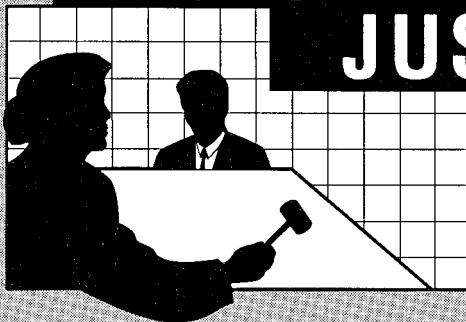


# JUDICIARY & CRIMINAL JUSTICE





## MAJOR ISSUES

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**Assuming Federal Reimbursements for Incarceration of Undocumented Immigrants Entails Budget Risk.** There is substantial risk that \$250 million in additional federal funds will not be provided. We recommend that the Legislature review the Governor's contingency plan to address such a potential shortfall and develop an alternative, based on its priorities. (See page 15.)

**Legislature Should Consider Measures to Reduce Prison Population.** The Administration projects that the prison population will increase at an average annual rate of 5.2 percent, reaching 141,000 inmates by 1997-98. A number of studies have raised questions about the benefits of incarceration for certain types of offenders, and whether incarceration has much impact on reducing crime. We recommend that the Legislature consider various options (particularly options that target nonviolent offenders) for controlling the growth in the prison and parole populations as it looks for ways to solve the state's overall fiscal problem. (See page 30.)

**Closure of County Probation Camps Could Further Increase Youth Authority Population.** Following several years of declines, the ward population is expected to increase steadily, reaching 10,000 wards by 1996-97. Among the reasons for the increase is the increasing number of juveniles admitted to the Youth Authority for violent offenses. This projected population could be significantly exacerbated if counties, as they have announced, close some or all of their juvenile probation facilities. We

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recommend that the department consider the impact of potential closures on its May revision population projections. (See page 61.)


■ **Trial Court Funding Budget Falls Short of Legislative Intent.**

Although the Legislature expressed its intent to support 60 percent of trial court costs in 1993-94, the proposed budget will support only 46 percent. In order to fund the program at the 60 percent level, the budget would have to be augmented by about \$218 million. (See page 70.)

■ **Trial Court Funding Program Has Not Met Expectations.**

In establishing this program, the Legislature identified three goals: (1) increase state funding for the trial courts, (2) transfer local court revenues to the state for a net benefit to the General Fund, and (3) improve the public's access to justice through implementation of efficiencies and cost savings measures. Based on our review, we conclude that these goals have not been met. As a result, the Legislature needs to assess whether to continue the program. (See page 73.)

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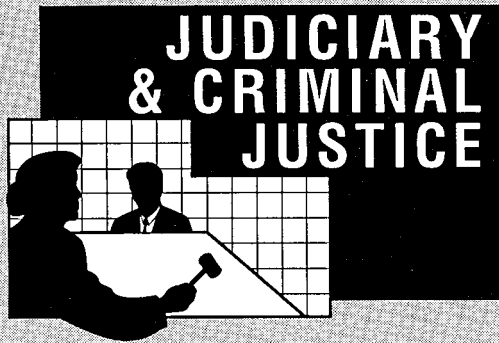
# TABLE OF CONTENTS

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Overview .....	5
Spending by Major Programs .....	7
Major Budget Changes .....	8
Crosscutting Issues .....	11
Impact of Current-Year Budget Actions .....	11
Federal Funding for Incarceration of Undocumented Immigrants .....	15
Departmental Issues .....	19
Department of Corrections (5240) .....	19
Department of the Youth Authority (5460) .....	55
Trial Court Funding (0420 and 0450) .....	67
Judicial (0250) .....	76
Department of Justice (0820) .....	80
List of Findings and Recommendations .....	85

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## OVERVIEW

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**E**xpenditures for judiciary and criminal justice programs are proposed to decrease slightly in the budget year. The principal reason for the reduction is the Governor's assumption that the state will receive \$250 million in federal funds to offset the costs of incarcerating undocumented immigrants in state prison. (In the absence of these federal funds, expenditures for these programs would increase in the budget year.) The budget proposes to essentially provide full funding for caseload-driven programs in the Departments of Corrections and the Youth Authority, and a reduction in state support for the trial courts.

The budget proposes General Fund expenditures of \$3.8 billion for judiciary and criminal justice programs in 1993-94. This is 10.3 percent of all General Fund spending. The budget proposal represents a reduction of \$120 million, or 3 percent, below estimated expenditures in the current year. This reduction is primary due to the Administration's assumption that the state will receive \$250 million in federal funds to offset the incarceration costs of undocumented immigrants.

Figure 1 shows that judiciary and criminal justice expenditures from the General Fund increased by \$2.2 billion since 1986-87, representing an average annual increase of 11 percent. General Fund expenditures decreased slightly in 1992-93, principally because of a significant shift of support for the Trial Court Funding Program from the General Fund to a special fund.

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Combined General Fund *and* special funds spending is proposed to decrease by \$51 million, or about 1.2 percent, between the current and budget years.

