

DEPARTMENT OF JUSTICE

ITEM 155 of the Budget Bill

Budget page 447
Budget line No. 57

For Support of the Department of Justice From the General Fund

Amount requested	\$2,036,220
Estimated to be expended in 1949-50 Fiscal Year	1,843,770
 Increase (10.4 percent)	 \$192,450

Summary of Increases

	Total increase	INCREASE DUE TO		Budget page	Line No.
		Work load or salary adjustments	New services		
Salaries and Wages	\$129,203	\$101,668	\$27,535	447	86
Operating Expense	68,746	65,146	3,600	448	4
Equipment	-9,416	-16,004	6,588	448	5
Decreased Reimbursements ..	3,917	3,917	---		
 Total Increase	 \$192,450	 \$154,727	 \$37,723		

RECOMMENDATIONS

Amount budgeted	\$2,036,220
Legislative Auditor's Recommendation	1,998,497
 Reduction	 \$37,723

ANALYSIS

Division of General Administration

The amount requested is \$718,762 for 1950-51. This is an increase of \$31,660 or 4.6 percent over estimated expenditures for the 1949-50 Fiscal Year.

Summary of Recommended Reductions

		Budget page	Line No.
Salaries and wages:			
2 Senior legal stenographers	\$5,544	449	8
Equipment:			
Additional equipment for 2 new positions	\$940	449	43
 Total reduction	 \$6,484		

2 Senior legal stenographers (Budget page 449, line 8) \$5,544

One stenographer is requested for the Los Angeles office. The agency states additional secretarial staff must be provided the office where the Attorney General maintains his headquarters. The established ratio of lawyers to stenographers is 3 to 2 except for top level positions. There are now 18 legal and executive positions in Los Angeles and 15 stenographers, or enough to provide nine positions with private secretaries, and nine positions with the accepted 3 to 2 ratio. *This number of stenographers is already high. No increase is recommended.*

One stenographer is requested for the Sacramento office to serve an increased number of attorneys. Including the additional deputy proposed in this budget, this office in 1950-51 will have 22.5 legal and executive positions. There are now 19 stenographers in this office, or enough to provide 13 positions with private secretaries, and 9.5 positions with the 3 to 2 ratio. *Since this number of stenographers is also extraordinarily high, no increase is recommended.*

1 *Intermediate clerk (Budget page 449, line 10)*----- \$2,280

This position is requested for the Youth Authority Section of the Bureau of Statistics. The position is needed to maintain the records relative to 2,234 Youth Authority wards in facilities and 4,004 on parole. This work load has exceeded the capacity of the present employee. *We recommend approval.*

Operating Expenses

A total of \$276,475 is requested. This is an increase of \$7,231 over 1949-50. The increase is represented in teletype rental increase of \$4,812, business machine rental increase of \$1,000, and \$1,935 increase in printing for the biennial report. *We recommend approval.*

Equipment

A total of \$940 for additional equipment can be saved if the two legal stenographer positions are denied. *We recommend this saving.*

Division of Civil Law

The amount requested is \$414,623 for 1950-51. This is an increase of \$19,652 or 5 percent over estimated expenditures for the 1949-50 Fiscal Year. Reimbursements from Special Fund agencies for legal services amount to \$174,695 or 42 percent of the total required for support of this division.

1 *Deputy attorney general, grade 3 (Budget page 449, line 70)*---- \$6,060

This additional position is requested because of the increased number of condemnation cases necessary to acquiring sites for public works. On December 1, 1949, there were 58 condemnation actions pending. This work load will level off as the building program is completed. *We recommend that the additional position not be allowed but \$6,060 be provided in temporary help to employ one attorney.* The need for this help should be reviewed again next year.

Operating Expenses

The total request is \$78,668, an increase of \$1,250 from 1949-50. The costs of suit and printing of briefs are partially reimbursable. Travel and automobile operation have increased \$1,000. This is due to new positions and the necessity of presenting cases in counties other than where offices are maintained. *We recommend approval.*

Equipment

Additional equipment is provided for one new deputy position. Additions to the law library have increased \$2,000, but the over-all total for law books is the same as last year. *We recommend approval.*

Division of Criminal Law

The amount requested is \$72,538 for 1950-51. This is an increase of \$1,058 or 1.5 percent over estimated expenditures for the 1949-50 Fiscal Year. The increase is due to normal salary adjustments. *We recommend approval.*

Bureau of Criminal Identification

The amount requested is \$682,351 for 1950-51. This is an increase of \$118,413 or 21 percent over estimated expenditures for the 1949-50 Fiscal Year.

