hearing Request Is Overbudgeted. Based on our review, the department's request is overbudgeted for both documentation and parole hearing workloads. Specifically, the budget assumes that BPH will conduct 3,200 documentation hearings in the 2006-07. However, we estimate that the annual number of documentation hearings is more likely to be about 1,300—less than one-half of the department's estimate. Our lower estimate is based on the rate of lifer admissions to prison in recent years. The BPH states that its higher projected caseload is to reduce a backlog of documentation hearings. However, at the time this analysis was prepared, the department was unable to identify the actual number of backlogged cases.

In addition, the department's budget proposal assumes that it will hold almost 7,600 parole hearings in the budget year. However, based on prior year data and the department's estimate of its parole hearing backlog, we estimate that the department is more likely to hold about 6,000 hearings in the budget year. The reason for BPH's higher estimate is that it reflects the number of hearings the department would be capable of holding with 12 commissioners, rather than reflecting the number of lifers who will actually need parole hearings in the budget year.

Reduce Funding Request. We recommend reducing the department's request for budget-year funding by \$503,000 and 4.8 positions (3.6 deputy commissioners and 1.2 support staff) based on our finding that the department has overbudgeted its workload for documentation and lifer hearings. The revised funding level would provide sufficient staff for about 2,000 documentation hearings (consisting of an estimated 1,300 new cases and 700 backlogged) and 6,000 parole hearings. This level of funding would allow the department to roughly double its number of hearings compared to the prior year, thereby contributing to a significant reduction in the backlog of cases.

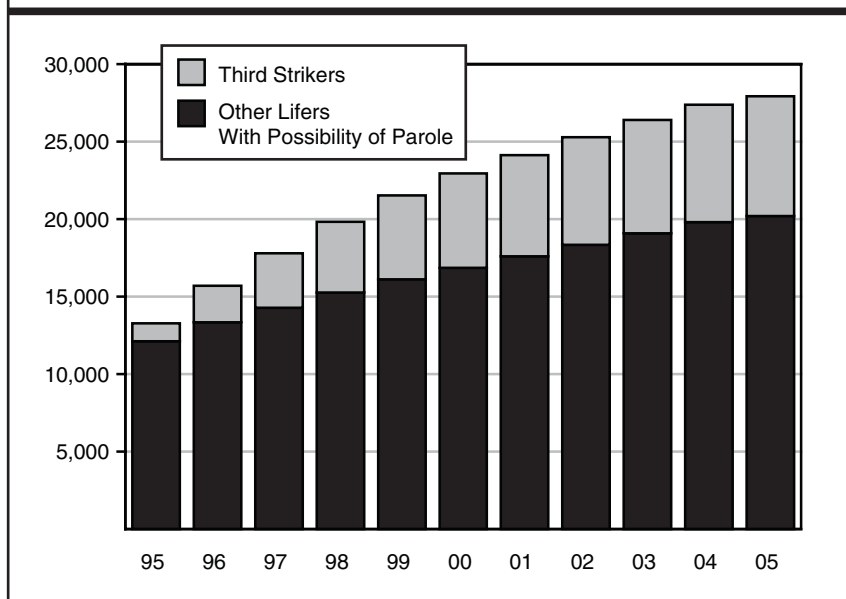
Operational Problems With Lifer Hearings. We are also concerned that three problems within the department contribute to operational inefficiencies and hearing backlogs. In particular, we find that the absence of a centralized database for lifers, commissioner vacancies, and delays in producing psychiatric evaluations result in parole hearing backlogs and limit the department's ability to project and manage its caseload. Moreover, unless steps are taken to address these problems, they are likely to grow worse in future years as the lifer population continues to increase steadily each year.

- **Lack of Centralized Lifer Database.** The department does not have a centralized scheduling and tracking system for its lifer caseloads. This makes it difficult for the department to manage its growing caseload and accurately project the number of hearings that will occur in the coming year. The BPH cannot identify the number of inmates that will require documentation hearings because it does not have a centralized database that identifies when a lifer arrives in state prison. The department is also unable to track the future workload implications resulting from denials and postponements.

There is a considerable likelihood that the current inability to accurately identify workload will become a more substantial problem in the future because the lifer population has been increasing at a significant rate, thereby inevitably leading to increased lifer hearing workload in subsequent years. As Figure 10 (see next page) shows, the lifer population has increased 110 percent (8 percent average annual growth) over the last decade. By comparison, the total inmate population has grown by 21 percent (2 percent annually) over the same period. In addition, the current parole hearing workload does not yet include third strikers who will first be eligible for parole in 2019. While this occurrence is more than a decade away, the additional workload for BPH will be substantial, potentially adding more than a thousand new parole hearings to the workload each year. A failure to adequately plan for the inevitable growth in the lifer hearing caseload could result in significant hearing backlogs.