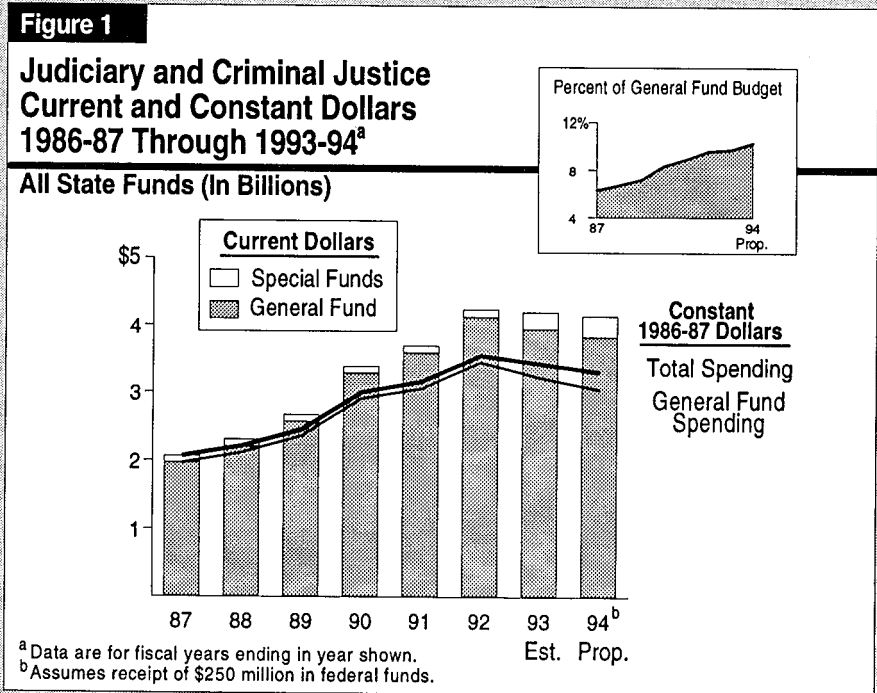


Figure 1 also displays spending when adjusted for inflation. On this basis, General Fund spending increased by an average of 7.5 percent annually. The share of the state's General Fund spending allocated to judiciary and criminal justice has nearly doubled over the period, increasing from 5.7 percent in 1986-87 to 10.3 percent in 1993-94. Combined General Fund and special funds expenditures are estimated to increase by 60 percent from 1986-87 to 1993-94, on a constant dollar basis. This is an average annual rate of increase of 6.9 percent.

**Federal Funds for Incarceration of Undocumented Immigrants Not Shown in Budget.** It should be noted that the proposed amount assumes that the state will receive \$250 million in federal funds to offset the costs of incarcerating undocumented immigrants in the Department of Corrections (CDC) who have been convicted of felonies in California. Although this reduction is counted in the total expenditures for the Governor's Budget, it is not reflected in either the CDC budget or the Budget Bill. If the totals shown in the CDC budget are used, proposed

expenditures for judiciary and criminal justice programs would actually *increase* by \$199 million, or 4.7 percent, over estimated current-year expenditures. (Please see "Crosscutting Issues" immediately following this overview for more information on the Governor's proposal).

## SPENDING BY MAJOR PROGRAMS

Figure 2 shows expenditures for the major judiciary and criminal justice programs in 1991-92, 1992-93, and as proposed for 1993-94. As the figure shows, the CDC accounts for the largest share—57 percent—of total spending in the judiciary and criminal justice area.

**Figure 2**

### Judiciary and Criminal Justice Budget Summary<sup>a</sup> Selected Funding Sources 1991-92 Through 1993-94

(Dollars in Millions)

	Actual 1991-92	Estimated 1992-93	Proposed 1993-94	Change from 1992-93	
				Amount	Percent
<b>Department of Corrections</b>					
General Fund	\$2,384.2	\$2,384.1	\$2,354.2	-\$29.8	-1.3%
Bond funds	28.6	49.0	51.3	2.2	4.5
<b>Totals</b>	<b>\$2,412.9</b>	<b>\$2,433.1</b>	<b>\$2,405.5<sup>b</sup></b>	<b>-\$27.6</b>	<b>-1.1%</b>
<b>Department of the Youth Authority</b>					
General Fund	\$323.6	\$313.3	\$322.5	\$9.3	3.0%
<b>Trial Court Funding</b>					
General Fund	\$747.3	\$612.0	\$495.3	-\$116.7	-19.1%
Special funds	—	140.0	211.0	71.0	50.7
<b>Totals</b>	<b>\$747.3</b>	<b>\$752.0</b>	<b>\$706.3</b>	<b>-\$45.7</b>	<b>-6.1%</b>
<b>Judicial</b>					
General Fund	\$143.6	\$142.4	\$155.3	\$12.9	9.1%
<b>Department of Justice</b>					
General Fund	\$165.7	\$150.5	\$159.7	\$9.2	6.1%
Special funds	46.4	45.0	44.1	-0.9	-2.1
<b>Totals</b>	<b>\$212.1</b>	<b>\$195.5</b>	<b>\$203.8</b>	<b>\$8.3</b>	<b>4.2%</b>
<b>Office of Criminal Justice Planning</b>					
General Fund	\$55.7	\$25.5	\$25.6	\$0.1	0.2%
Special funds	16.8	17.5	14.3	-3.2	-18.1
Federal funds	61.5	58.0	57.0	-1.0	-1.7
<b>Totals</b>	<b>\$134.0</b>	<b>\$101.0</b>	<b>\$96.9</b>	<b>-\$4.1</b>	<b>-4.1%</b>

<sup>a</sup> Details may not add to totals due to rounding.