Summary of Recommended Reductions

	<i>Amount</i>	<i>Budget page</i>	<i>Line No.</i>
Salaries and Wages			
2 new fingerprint technicians-----	\$5,280	451	49
3 new typist-clerks -----	6,840	451	56
Equipment			
Equipment for 2 fingerprint technicians-----	284	452	6
Equipment for 3 typist-clerks-----	882	451	80
Photomicrographic camera -----	1,100	452	11
 Total Reduction -----	 \$14,386		

Proposed new positions (Budget page 451, lines 49 to 56)----- \$49,056
1 Fingerprint technician and 3 file clerks.

We recommend one fingerprint position be deleted, saving \$2,640, and approval of five file clerk positions.

The agency requests one additional position, costing \$2,640, to process additional fingerprints. The following tabulation indicates a decrease in work load during 1949-50 Fiscal Year of 5.9 percent:

	<i>Actual</i>	<i>Actual</i>	<i>Estimated</i>
	<i>1947-48</i>	<i>1948-49</i>	<i>1949-50</i>
Total fingerprints received-----	287,767	329,837	310,364
Rate of increase over prior year-----	7%	14.6%	-5.9%

There will be approximately 30,000 prints backlogged in 1949-50. This is due to the transfer of fingerprint personnel to the records section to prevent a breakdown in work flow. We approve the request of 5 additional file clerks to replace these loaned positions and provide the Record Section with sufficient personnel to keep up the work. The return of these positions in 1950-51 will provide the fingerprint section with more actual positions than were available in 1949-50.

On the basis of prints processed during the first four months of 1949-50, these 65 authorized positions can process a work load of 345,000 fingerprints or 11.2 percent above the 1949-50 work load. This large an increase in ability to process work load should more than cover additional prints that may be received as a result of changes in the law in the reporting of sex offenses. No additional fingerprint positions are needed to process this increase.

6 Fingerprint technicians and 6 typist-clerks.

We recommend deletion of one fingerprint position and three typist-clerk positions, saving \$9,480. Twelve new positions costing \$29,520 are requested to process reports of additional arrests and dispositions of reported arrests. These reports provide a complete record on California criminals. It is estimated that 260,000 reports will be received in 1950-51. The present staff is now able to process all F. B. I. reports which make up 62.8 percent of the total. Additional positions are needed to process the remaining 37.2 percent. Eight positions can process this work load according to the production standards of the agency. *Four positions should be deleted.*

1 Modus operandi technician and 1 file clerk.

We recommend approval. These positions are requested to provide for processing of sex crime registrations. These registrations are processed by the Crimes Against Persons Unit. An increased number of registrations have been received since December, 1949.

Operating Expenses

The total increase amounts to \$56,500. The major item of increase is \$54,000 for new rented quarters. The present state-owned location is inadequate for the operation. The new location should provide considerable increase in efficiency. The remaining items of increase total \$2,500 and represent increased work load costs. We recommend approval.

Equipment

Photomicrographic camera (Budget page 452, line 11)----- \$1,100

This additional equipment must be considered an expansion of service and in the interests of economy we do not approve this request. The agency states the camera is needed to extend their ability to make suitable exhibits of evidence submitted in various criminal cases. During 1949-50 a total of \$8,200 was spent on additional technical equipment that considerably increased the level of service.

Equipment for positions recommended deleted----- \$1,166

A total of \$1,166 is budgeted for additional equipment for positions which we recommend not be granted.

Bureau of Investigation

The amount requested is \$174,351 for 1950-51. This is an increase of \$305 or 0.2 percent over estimated expenditures for the 1949-50 Fiscal Year. Normal salary adjustments amount to \$2,086. This increase is offset by a reduction in equipment. This budget provides for a continued appropriation of \$50,000 for secret investigation. This item was increased \$25,000 in 1949-50. We recommend approval.