- **Commissioner Vacancies.** Commissioner vacancies sometimes lead to postponements and delays of hearings. According to the department, it has operated with an average of about three commissioner position vacancies in recent years, thereby reducing the number of hearing panels that can be formed and the number of hearings that can be scheduled.

The department usually schedules hearings a couple of months in advance because of the need to notify attorneys and victims' families who may participate in the proceedings. Consequently, a long-term or unanticipated vacancy can cause as much as a couple months worth of cases to be postponed, contributing to the backlog of cases. Because the department pre-schedules all commissioners to hearing panels, there are none that can be used to fill in when vacancies occur. According to department records, about 28 percent of all cases postponed in the last three years were due to the scheduled panel being unavailable.

Figure 10**Growth in the Lifer Population**

- **Psychiatric Reports Not Completed.** Cases are also frequently postponed when the department does not complete the file necessary for the hearing to take place. According to BPH, the most common reason that a file is not completed is because a psychiatric evaluation of the inmate has not been completed. These evaluations are frequently requested by the department or attorneys. However, the department has difficulty completing these evaluations in a timely fashion because of high vacancy rates among psychiatric staff in state prisons. According to a report by the State Controller's Office, about 29 percent of psychiatric staff positions

in state prisons were vacant as of December 31, 2005. According to BPH, approximately 18 percent of hearing postponements over the last three years were due to a failure to complete an updated psychiatric report.

Require Department to Develop Plan to Improve Tracking System.

We recommend that the Legislature require the department to develop a plan for implementing a scheduling and tracking system for lifer hearings. This would allow the department to manage its caseload better and improve its ability to project caseload growth for budget purposes. A centralized scheduling and tracking system could potentially be developed by modifying existing database systems used for other purposes, for example scheduling and tracking revocation hearings.

Administrative Changes to Reduce Backlog. There are also administrative changes the department can make to address the backlog of lifer cases. We would note, in fact, that the department has already formed an intradepartmental committee to explore ways to improve the lifer process.

One step the department should consider is using some commissioners as “substitutes” to fill in when vacancies occur. This change could be accomplished relatively easily because of the expansion of commissioner positions under the reorganization from 9 to 12. For example, the three additional positions could be used as substitutes when vacancies occur. We estimate that this could allow the department to reduce the number of hearing postponements by about 28 percent. At those times when there are more substitute commissioners available than vacancies that need to be filled, the substitutes could be used to address on-going BPH workload, for example by working in place of deputy commissioners on lifer panels, documentation hearings, or even revocation hearings.

The department has informed us that one of the main issues that the lifer committee is working on is the timeliness of psychiatric evaluations. Some of the issues CDCR is attempting to address include whether updated psychiatric evaluations are necessary for all lifers (such as those who do not have a history of mental illness), the most appropriate evaluation tool to use, and the most appropriate staff to conduct these assessments. Each of these issues is important for the department to address. In addition, it is important that the department address its on-going vacancy problem among psychiatric staff.

In view of the above, we recommend that the Legislature adopt supplemental report language requiring the department to report by January 10, 2007, on the actions taken based on the recommendations of its lifer committee, as well as any progress made in reducing the lifer backlogs. The following supplemental report language is consistent with this recommendation:

Item 5225-001-0001. No later than January 10, 2007, the California Department of Corrections and Rehabilitation shall provide the Chair and Vice Chair of the Joint Legislative Budget Committee and the fiscal committees of each house a report about the department's efforts to reduce the backlog of lifer hearings. This report shall include an estimate of the backlog of documentation and parole hearings, as well as identify the specific recent actions taken by the department to reduce the backlogs of hearings.

Department Should Report on Progress of the Reorganization

The California Department of Corrections and Rehabilitation was created in July 2005 from the reorganization of state correctional departments. We recommend that the Legislature require the department to report at budget hearings on its progress to date in implementing the reorganization, including the reasons for any delays that have occurred, as well as identify fiscal efficiencies achieved.

Reorganization of State Corrections. In February 2004, the Corrections Independent Review Panel (CIRP) was established to conduct a broad examination of California's correctional system and make recommendations to improve its operations. While CIRP made hundreds of recommendations regarding various aspects of the correctional system, it recommended that a reorganization of the youth and adult correctional agencies be given the highest priority.