<sup>b</sup> Adjusted to reflect Administration's assumption that the state will receive \$250 million in federal funds.



## **MAJOR BUDGET CHANGES**

Figure 3 presents the major budget changes resulting in a net decrease of \$120 million in General Fund spending for judiciary and criminal justice. Generally, the major changes can be categorized as follows.

***The Budget Proposes to Provide Full Funding for Caseload Increases.*** This includes funding for projected inmate population increases of 5.4 percent in the CDC and ward population increases of 4.2 percent in the Department of the Youth Authority. The budget contains no proposals that would result in a reduction in the inmate population and only one proposal that will result in a very small reduction in the ward population.

In addition, the budget proposes to provide full funding for caseload increases in the Judicial's court-appointed counsel program and the Department of Justice's Appeals, Writs, and Trials Program.

***The Budget Proposes No New Significant Program Changes or Investments.*** The significant noncaseload proposals are to continue funding projects that have already began, such as information systems projects in the appellate courts and the CDC.

***The Budget Proposes Additional Reductions and Shifts in Trial Court Funding Program.*** The budget proposes to reduce state support of trial courts by about \$46 million, or 6.1 percent. This decrease includes a reduction of \$125 million for trial court block grants, which is partially offset by an increase in projected revenues to the Trial Court Trust Fund, which would be redistributed to local governments and courts.

***The Budget Proposes to Make Greater Use of Bond Funds for Ongoing Support.*** The budget requests augmentations from bond funds and proposes shifts from the General Fund to bond funds for a variety of activities in the Departments of Corrections and the Youth Authority. Several of these proposals are to use bond funds to pay for ongoing support costs, not capital outlay acquisition expenses.

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Figure 3

### Judiciary and Criminal Justice Proposed Major Changes for 1993-94 All Funds

<b>Department of Corrections</b>	<b>Requested:</b>	<b>\$2.4 billion</b>	
	<b>Decrease:</b>	<b>\$29.1 million</b>	<b>(-1.1%)</b>



- \$269 million for inmate and parole population increases (including \$40.5 million to open one new prison)
- \$11.4 million for second-year funding of Correctional Management Information System



- \$250 million due to requested federal funds to offset costs of incarcerating undocumented immigrants
- \$15.8 million (net effect) for elimination of personal leave program

<b>Department of the Youth Authority</b>	<b>Requested:</b>	<b>\$348 million</b>	
	<b>Increase:</b>	<b>\$3.3 million</b>	<b>(+9%)</b>



- \$4.0 million for ward and parolee population increases

<b>Trial Court Funding</b>	<b>Requested:</b>	<b>\$706.3 million</b>	
	<b>Decrease:</b>	<b>\$45.7 million</b>	<b>(-6.1%)</b>



- \$6.4 million for increased retirement contributions



- \$54 million unallocated reduction (decrease of \$125 million for block grants, offset by increase of \$71 million from Trial Court Trust Fund)

<b>Department of Justice</b>	<b>Requested:</b>	<b>\$220.4 million</b>	
	<b>Increase:</b>	<b>\$5.2 million</b>	<b>(+2.4%)</b>



- \$9.4 million for workload increases in Appeals, Writs and Trials and Correctional Law Programs



- \$3.6 million for expiration of limited-term programs





## CROSSCUTTING ISSUES

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### IMPACT OF CURRENT-YEAR BUDGET ACTIONS

*The departments and programs in the judiciary and criminal justice area took a variety of actions to implement current-year budget reductions, including increasing caseloads for parole supervision and reducing personnel. Many of these actions will result in increasing fiscal and programmatic responsibilities of local governments and delaying case work processing at the state level.*

Many of the judiciary and criminal justice programs experienced reductions in their overall budgets in the current year as a result of specific actions taken by the Legislature and Governor in enacting the 1992 Budget Act. Figure 4 shows the *major* actions taken by judiciary and criminal justice programs to reduce expenditures in line with the budget.

Although the reductions taken by judiciary and criminal justice programs were substantial, these programs did not experience the same level of reductions in their overall budgets as did programs in many other areas of the budget. The current-year budget did not include any changes designed to reduce the number of offenders being incarcerated in prison or supervised on parole.