Division of Narcotic Enforcement

The amount requested is \$229,462 for 1950-51. This is an increase of \$20,645 or 9.9 percent over estimated expenditures for the 1949-50 Fiscal Year.

Summary of Recommended Reductions

	<i>Amount</i>	<i>Budget page</i>	<i>Line No.</i>
Salaries and wages			
2 new special investigators-----	\$7,080	453	6
Reclassification of 12 special investigators-----	2,791	453	9
Operating expenses			
Increased expenses for new positions-----	\$3,600	453	28
Equipment			
Equipment for new positions-----	3,382	453	37
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Total reduction -----	\$16,853		

2 Additional special investigators----- Budget page 453, line 6

A new branch office is proposed for the Fresno area. The total cost for the first year would amount to \$14,062. Two additional special investigators are requested, costing \$7,080. Operating expenses for this office amount to \$3,600 and equipment amounts to \$3,382. *We recommend that the positions not be granted. The costs for equipment and operating expenses of the new branch office should be reduced accordingly.* The State tax base will not support the assumption of any major additional services to local governments. An additional branch office is an expanded service to one area which could be the entering wedge for several other such offices. Primary responsibility for law enforcement has been left to

local government while the State has provided central services that can be performed best on a state-wide basis. An example of this service is the regulation of the sale of narcotics by prescription. Approximately 20 percent of the budget of the Narcotic Division is devoted to this function. However, the State has assumed greater direct responsibility for enforcement of the Narcotic Act than for other criminal acts.

The Division of Narcotic Enforcement should continue to cooperate with the local police and sheriffs' offices with the view to obtaining greater and more efficient enforcement of the Narcotic Act by local police agencies. The existing authority given to the Attorney General over local law enforcement, and funds already at his disposal should be sufficient to secure such enforcement.

Reclassification of 12 special investigators-----Budget page 453, line 9

The agency requests reclassification of 12 special investigators to narcotic inspectors, grade 2. The cost of this reclassification amounts to \$2,791.

This reclassification has not been studied by the Management Analysis Section of the Department of Finance. The creation of these new higher positions changes the staffing pattern of the agency. *We recommend that this request be studied by the Management Analysis Section to determine whether there has been any change in the job to be done to warrant this reclassification and whether the higher level positions will reduce the number of positions needed to do the job.*

We recommend that the money not be granted at this time.

GENERAL SUMMARY

The Department of Justice was established in 1944. There are six divisions: Administration, Civil Law, Criminal Law, Criminal Identification, Investigation, and Narcotic Enforcement. The department is administered by the Attorney General, an elective constitutional officer. The major responsibility for law enforcement is at the local level in California. By constitutional amendment in 1934 the Attorney General was designated Chief Law Officer of the State with duties to coordinate local law enforcement and see that the laws are uniformly and adequately enforced. The department provides the following services to local law enforcement agencies: State-wide teletype, central fingerprint and criminal records, expert assistance in criminology, investigators, criminal appeals, narcotic enforcement. The department serves as the legal agency of the State. It represents the State and its officers in civil litigation and renders opinions on questions of law.

Division of Administration

This division contains the executive office of the Attorney General and provides departmental services of accounting and clerical pools. The teletype system and Statistical Bureau are added functions of the division. The teletype system was created in 1931 to provide rapid communication between law enforcement agencies and handle state administrative traffic. There are 102 stations in the system. The total cost of the system for 1950-51 is estimated to be \$285,434. Line facilities are leased at a rental of \$216,212 for 1950-51. Criminal messages are handled without charge. Administrative traffic pays a toll. The total charges estimated to be collected in 1950-51 are \$41,172 plus a lump sum payment of \$40,000

by the Department of Motor Vehicles. Deducting the sums collected from the total cost of the system, the cost of the service to law enforcement agencies is \$204,262.

A greater use of teletype by state agencies should reduce long distance telephone calls and bring down the cost per message on the teletype system.