The administration proposed an "overhaul" of the correctional system in two separate but related documents. These were the *Governor's Reorganization Plan 2, Reforming California's Youth and Adult Correctional System* (GRP-2), and the *Youth and Adult Correctional Agency Strategic Plan* (the YACA Strategic Plan). The GRP-2 primarily focused on *organizational* changes, while the YACA Strategic Plan primarily focused on *policy and operational* changes within the reorganization that were intended to support the goals of increased accountability, efficiency, and effectiveness in the delivery of correctional services. In April 2005, the Legislature enacted Chapter 10, Statutes of 2005 (SB 737, Romero), thereby approving the reorganization of correctional departments into CDCR.

Efficiency. At the time that GRP-2 was proposed, the administration asserted that the reorganization would increase government efficiency by enabling the state to provide a higher level of services at a lower cost. The administration stated that one of the fiscal benefits of the plan was that merging the youth and adult correctional departments and boards would result in "economies of scale" and create an opportunity to "leverage" its expanded population to obtain lower prices on the purchase of goods and services.

To date, there is little evidence available that CDCR has achieved its objective of improved efficiency. The Legislature adopted supplemental report language requiring the department to report quarterly beginning October 1, 2005 on the status of the reorganization, including identifying any fiscal or programmatic efficiencies achieved. At the time this analysis was prepared, the department had not submitted the first two quarterly reports due October 1, 2005 and January 1, 2006.

To the extent that any efficiencies and savings from consolidation occur, one would expect that they would be reflected, at least in part, in a reduction in total headquarters costs. The department's budget for headquarters is actually proposed to increase significantly compared to before the reorganization, growing from \$177 million in 2004-05 to \$244 million in 2006-07. At the time this analysis was prepared, the department was unable to identify the extent to which this increase in headquarters costs has been partially offset by any efficiencies from the reorganization.

Implementation of the Strategic Plan. The objective of CDCR's Strategic Plan was to improve department operations in various areas, including recidivism reduction, health care, information technology, and staff training and performance. In the *2005-06 Budget: Perspectives and Issues*, we noted that the Strategic Plan's proposed implementation timelines were optimistic. In particular, we raised the concern that the department was likely to experience delays due to staffing limitations, especially because a number of other significant projects were likely to compete for time and resources that might otherwise be used to implement the plan. Figure 11 (see next page) identifies the plan's strategies that are scheduled to be implemented by mid-2006-07.

Currently, it is unclear just how much progress the administration has made in implementing the Strategic Plan in the timeframes it originally identified. Part of the difficulty is that several components are management changes that are not immediately apparent to outside observers because some elements do not require budget actions to implement. However, based on our conversations with the department, it does appear that at least a few of the plan's components have been implemented. For example, the department has created a risk management office, as well as consolidated the management of its IT systems under one office. In addition, the department's proposal for the budget year includes funding to develop partnerships with local communities and academic researchers in order to improve prison and parole programs and services.

Figure 11**Strategic Plan Components Identified for Implementation by Mid-2006-07**

CDCR Strategies	Implementation Date
Workforce	
Recruitment and hiring plan	October 2005
Employee performance appraisal process	December 2005
Human resources management plan	July 2006
Human resources Information Technology (IT)	December 2006
Multi-disciplinary academy	January 2007
Technology	
Consolidate IT management	July 2005
Secure IT systems	July 2005
IT governance structure	July 2006
Organizational	
Implement matrix organization	July 2005
Risk management program	July 2005
Program evaluations	January 2006
Organizational assessment of well being	July 2006
Legal Compliance	
Identify problems and trends	October 2005
Lawful policy implementation	January 2006
Process for policy review	July 2006
Crime Prevention and Safety	
Ensure safe and secure facilities	January 2006
Establish community collaborations	January 2007
Link inmate assessments and programs	January 2007
Outreach and Partnerships	
Establish re-entry collaborations	January 2006
Collaborate with local advocacy agencies	July 2006
Collaborate with research communities	July 2006
Establish intergovernmental collaborations	July 2006
Enhance community-based collaborations	January 2007
Health Care Delivery	
Health care re-entry programs	July 2006
Partnerships for delivery of services	July 2006

In other cases, however, it does not appear that CDCR has been able to meet its goals. For example, part of the department's plan to ensure safe and secure prisons includes implementation of a comprehensive and evidence-based gang management program by January 2006. However, based on our discussions with the department, such a program will not be implemented until 2007-08 at the earliest. The Strategic Plan also identifies the objective of providing health care programs for inmates upon re-entry into communities by July 2006. The department has implemented some such programs for inmates with mental illness and HIV. However, these programs existed prior to the reorganization, and the department has not proposed any expansions of these programs in the current or budget years.