#### **Few Program Eliminations**

There were few programs that were completely eliminated in the current year. The only significant elimination was the Office of Criminal Justice Planning's (OCJP) Comprehensive Alcohol and Drug Prevention

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Figure 4

### Judiciary and Criminal Justice Programs Major General Fund Budget Reduction Actions 1992-93

Department	Total Reduction (In millions)	Major Actions to Implement Reduction
Department of Corrections	\$101.0	<ul style="list-style-type: none"> <li>• Reduced 385 parole positions, resulting in increased parole agent caseloads (\$32 million)</li> <li>• Delayed opening of two new prisons (\$26.5 million)</li> <li>• Unallocated reductions to individual prisons (\$15.2 million)</li> <li>• Reduced operating expenses and deferred equipment purchases in prisons (\$15 million)</li> <li>• Increase ratio of students to instructors in prison schools (\$5 million)</li> <li>• Miscellaneous other reductions and funding shifts (\$6.8 million)</li> </ul>
Department of the Youth Authority	8.0	<ul style="list-style-type: none"> <li>• Eliminated 65 middle-management and central administration positions (\$3.5 million)</li> <li>• Deferred maintenance and equipment purchases (\$1.2 million)</li> <li>• One-time reduction in training academy (\$1 million)</li> <li>• Elimination of inspections of local juvenile detention facilities (\$965,000)</li> <li>• Reduction in reimbursements for local parole detention (\$569,000)</li> <li>• Miscellaneous program and contract reductions (\$753,000)</li> </ul>
Judicial	15.1	<ul style="list-style-type: none"> <li>• Made variety of reductions in appellate courts and Judicial Council, including deferral of merit salary adjustments, salary reductions, and reductions to Assigned Judges Program</li> </ul>
Department of Justice	17.1	<ul style="list-style-type: none"> <li>• Delayed caseload processing in Bureau of criminal Law (\$4.4 million)</li> <li>• Reduced Bureau of Narcotic Enforcement by 37 positions, including special agent positions (\$2.9 million)</li> <li>• Reduced criminal identification program by 62 positions (\$2.3 million)</li> <li>• Reduced Bureau of Forensic Services, including reducing response time for crime analysis (\$2.3 million)</li> <li>• Miscellaneous other reductions in Division of Law Enforcement (\$5.1 million)</li> </ul>
Office of Criminal Justice Planning	27.2	<ul style="list-style-type: none"> <li>• Elimination of Comprehensive Alcohol and Drug Education Prevention (CADPE) Program (\$26.5 million)</li> <li>• Miscellaneous reductions in administrative and operating expenses (\$698,000)</li> </ul>

Education (CADPE) program, which resulted a savings of \$26.5 million to Proposition 98 funds. About \$4 million remains in the OCPJ's current-year budget for school-based drug prevention programs. Other eliminations included the Board of Prison Terms' disparate sentencing review program (reduction of \$500,000) and the Department of the Youth Authority's local juvenile detention inspection program (reduction of \$965,000).

The budget also included one significant program consolidation. Specifically, the parole revocation and review process for parolees who had served determinate prison sentences was moved from Board of Prison Terms to the Department of Corrections (CDC), which resulted in General Fund savings of \$1.3 million.

### Several Ongoing Changes

Although few programs were completely eliminated, a number of changes were made that should result in ongoing savings. The most significant of these was the reduction of \$32 million in the CDC's parole program, which was about 20 percent of the total for parole supervision.

### Funding Restored For Some Reductions

In some cases, funding that had been reduced from the budget was subsequently partially restored. Prison activations and trial court funding are two such examples, as detailed below.

- **Prison Activation Funding.** The 1992 Budget Act included a reduction of \$62.5 million to the CDC to delay the opening of the new Antelope Valley (Lancaster) and North Kern (Delano) prisons until 1993-94. However, Ch 695/92 (SB 97, Torres) restored \$54 million of this amount to enable the CDC to open the two facilities in the current year. Although the Governor vetoed the funds for the North Kern facility, the department has requested \$13.5 million in a current-year deficiency to open the facility. Thus, the savings due to delayed opening of prisons was reduced from \$62.5 million to \$26.5 million.
- **Trial Court Funding.** The Governor vetoed \$206 million in General Fund support for the Trial Court Funding Program in the 1992 Budget Act and indicated his intent to veto AB 1344 (Isenberg), which transferred certain court fees to the state to offset General Fund costs for the program. This would have resulted in a net reduction of \$135 million for the program below the 1991-92 level. However, the Governor later signed AB 1344

(Ch 696/92), which will result in revenues to the state of \$140 million in the current year. The Governor's Budget now proposes to redistribute those revenues in the current year, which will mitigate the impact of the veto.

### **Impact of the Reductions—Increases in Local Responsibility, Delays in Case Processing**

Although the impact of the current year reductions will take some time to assess, based on our review we conclude that there are likely to be two primary effects.

First, the reductions will result in increased fiscal and programmatic responsibilities of local governments. In the case of Trial Court Funding, current-year budget actions required counties to backfill for reductions in state funding. In addition, the 1992 Budget Act and related legislation transferred additional court-related revenues to the state, thus eliminating a revenue source of local governments (we discuss the Trial Court Funding Program in greater detail later in this *Analysis*).

In addition, many of the reductions will place additional responsibilities on local law enforcement agencies. For example, the significant increases in parole agent caseloads in the CDC will result in additional responsibilities for local police and sheriffs, since parole often serves a street-level law enforcement function. Likewise, reductions in various law enforcement assistance programs in the Department of Justice (DOJ) will increase workload and costs for local agencies.