The Bureau of Statistics was established in 1945 as a central statistical agency for the Departments of Justice, Corrections, and Youth Authority. The bureau operates in three units serving each department with a central tabulating unit. The units serving the Departments of Corrections and Youth Authority maintain prison and probation records for these agencies. Progress has been made in this program due to the control over the source of the statistics and an administrative interest in the work. The unit serving the Department of Justice processes crime reports sent to the Division of Criminal Identification. This program has been in operation since 1929. The only statistical series has been a periodic summary of felonies by crime and jurisdiction. These criminal statistics are difficult to compile because the bureau must rely on numerous local police departments for the source of information. Many police departments fail to report consistently, or even at all. The statistics that are compiled are not widely used because they are unavailable to the reporting agencies as provided by law. A principal reason for the lack of progress in this program is the almost total lack of interest shown by the Department of Justice in the work. The personnel cost for this unit for 1950-51 is estimated to be \$17,980. The expenditure of such a considerable sum for statistics that are not representative and for which little interest has been shown is questionable.

Division of Civil and Criminal Law

This division acts as legal adviser to state agencies and handles state litigation and criminal appeals.

The Government Code directs that special fund agencies shall pay for legal services. The charges, comparable to a retainer fee, were fixed more than a decade ago and numerous inequities exist. The legal staff should accept the task of keeping records so that proper billing can be obtained. Charges should be made for services rendered. Such procedure would provide more equitable accounting and a measure of the work load of the division. We recommend that records of charges for legal services to General Fund agencies also be kept. State agencies in which the Federal Government has an interest are presently billed for services rendered. The Division of Administration has approved this recommendation since 1948. We feel it should be in operation during the next fiscal year.

Bureau of Criminal Identification

This is a service agency for local police and certain state departments. The agency operates 365 days a year, 16 hours a day. Criminal fingerprints are processed and criminal records are supplied within 24 to 36 hours. The agency is able to make identifications of approximately 50 percent of the fingerprints received.

The law requires local police to send fingerprints of persons arrested for certain offenses. The Legislature enlarged this group in 1947 by including certain sex offenses. Fingerprints of all others arrested may be sent if the local police consider them to be *serious offenses*. The volume

and type of service provided by the State is left largely up to the individual police determination of a *serious offense*. Certain police departments are beginning to send fingerprints of persons arrested as drunks. This has resulted in backlogs and requests for additional positions. The bureau estimates that it costs the State seventy-five cents to process one print. The value of processing drunk arrests should be weighed against the cost involved. For example, in 1948 Los Angeles police arrested 101,930 persons as drunks. It would have cost \$76,447 to process this number of prints. *We recommend that the State not assume such expansion of service to local governments except upon a reimbursement basis.*

A considerable work load has been imposed upon the bureau by state agencies. Special fund agencies pay for this service, but General Fund agencies do not. We recommend that all agencies, regardless of source of funds, who propose to have name checks or fingerprints processed by the bureau budget for such services, and that a corresponding reimbursement to the credit of the bureau be shown. If the cost is shown in the budget of the receiving agency, it would come up for consideration as to its merits with each budget review.

Bureau of Investigation

The number of investigators allowed by statute is 16. This does not include undercover operators that may be hired out of the \$50,000 secret investigation fund. Since 1929 six investigators have been allowed to be detailed to district attorneys or peace officers, or the Attorney General for investigation of major crimes. Ten special agents have been allowed since 1935 to enable the Attorney General to perform his law enforcement duties to see that the laws are uniformly and adequately enforced.

Division of Narcotic Enforcement

This agency was established in 1929. Although California has never approved a general state police force, the State does assume some responsibility for enforcement of the Narcotic Act. The agency also regulates the sale of narcotics by prescription. A number of arrests and prosecutions are made each year, often in actions involving cooperation with federal authorities. Offices have been established in San Francisco, Los Angeles, and Sacramento.

**Department of Justice
ADDITIONAL SUPPORT**

ITEM 156 of the Budget Bill

Budget page 447
Budget line No. 75

For Additional Support of the Department of Justice From the Motor Vehicle Fund

Amount requested	\$40,000
Estimated to be expended in 1949-50 Fiscal Year	40,000
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Increase	None

RECOMMENDATIONS

Amount budgeted	\$40,000
Legislative Auditor's Recommendation	40,000
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Reduction	None

ANALYSIS

We recommend approval of this item. This is the same amount as the 1948-49 appropriation. The funds go toward the support of the teletype system of the Department of Justice for services rendered to the Department of Motor Vehicles. We again recommend that an analysis be made of the cost per teletype message and that such cost form the basis for projecting the amount of this appropriation based on the message volume of the Department of Motor Vehicles.