Department Should Report to Legislature. We recommend that the Legislature direct the department to report at budget hearings on its progress implementing its Strategic Plan. Specifically, the department should identify any fiscal or programmatic efficiencies achieved by the reorganization as required by supplemental report language. In addition, the department should report on its progress in implementing specific components of the Strategic Plan, as well as identify any revised timelines for those components that have been or are likely to be delayed.

Department Has Not Provided Reports to Legislature

The California Department of Corrections and Rehabilitation has not completed all reports required in association with the 2005-06 Budget Act. The lack of information hinders legislative oversight of state programs. We recommend that the Legislature require the department to report at budget hearings on the status of these reports.

The 2005-06 Budget Act and the Supplemental Report of the 2005 Budget Act directed CDCR to report on a number of its programs and activities, including the reorganization of correctional departments, implementation of inmate programs, and development of juvenile justice policies and programs. The Legislature's purpose in requiring these reports was to exercise legislative oversight by holding the department accountable for its use of funds and staff in achieving statutory objectives and goals. Many of these reports were required to be submitted by January 2006 in order to provide the Legislature with pertinent information as it reviews the department's 2006-07 budget request. For example, the Legislature required the department to provide a quarterly report that identified fiscal savings achieved from the reorganization of correctional departments in the current year. At the time this analysis was prepared, the department had not provided 9 of 16 required reports. Figure 12 (see next page) lists these reports, and their due dates as well as the status of those reports.

Figure 12**California Department of Corrections and Rehabilitation
Status of Legislatively Required Reports**

Report Topic	Due Date	Status
California Department of Corrections and Rehabilitation Administration		
Efficiencies from reorganization	10/1/05, 1/1/05	Not received
Oversight of high-risk Information Technology projects	7/31/05, 10/31/05, 1/31/05	Received one (11/16/05)
Adult Institutions and Parole		
Foreign prisoner transfer program	1/10/06	Not received
Health care vacancies and contract registry	9/29/05, 12/29/05	Received one (12/20/05)
Inmate and parole programs	Before expenditure of funds	Received
Inmate violence and disciplinary confinement	1/1/06	Not received
Parole reforms	10/1/05, 1/1/06	Not received
Plata lawsuit	1/1/06	Not received
Juvenile Corrections		
Farrell lawsuit	12/1/05	Not received
Long-term juvenile justice strategy	9/1/05, 12/1/05	Received

Analyst Recommendation. It is important that the Legislature have a means of obtaining information it deems necessary to make policy and budget decisions. Therefore, we recommend that the Legislature require CDCR to report at budget hearings on the status of any reports not yet provided, as well as the reasons for the delays.

JUVENILE JUSTICE

WHO IS IN THE DIVISION OF JUVENILE JUSTICE?

There are several ways that an individual can be committed to the Division of Juvenile Justice's (DJJ's) institution and camp populations, including:

- ***Juvenile Court Admissions.*** Most first-time admissions to DJJ are made by juvenile courts. As of June 30, 2005, 96.4 percent of the institutional population was committed by the juvenile courts and included offenders who have committed both misdemeanors and felonies.
- ***Criminal Court Commitments.*** As of June 30, 2005, 3.6 percent of the DJJ institutional population was committed by criminal courts. This includes juveniles committed directly to DJJ after being tried and convicted as adults. It also includes youthful offenders committed to the California Department of Corrections and Rehabilitation's (CDCR's) Adult Division but housed at a DJJ facility. These inmates are referred to as "M cases" because the letter M is used as part of their DJJ identification number. Current law requires that M cases be transferred to state prison at age 18, unless their earliest possible release date comes before they reach age 21.
- ***Parole Violators.*** These are parolees who violate a condition of parole and are returned to a DJJ facility. In addition, some parolees are recommitted to a facility if they commit a new offense while on parole.

Characteristics of Wards. Wards in DJJ institutions are generally between the ages of 12 and 24, with an average age of 19. Males comprise over 95 percent of the ward population. Latinos make up the largest ethnic group in DJJ institutions, accounting for 50 percent of the total population. African-Americans make up 30 percent of the population, whites are 14 percent, and Asians and others are about 6 percent.