Second, the reductions generally will result in a backlog of case work in all areas of judiciary and criminal justice programs. This is primarily due to the elimination of positions and the deferral of workload. For example, reductions in the DOJ's Division of Criminal Law will result in a backlog of cases. Similar effects will be realized in the Judicial budget. Some of the reductions, such as deferral of equipment purchases and maintenance, will simply result in additional costs in future years.

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## **BUDGET ASSUMES FEDERAL FUNDING FOR INCARCERATION OF UNDOCUMENTED IMMIGRANTS**

*The proposed budget assumes that the state will receive \$250 million in federal funds for the incarceration of undocumented immigrants who have been convicted of a state felony. There is substantial risk, however, that the funds will not be provided. Consequently, we recommend that the Legislature review the Governor's contingency plan for addressing the shortfall and develop its own plan based on the Legislature's funding priorities.*

The Governor's 1993-94 proposed budget assumes that the state will receive an additional \$1.6 billion in federal funds for a total General Fund savings of approximately \$1.4 billion. This savings includes \$250 million for costs of incarcerating undocumented immigrants in state prison who have been convicted of a felony. (Please see the Health and Social Services section in this *Analysis* for further information on the related proposals in that area.)

Although the Governor's Budget assumes the receipt of \$250 million in federal funds, the CDC's budget has *not* been reduced by that amount. (This is in contrast to the health and welfare portions of the budget, which have been reduced as a result of the anticipated receipt of these funds.)

### **Federal Legislation Must First Be Enacted**

The Administration's assumption is based on the provisions of the Immigration Reform and Control Act (IRCA) of 1986, which states that the federal government will reimburse states for such costs. However, the IRCA also states that these reimbursements to states are *subject to annual appropriations*. Thus, before the state can receive any federal funds for undocumented immigrant incarceration costs, Congress will have to first enact legislation appropriating federal funds to California.

### **Administration's Estimate of Incarceration Costs of Undocumented Immigrants**

The \$250 million amount is based on the CDC's estimate that 12 to 13 percent of the inmate population, as of December 1992, were undocumented immigrants. At an annual average incarceration cost per inmate of approximately \$21,000, total funding for this population would be approximately \$273 million. The Administration's proposal of



\$250 million, however, only assumes federal reimbursement for nine months—October 1, 1993 through June 30, 1994.

### **Potential Fiscal Implications of Administration's Federal Reimbursement Assumption**

While the Governor's Budget characterizes the full \$1.6 billion of additional reimbursements as funds "owed" to California for services provided, less than \$500 million of the total is based on a specified federal appropriation that has not been allocated. Of the remaining \$1.1 billion, \$354 million (for refugees and corrections) is associated with a federal statutory provision indicating an intent or an authorization to reimburse states for these costs. Expressions of intent and statutory authorizations, however, do not create legal obligations to appropriate funds. In fact, it is common practice for Congress to authorize a higher level of funding than it ultimately appropriates for a program. Thus, for the most part, the budget proposal appears to be based more on a "moral" than a legal obligation—that is, costs have been incurred or will occur in 1993-94 as a result of federal policy mandates which fall disproportionately on California.

Even if Congress and the federal administration are sympathetic to this argument, the concern over the federal deficit may make Members of Congress reluctant to allocate additional funds to California. Recognizing the possibility that these funds may not be forthcoming, the Governor has indicated that he will propose additional significant reductions in health and social services programs if Congress does not appropriate the federal reimbursements by May 15, 1993 (please see the Health and Social Services Section for details).

The Administration's contingency plan does not call for any reductions in expenditures for the CDC if the federal funds are not received.

### **Legislature's Alternatives if Federal Funds are Not Received**

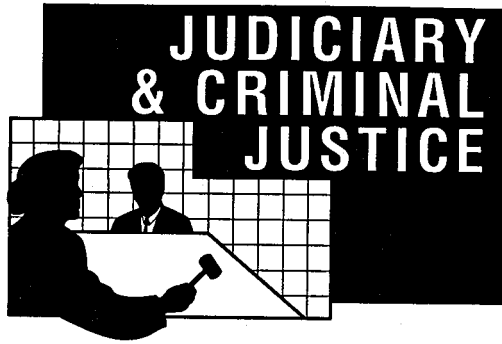
As discussed in our companion document, *Perspectives and Issues*, the potential budgetary shortfall created by assuming the receipt of additional federal funds is only part of the state's fiscal problem in the current and budget years. Given the situation and the significant budget reductions enacted in recent years, there are no attractive options for addressing the possibility that the additional federal funds will not be forthcoming in 1993-94. We note, however, that a contingency plan need not be confined to health and social services programs, as suggested by the Governor. Thus, in order to help ensure that the budget reflects

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legislative priorities, we recommend that the Legislature review the Governor's contingency plan during the budget hearings and develop an alternative to address the potential shortfall created by the budget proposal. We offer a number of options for reducing expenditures in the CDC budget later in this *Analysis*. These options could easily result in \$250 million in savings to offset the federal funds amount proposed for the CDC.