**Department of Justice
OTHER CURRENT EXPENSES**

ITEM 157 of the Budget Bill

Budget page 453
Budget line No. 50

For Fees to Special Counsel Employed Pursuant to Section 12520, Government Code, From the General Fund

Amount requested	\$2,500
Estimated to be expended in 1949-50 Fiscal Year	2,500
Increase	none

RECOMMENDATIONS

Amount budgeted	\$2,500
Legislative Auditor's Recommendation	2,500
Reduction	None

ANALYSIS

If a district attorney is disqualified to conduct any criminal prosecution within the county, the Attorney General may employ special counsel to conduct the prosecution. The amount requested for this purpose is \$2,500. Its expenditure is limited by the terms of the appropriation.

We recommend approval.

**Department of Justice
OTHER CURRENT EXPENSES—BANK TAX LITIGATION**

ITEM 158 of the Budget Bill

Budget page 455
Budget line No. 41

For Expenses of Litigation in Connection With the State Bank Tax From the General Fund

Amount requested	\$30,198
Estimated to be expended in 1949-50 Fiscal Year	None
Increase	\$30,198

RECOMMENDATIONS

Amount budgeted	\$30,198
Legislative Auditor's Recommendation	30,198
Reduction	None

ANALYSIS

This is a new item in the Budget to provide funds to handle litigation involving a challenge of the method of determining the rate of tax on banks and financial corporations (Bank and Corporation Franchise Tax Act, Section 4-a). This suit involves several millions of dollars paid to the State since about 1934. The suit has been pending for some years and there is still uncertainty whether it will be pressed. Amounts will be expended only as required for this action. We recommend approval of this item.

Department of Justice

OTHER CURRENT EXPENSES—SERVICES RENDERED COLORADO RIVER BOARD

ITEM 159 of the Budget Bill

Budget page 454
Budget line No. 5

For Services Rendered the Colorado River Board From the General Fund

Amount requested	\$46,981
Estimated to be expended in 1949-50 Fiscal Year	39,860
Increase (17.9 percent)	\$7,121

Summary of Increases

	Total increase	INCREASE DUE TO		Budget page	Line No.
		Work load or salary adjustments	New services		
Salaries and Wages	\$3,446	\$74	\$3,372	454	18
Operating Expense	3,675	---	3,675	454	25
Equipment	---	---	---	454	28
Total Increase	\$7,121	\$74	\$7,047		

RECOMMENDATIONS

Amount budgeted	\$46,981
Legislative Auditor's Recommendation	46,981
Reduction	None

ANALYSIS

During 1949-50 one senior legal stenographer position was added by using \$2,248 of funds budgeted for a consulting attorney. This budget includes this position on a full-time basis at a cost of \$3,372. The amount of \$24,000 for a consulting attorney on a per diem basis is the same as last year. In addition the Colorado River Board employs an attorney in Washington at a cost of \$6,000.

Travel expense has increased \$1,500 and printing of briefs is up \$2,000. These increased expenditures are in anticipation of litigation in the Supreme Court of the United States to resolve the conflict between Arizona and California as to the division of water available to the lower basin of the Colorado River. The supreme court has held that there can be no final adjudication of rights to the use of the water of the Colorado River system without the presence of the United States as a party. The United States cannot be sued without its consent.

Legislation was introduced in the Eightieth Congress in 1947, and again in the Eighty-first Congress in 1949 to grant the consent of Congress for the United States to be joined in this suit. This legislation died in the committees of both houses.

There is no certainty that consent will be obtained for this litigation from the present session of Congress. Arizona representatives seek a political determination in the Congress by endeavoring to secure the passage of legislation to authorize the Central Arizona Project.

If consent for this litigation is obtained, the amount requested will be needed. Substantial savings, however, should accrue if the suit is not granted. We recommend approval in the amount of \$46,981 as requested.