POPULATION ISSUES

Juvenile Offender Population Continues to Decline; Projections Will Be Updated in May

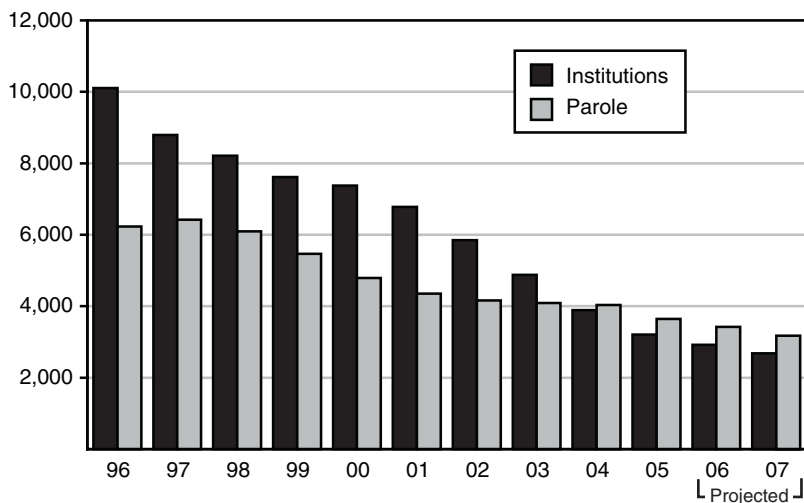
The caseload projection for the Division of Juvenile Justice appears reasonable based on available data. However, we withhold recommendation on the 2006-07 budget request for caseload funding pending receipt of the May Revision as this will provide additional data. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision.

Juvenile Institution Population Decrease. As of June 30, 2005, 3,205 wards resided in DJJ facilities. The department forecasts the ward population will decrease to 2,680 wards by June 30, 2007, a projected two-year decrease of 525 wards, or about 16 percent, compared to the beginning of the current fiscal year. The projected decrease is the result of a continuing trend of declining admissions to youth correctional facilities. The declining admissions are primarily the result of fewer juvenile court commitments to state facilities. Figure 1 shows the year-end ward and parole populations for the period 1996 through 2007.

Figure 1

Juvenile Institutions and Parole Population

1996 Through 2007
As of June 30 of Each Year



Juvenile Parole Population Decrease. As of June 30, 2005, CDCR supervised 3,650 youthful offenders on parole. The department forecasts the parole population will decrease to 3,175 by June 30, 2007, a projected two-year decrease of 475 parolees, or 13 percent. The projected decrease is the result of a continuing trend of declining admissions to youth correctional facilities. As Figure 1 shows, beginning in 2004, the parole population is slightly greater than the institution population and is projected to remain greater through 2007. This is primarily a result of (1) a declining rate of new admissions into DJJ youth correctional facilities and (2) an increasing average length of time that a ward is on parole.

Fiscal and Housing Implications of Population Changes. While the ward and parolee populations have declined, these populations have not declined as rapidly as assumed in the *2005-06 Budget Act*. As a result, the budget requests an increase of \$5.7 million in the current year and \$3.3 million in the budget year. Most of this amount is requested to staff and operate additional living units to accommodate the higher-than-anticipated ward population.

Analyst's Recommendation. We withhold recommendation on the caseload funding request pending receipt of the May Revision. We will continue to monitor the DJJ population and make recommendations as appropriate at the time of the May Revision.

Safety and Welfare Remedial Plan Not Final

In December 2005, the California Department of Corrections and Rehabilitation released the Safety and Welfare Remedial Plan, which describes the department's plans to implement a new model of care and treatment for juvenile offenders under state jurisdiction. In this piece, we provide information on the features of the plan and its related budget request. We withhold recommendation on the budget request pending completion of a revised Safety and Welfare Remedial Plan in the spring. We recommend the Legislature require the department to report at budget hearings with additional detail on its implementation time line and plans to hire additional peace officer staff.

Farrell v. Allen Court Case. In January 2003, a lawsuit, *Farrell v. Allen* (later changed to *Farrell v. Hickman*), was filed against the California Youth Authority (CYA), contending that CYA fails to provide adequate care and effective treatment programs to incarcerated wards. Issues raised in the court case include (1) high levels of violence in the facilities, (2) abusive and punitive measures carried out by custody staff, and (3) inadequate provision of mental health, sex offender, and substance abuse treatment for wards.