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## DEPARTMENTAL ISSUES

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### DEPARTMENT OF CORRECTIONS (5240)

The California Department of Corrections (CDC) is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts. It also supervises and treats parolees released to the community.

Currently, the department operates 23 institutions, including a medical facility and a treatment center for narcotic addicts under civil commitment, and 38 fire and conservation camps. The department also provides parole supervision, operates community correctional centers and facilities, and provides outpatient psychiatric services for parolees and their families.

The budget proposes total expenditures of \$2.7 billion for the CDC in 1993-94. This is \$221 million, or 8.9 percent, above current-year expenditures. Expenditures from the General Fund total \$2.6 billion in the budget year, an increase of \$220.2 million, or 9.2 percent, over total General Fund expenditures in 1992-93. Although the Governor's Budget assumes that the state will receive an additional \$250 million in federal funds for the incarceration of undocumented immigrants for nine months of the budget year, the amount is not included in the Budget Bill appropriations for the CDC (please see our write-up on this issue in the "Crosscutting Issues" section of this *Analysis*).

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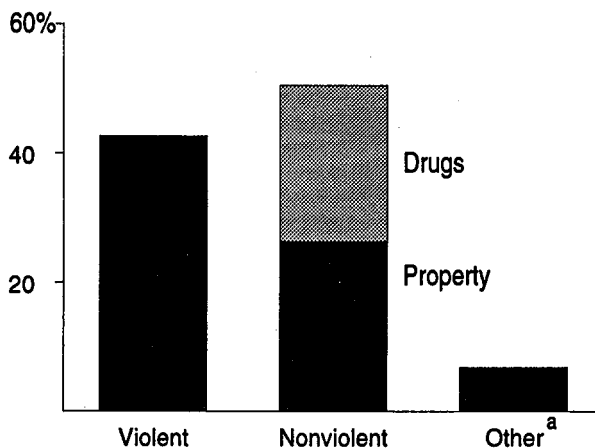
## Who Is In Prison?

Figures 5 through 8 illustrate the characteristics of the state's prison population, as of June 30, 1992. As the charts show:

- The majority of inmates are incarcerated for *nonviolent offenses* (Figure 5).
- About two-thirds of all inmates were committed to prison from southern California, and about 40 percent are from Los Angeles County (Figure 6).
- More than two-thirds of all inmates are between 20 and 34 years of age, with the number of inmates falling dramatically starting at age 35 (Figure 7).
- The prison population is divided relatively evenly between Whites, Blacks, and Hispanics (Figure 8 on page 22).

**Figure 5**

### Prison Population by Type of Offense June 30, 1992



<sup>a</sup> Includes escape, driving under the influence, arson, and possession of a weapon, among others.