Department of Justice
OTHER CURRENT EXPENSES—ENFORCEMENT OF CARTWRIGHT AND
UNFAIR PRACTICES ACTS

ITEM 160 of the Budget Bill

Budget page 454
 Budget line No. 38

For Enforcement of the Cartwright and Unfair Practices Acts From the General Fund

Amount requested	\$22,588
Estimated to be expended in 1949-50 Fiscal Year	22,536
Increase	\$52

RECOMMENDATIONS

Amount budgeted	\$22,588
Legislative Auditor's Recommendation	None
Reduction	\$22,588

ANALYSIS

Prior to 1949-50 the Attorney General's budget did not include a separate appropriation for either the Cartwright or Unfair Practices Act enforcement. This expanded function was added in 1949-50 at a cost of \$22,536. The budget for 1950-51 provides for \$22,588. This amounts to 31 percent of the amount spent by the Division of Criminal Law.

We recommend that the request for \$22,588 be denied.

The State has had the Cartwright Antitrust Act since 1907. Forty-three years have produced but three reported cases in which the law was invoked by the State. The latest of these was in 1919. Seven other actions are reported, all brought by private litigants. We have been unable to obtain a report from the Department of Justice of the cases instituted under this act since July, 1949.

In other states antitrust laws have also gone almost unnoticed, this activity having been left to the Federal Government.

The record of the *federal* Antitrust Division prosecutions in California over the period 1939 to 1948 is shown below :

	<i>Total</i>	<i>Criminal</i>	<i>Civil</i>
Number of actions instituted	72	42	30
Government successful	59	37	22
Government unsuccessful	5	5	0
Pending	8	0	8

The significant fact in this record is that almost half the cases involved were predominantly local restraints. They would have been equally subject to prosecution under the Cartwright Act as unlawful restriction in intrastate trade. Both state and federal laws are applicable to local restraints which have a substantial effect on interstate commerce.

An example of the local nature of restraints that can be enforced by the Federal Government is: *United States v. San Francisco Hardwood Floor Contractors Association*, in which it was determined that the defendants had fixed unreasonably high prices for the installation and repair of hardwood flooring in the San Francisco Bay region through the use of uniform price lists and supervised bidding.

This Budget Bill Item also includes request for funds to enforce the Unfair Practices Act. The State has power to prosecute violations of these acts as misdemeanors. A recent case decided by the Third District Court of Appeal and now before the Supreme Court has held that the State is *not* authorized to maintain a civil action to *enjoin* alleged violations of the Unfair Practices Act. The act provides that *private litigants may enjoin and restrain any violation of the act and can also recover damages*. The Attorney General has stated that district attorneys feel criminal convictions are difficult to obtain and even virtually impossible because of the high cost of living. Public sentiment against present high prices mitigates against convictions for price cutting. It appears that the use of the injunction is the most efficient method of enforcing the Unfair Practices Act. This remedy is available to private litigants. We recommend that enforcement of this act be left primarily to private litigants.

Department of Mental Hygiene
GENERAL RECOMMENDATIONS

ITEMS 161-178, inclusive of the Budget Bill

The budget request for the Department of Mental Hygiene for the 1950-51 Fiscal Year provides for a definite and substantial improvement in the level of services rendered in these institutions. It is reasonable to expect that if the Legislature approves the proposed increase, coming as it does upon the very substantial increases already provided in recent years by the Legislature, the results secured from this program should be material and relatively conclusive. It is only recently that there has been any real demonstration of an increase in the number of persons discharged from the mental hospitals as improved or recovered. Approval of the proposed request, particularly that portion of the program which represents an improvement in medical care and treatment, will therefore be somewhat experimental in nature. We believe, therefore, that greater attention should be placed upon demonstrating to the Legislature reasonably concrete results from the expanded program.

In general, we recommend that the Legislature approve the proposed medical program. We have taken exception to the proposed expansion of the extramural care program at the departmental level for the reason that this function needs to be placed on a sounder basis in its relationship with the mental institutions and, until this is achieved, we do not recommend expansion of the unit. Our recommended approval of the medical program includes approval of 400 new hospital attendants, 109 reclassifications of hospital attendants and graduate nurses to psychiatric nurses, additional senior physicians and surgeons, clinical psychiatrists, dentists, chiropodists, assistant superintendents of nurses, psychiatric nursing instructors, therapists, chaplains, intramural social workers, pilot studies, and two new out-patient clinics. In addition, we have recommended approval of the majority of the clerical and miscellaneous positions which will be needed to service the expanded staff.