In November 2004, the administration entered into a consent decree in the *Farrell* case and agreed to develop and implement remedial plans that addressed operational and programmatic deficiencies identified by court experts in six areas: education, sex behavior treatment, disabilities, health care, mental health, and general corrections. After reviewing other youth correctional systems such as those in Texas and Florida, however, the administration decided to broaden the scope of reform at CYA. In addition to correcting the specific deficiencies in the expert reports, the administration announced that it would fundamentally transform CYA into a “rehabilitative model” of care and treatment for youthful offenders. The state and plaintiffs agreed to a fall 2005 deadline for the department to complete a Safety and Welfare Remedial Plan, which would serve as the General Corrections Remedial Plan required by *Farrell* as well as a plan for implementing the new model. Three of the other remedial plans (education, sex offender, and disabilities) were completed in the first half of 2005 and received funding in the *2005-06 Budget Act*. In a separate write-up later in this chapter, we discuss the Health Care Remedial Plan. The administration has not yet submitted a budget request to implement the Mental Health Remedial Plan.

Major Features of the Safety and Welfare Remedial Plan. In December 2005, the department submitted the Safety and Welfare Remedial Plan to the court. Generally, the goals of the plan are to increase safety and security in DJJ facilities and provide effective treatment services to wards based on their individual needs. To that end, the plan proposes a number of changes, including intentions to:

- Classify facilities and living units according to the types of wards that each facility and unit is best suited to accommodate.
- Acquire an objective risk/needs assessment instrument for proper placement and treatment of wards in DJJ facilities and living units.
- Match the type and intensity of supervision and programming to wards’ risk level and educational/treatment needs.
- Replace punitive measures against violent and disruptive wards with intensive behavioral treatment (such as individual counseling).
- Increase staff-to-ward ratios in facilities by reducing living unit sizes and hiring additional custody and treatment staff.
- Train staff on establishing a positive and therapeutic environment for wards based on “community norms” such as teamwork, accountability, and nonviolent resolution of conflict.

- Close most or all of the current DJJ facilities and replace them with smaller facilities designed to serve specific types of youthful offenders, such as sex offenders or wards with mental health disorders.

The remedial plan also proposes to contract out the incarceration and programming of DJJ's approximately 130 female wards to private providers. The five living units they currently occupy at the Ventura Youth Correctional Facility would be backfilled with male wards. In addition, the plan envisions transferring a few male wards with significant medical, mental, or developmental needs to alternative providers (such as county programs).

A key element of the plan involves gradually reducing the number of wards in each living unit to less than 40. Currently, up to 60 wards occupy certain living units. To do this, the plan proposes to reopen living units that are currently closed and transfer a number of wards to them. The plan proposes to phase in additional custody and treatment staff in the units over a four-year period. In the budget year, 20 living units would receive additional staff, followed by another 20 units in 2007-08, and the remaining units (up to about 60) by the end of 2009-10.

Governor's Budget Proposal. The Governor's budget presents a multi-year funding proposal to implement the Safety and Welfare Remedial Plan. When the plan is fully rolled out in 2009-10, the annual cost is proposed to be \$94 million for support of 828 additional staff, as shown in Figure 2 (see next page). (The budget notes that the requested resources are based on an average daily population of 2,800 incarcerated wards. The actual amount of staff and funding needed in the out-years would be adjusted through the annual population adjustment process.) This represents a significant increase in funding and staffing levels. In 2004-05, support for the state's youth correctional system totaled \$420 million and about 3,700 positions.

The budget proposes that when the plan is fully implemented there would be 651 positions and \$58.5 million for enhanced custody and treatment staffing at the living units. These additional staff include peace officer positions such as youth correctional officers and youth correctional counselors, as well as treatment staff such as psychologists. The budget also requests 177 positions and \$17.9 million for various facilities and headquarters staff. In addition, the budget requests \$9.5 million for consultants to provide training to staff and assist in the development and implementation of treatment programs, as well as \$7.9 million to contract with nonstate providers to house and treat DJJ's female ward population.

Figure 2**Proposed Positions and Funding To Implement Safety and Welfare Remedial Plan^a***2005-06 Through 2009-10
(Dollars in Millions)*

	Positions	Cost
2005-06	25	\$5.2
2006-07	360	42.3
2007-08	200	22.2
2008-09	142	14.8
2009-10	101	9.3
Totals	828	\$93.8

^a Based on an average daily population of 2,800 incarcerated wards.

Plan and Budget Request to Be Revised, Withhold Recommendation. The Safety and Welfare Remedial Plan was filed concurrently with a settlement agreement reached between the state and plaintiffs. The agreement requires the department to retain five juvenile justice reform experts to revise the Safety and Welfare Remedial Plan. The experts are to use the current plan as a guideline in developing the revised plan, which must be completed and submitted to the court by March 30, 2006. Taking into account the revisions, the department must submit a final Safety and Welfare Remedial Plan to the court by June 30, 2006.