Figure 6

**Prison Population by Area of Commitment  
June 30, 1992**

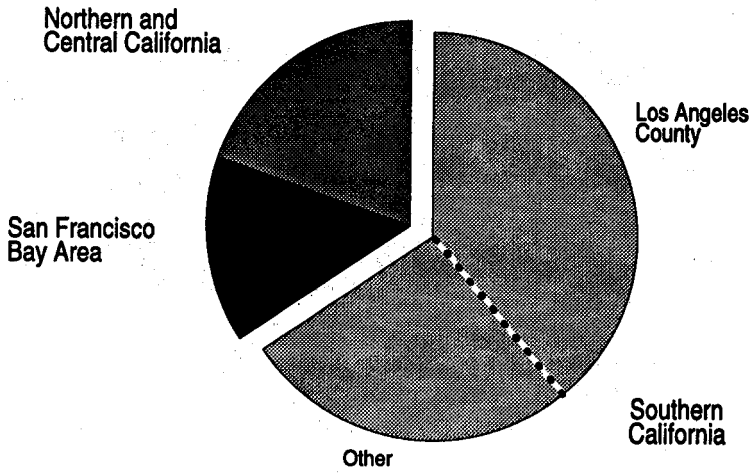


Figure 7

**Prison Population by Age Group  
June 30, 1992**

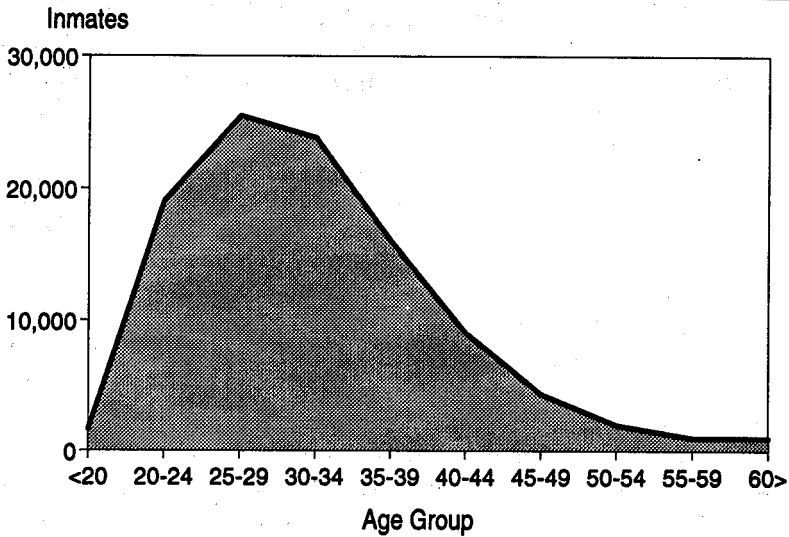
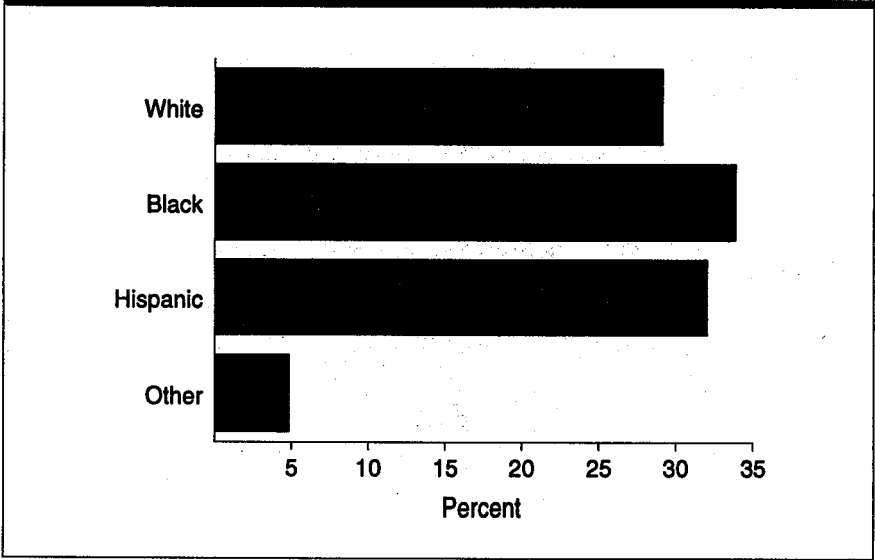


Figure 8

**Prison Population by Ethnicity  
June 30, 1992**

## Recent Projections Predict Steady Growth in Prison Population

*The CDC's most recent projections estimate that the inmate population will continue to increase, reaching 141,000 inmates by 1997-98. There are, however, a number of potential risks that could result in substantial changes in these projections.*

Every fall the CDC projects the prison inmate and parolee populations for the current year, the budget year, and the four following years. The recently released fall 1992 population projections show the inmate population reaching slightly over 113,000 inmates by June 30, 1993, and increasing to approximately 119,000 by June 30, 1994, which represents an increase of 8.4 percent in the current year and 5.4 percent in the budget year. The CDC also projects, based on existing policies and laws, that the number of inmates in state prison will grow at an average annual rate of 5.2 percent through 1997-98, reaching a total of 141,000 inmates by the end of that period. Although a substantial increase, this is less than half of the annual growth rate of about 11 percent observed over the last six years. The CDC will revise its fall 1992 projections in spring 1993.

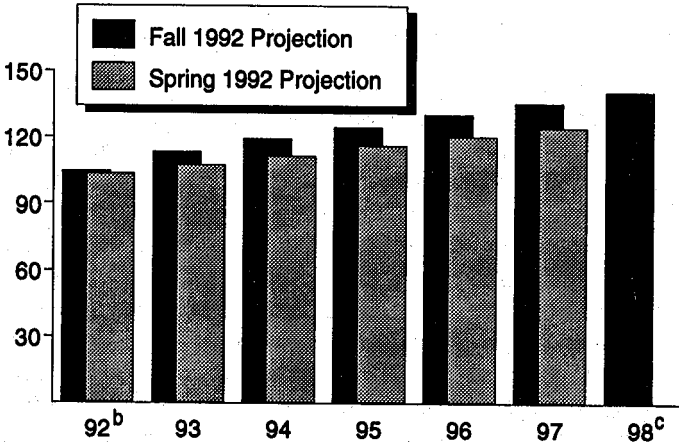
## Projections Show Significant Increase Over Previous Spring Estimate

The fall 1992 inmate population projections show a significant increase over the spring 1992 projections. Figure 9 compares the two most recent projections. In the spring 1992 projection, the CDC estimated that the prison population would total approximately 111,000 inmates by June 30, 1994. The fall projection now shows 119,000 inmates by the same date, an increase of 7 percent over the earlier projection.

Figure 9

### Prison Inmate Projections Revised Upward 1992 Through 1998<sup>a</sup>

(Inmates in Thousands)



<sup>a</sup> As of June 30 of each year.

<sup>b</sup> Actual population for fall 1992.

<sup>c</sup> No spring 1992 estimate.

### What Accounts for the Change in the Projections?

The CDC attributes the increase in its projections primarily to two recent significant changes in the inmate population that occurred during the first half of 1992-93.

**New Admissions to Prison Are Up.** The number of felons admitted to prison is primarily determined by actions of local law enforcement and prosecution agencies and the courts. There has been a significant increase recently in the number of felons committed to prison. In fact, the number of felons admitted during just the first three months of 1992-93 was equivalent to about half of the felons admitted during all



of 1991-92. The recent increase in felon admissions has come from primarily southern California (excluding Los Angeles County) and to a lesser extent the Bay Area. According to the CDC, the specific reasons for the increases from these two areas are currently unclear.