Our discussions with the experts indicate that they could make a number of changes to the December 2005 plan, including changing the number and types of staff assigned to the facilities and adding recommendations on parole reform. The department has advised us that it will submit a new budget change proposal in the spring based on these changes. We therefore withhold recommendation pending receipt of the revised remedial plan and budget proposal.

Preliminary Proposal Lacks Detail on Implementation Time Frames. While the proposed rehabilitative model has merit, we are concerned that the department's initial implementation plan is not sufficiently detailed. This makes it difficult for the Legislature to evaluate the feasibility of the proposed reforms. For example, the administration proposes to transition 20 living units, including five currently closed units, to the new model in the budget year. Yet, the Governor's proposal does not provide a time line

detailing exactly when, and in what order, these conversions will occur throughout the year.

Vacancy Problems May Hinder Implementation. An important element of the Governor's proposal to implement the Safety and Welfare Remedial Plan involves adding a total of about 250 youth correctional counselors, senior youth correctional counselors, youth correctional officers, parole agents, sergeants, and lieutenants to DJJ facilities beginning in the budget year. These staff, which have peace officer status, are responsible for supervising wards and ensuring their safety. Based on a report prepared by the State Controller's Office, however, about 10 percent (or 150) of these positions were vacant as of December 2005. The CDCR expects the number of vacancies among youth correctional peace officer positions to increase further in the current and budget years due primarily to the enhanced retirement benefit (3 percent at 50) provided under the Bargaining Unit 6 contract. The Governor's budget proposes to expand the capacity of the training academy for youth correctional staff beginning in the budget year. Yet, even taking into account the proposed expansion, the department anticipates vacancies to grow to about 350 in 2006-07, a vacancy rate of over 20 percent. Given this projection, it is unclear how the department plans to fill hundreds of *new* positions as proposed in the Governor's budget.

We recommend that the Legislature require the department to report at budget hearings with additional detail on its implementation plans, as well as its plans to hire additional youth correctional counselors and other peace officer staff.

Request for Funding to Implement Health Care Remedial Plan Is Premature

We withhold recommendation on \$7.5 million requested by the Department of Corrections and Rehabilitation for funding and positions to implement the Juvenile Health Care Remedial Plan. This is because the request is premature, as the Legislature has not yet received a copy of the remedial plan upon which the budget proposal is based.

Budget Request. The department requests \$7.5 million and 90 full-time positions to implement the Juvenile Health Care Remedial Plan. The remedial plan is one of the component requirements of the *Farrell v. Hickman* settlement agreement, which requires the department to improve the quality of care and treatment provided to wards in DJJ facilities. Toward that end, the budget requests funding for additional health care staff at headquarters and DJJ facilities, as well as for medical and dental equipment.

Analyst's Concern and Recommendation. The budget request is premature because the Legislature has not yet received a copy of the remedial plan. This makes it impossible for the Legislature to evaluate the extent to which the budget proposal is consistent with the remedial plan. Accordingly, we withhold recommendation on the budget request pending receipt and review of the remedial plan.

FINDINGS AND RECOMMENDATIONS

Judicial and Criminal Justice

Analysis

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Judicial Branch

- D-15 ■ **State Appropriations Limit (SAL) Expansion Lacks Rationale and Leads to Overspending. Reduce Item 0250-001-0001 by \$1.2 million, Item 0250-112-0001 and Item 0250-112-0556 by \$1.6 million, Item 0250-111-0001 and Item 0250-101-0932 by \$14.6 million, and Item 0250-101-0001 by \$447,000.** We recommend rejection of the Governor's proposal to expand use of the SAL adjustment to the entire Judicial Branch. The proposal provides no clear rationale as to why the SAL adjustment should be applied to the remainder of the Judicial Branch and will likely to lead to overfunding of the branch budget.
- D-21 ■ **Information Systems Request Not Justified. Reduce Item 0250-101-0001 by \$12,300,000.** We recommend rejection of the request for \$12.3 million in information technology funding for the trial courts because the proposal contains no detail on how the funding will be used and does not provide information to demonstrate that funding is needed above and beyond the \$105 million the trial courts received through the SAL adjustment.

Analysis**Page****Department of Justice**

- D-23 ■ **Several Department of Justice Requests Lack Adequate Justification. Reduce Item 0820-001-0001 by \$15 Million and Increase Item 0820-001-0367 by \$376,000.** We recommend rejection of several requests, pending receipt and review of additional information, and recommend a shift of some costs from the General Fund to the Indian Gaming Special Distribution Fund.

Adult Corrections

- D-34 ■ **Adult Inmate and Parole Caseload Will Likely Require Further Adjustment.** We withhold recommendation on the 2006-07 budget request for caseload funding pending receipt of the May Revision. We recommend that the department provide, as part of its spring population projections, an estimate of the impact of its proposed recidivism reduction programs. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision.
- D-35 ■ **Recidivism Reduction Proposal Requires Modification. Reduce Item 5225-001-0001 by \$28.4 Million.** While some aspects of the California Department of Corrections and Rehabilitation's (CDCR's) proposal to expand recidivism reduction programs have merit, the department has not provided sufficient justification for other parts of the proposal. We recommend approval of specific components of this proposal and rejection of other components pending receipt and review of additional information. We also recommend additional steps the department can take to improve rehabilitative programs in prisons, as well as additional reporting requirements.

Analysis**Page**

- D-51 ■ **Telemedicine Program Should Be Expanded.** Our review finds that the department underutilizes telemedicine and, in so doing, misses opportunities to improve public safety and reduce the cost of providing inmate health care. We recommend the enactment of legislation to increase the frequency with which state prisons use telemedicine by requiring the department to establish guidelines concerning the circumstances under which telemedicine must be used, provide more medical specialties via telemedicine, and set annual performance targets.
- D-58 ■ **Inmate Dental Proposal Appears Consistent With Settlement Agreement.** We find that the budget request is consistent with the December 2005 settlement agreement in the *Perez v. Hickman* lawsuit. However, we recommend adoption of budget bill language that restricts the department's funding and position authority pending the Legislature's receipt and review of a staffing study. We further recommend the adoption of supplemental report language to improve legislative oversight.
- D-62 ■ **Health Care Vacancies Raise Concerns; Cost the State.** The CDCR's Health Care Services Division has a significant number of vacancies at headquarters as well as in its prisons, which inhibit its ability to implement required changes in health care delivery and result in higher state costs. We recommend that the department report at budget hearings on this issue.
- D-63 ■ **California Department of Corrections and Rehabilitation (CDCR) Should Utilize Custody Assistants.** We recommend that CDCR immediately begin the process of creating a custody assistant classification for use in state prisons. In addition, we recommend that the Legislature adopt budget bill language to require the department to identify current positions to be converted to custody assistants.

Analysis**Page**

- D-67 ■ **Various Proposals Require Modification. Reduce Item 5225-001-0001 by \$85 Million.** The department requests funding for parolee supervision, gang management, medical guarding, case records staffing, private correctional facility security, the correctional officer academy, and inmate health care services. We recommend deletion or a reduction of funding for these proposed expenditures that we have found are not justified.
- D-70 ■ **Budgeting for Lifer Parole Hearings Requires Modification. Reduce Item 5225-001-0001 by \$503,000.** The Board of Parole Hearings has struggled to hold lifer hearings in a timely fashion, resulting in a backlog of cases. In addition, we have found that the department overbudgeted its caseload in the budget year. We recommend several steps the Legislature and department can take to reduce the backlog and more accurately budget this program.
- D-76 ■ **Department Should Report on Progress of Reorganization.** We recommend that the Legislature require CDCR to report at budget hearings on its progress to date in implementing its reorganization, including the reasons for any delays that have occurred, as well as identify fiscal efficiencies achieved.
- D-79 ■ **Department Has Not Provided Reports to Legislature.** The CDCR has not completed all reports required in association with the *2005-06 Budget Act*. The lack of information hinders legislative oversight of state programs. We recommend that the Legislature require the department to report at budget hearings on the status of these reports.

Analysis**Page****Juvenile Justice**

- D-82 ■ **Juvenile Population Continues to Decline; Projections Will Be Updated in May.** We withhold recommendation on the 2006-07 budget request for Division of Juvenile Justice caseload funding pending receipt of the May Revision, as this will provide additional data. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision.
- D-83 ■ **Safety and Welfare Remedial Plan to Be Revised; Withhold Recommendation.** We withhold recommendation on the budget proposal to implement the Safety and Welfare Remedial Plan pending completion of a revised plan in the spring. We recommend the Legislature require the department to report at budget hearings with additional detail on its implementation time line and plans to hire additional peace officer staff.
- D-87 ■ **Funding Request to Implement Juvenile Health Care Remedial Plan Is Premature.** We withhold recommendation on the department's request to fund the implementation of the Juvenile Health Care Remedial Plan. The request is premature, as the Legislature has not yet received a copy of the remedial plan upon which the budget proposal is based.