***Time Served by Parolees Returned to Custody.*** Recently the CDC has seen a decline in the number of parolees returned to custody for violating their parole. The decline in the number of parole violators can be partly attributed to a recently implemented program by the CDC to provide parole agents with alternative options to reincarceration for minor parole violations that do not pose a threat to public safety. However, the amount of time served by those parole violators who are returned to custody has increased. As a result, the fall projections now assume that these inmates will serve an average of 4.2 months, instead of 3.6 months, as assumed last spring.

### **New Methodology Shows Even Higher Projections**

As noted earlier, the CDC produces a six-year forecast of institution and parole populations twice a year. These forecasts are used to support the CDC's annual budget requests and to develop the department's annual Five-Year Facilities Master Plan. The current forecasting model, which the CDC has used since 1987, is generally accurate for projecting short-term changes in the inmate or parolee populations. However, because the model places more weight on *recent* population changes it is not as effective for predicting long-term population trends. As a result, the long-term projections change significantly from projection to projection. This makes it particularly difficult for the department to accurately project future prison bed needs and for the Legislature to evaluate the long-term effects of the state's correctional policy.

***New Methodology.*** The CDC has recently developed an alternative model for forecasting its population. The new model applies equal weight to very current inmate or parolee changes and the historical trends. The new method results in gradual and stable movements in the long-term projections, instead of sharp changes over time. According to the CDC, the new model increases the stability of the long range projections, while retaining the short range accuracy of the previous method.

Although the CDC has developed and tested the new forecasting approach and found it to be more reliable than its current approach, the budget and the Administration's six-year projections are *not* based on it. Had the CDC used the new forecasting approach, the year-end inmate population figure for 1993-94 would have been approximately 160 inmates greater than the number anticipated in the Governor's

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Budget. More importantly, however, the new approach would have resulted in an estimated population of 148,000 inmates by 1997-98, or 7,400 inmates more than the official projection. The Department of Finance has recommended that the CDC continue to use the current projection model for another year before considering applying the new approach for budget and capital outlay planning purposes. (We discuss the impact of the new methodology on the 1993-94 budget below and recommend its adoption.)

## **Potential Risks to Accuracy of Projections**

The accuracy of the department's projections depend greatly on legislation-driven changes in sentencing law, local government revenues and spending priorities, and the policies of local prosecuting agencies and the CDC. Changes in any one of the following major areas could easily result in a higher-than-projected prison growth rate by increasing either the number of inmates admitted to prison or the amount of time they spend in prison. Likewise, an adjustment in the opposite direction could result in a much smaller growth or decline in the inmate population. In this section, we discuss some potential risks to the accuracy of the projections.

*Sentence Increases Through Legislation.* The department's projections assume no changes in the current law that will increase sentence lengths beyond those statutory changes enacted through 1992. Future legislation that raises or lowers sentence length or modifies criminal penalties (such as denying probation as a penalty option for an offense or upgrading a misdemeanor offense to a felony) could lead to higher or lower rates of inmate population growth.

For example, the Governor recently announced his plans to propose several pieces of major legislation to lengthen prison sentences for specified offenders. Based on our understanding of the proposed changes, the Governor's proposals, if enacted, could easily increase the prison population by thousands to tens of thousands of inmates.

*Reduction in Inmate Educational or Work Opportunities.* Inmates who work or participate in education programs earn credits, thereby reducing the time that they spend in prison. Budget reductions resulting from the state's poor fiscal condition could reduce the number of work or educational opportunities, thereby increasing the inmate population.

*Change in Local Revenues or Spending Priorities.* Given the current poor fiscal condition of local governments, the inmate population could increase due to a shift of persons from probation or county jail to state prison. However, this increase could be offset with a leveling off or a

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drop in new admissions to state prison due to reductions in funding for street-level law enforcement in cities and counties. With the Governor's Budget proposal to shift \$2.6 billion of property taxes from local governments to schools, the likelihood of either of these scenarios occurring is all the greater.

To the extent that the fiscal condition of local governments improves following an upturn in the California economy in the future, or local officials are pressured to do more street-level law enforcement, the rate of felony arrests could increase again to the levels of recent years, leading to growth in new admissions beyond anticipated levels.

*Change in Policies of Local Prosecuting Agencies.* Changes in the local prosecution patterns of local district attorneys could increase the prison population. For example, prosecutors may decide to reduce plea bargaining. Such policies would add to the prison inmate population by resulting in longer sentences.

*Change in Parole Revocation Criteria.* As noted earlier, one of the primary factors that has caused the recent surge in the inmate population has been the length of stay for parole violators. The CDC recently implemented new parole revocation policies that have resulted in a significant decline in the rate that parolees are returned to prison. However, those parole violators returned to prison for committing serious offenses stay longer now. If in the future the CDC chooses to apply more stringent parole revocation criteria, the rate at which parole violators are returned to prison would increase.

*LAO Assessment of the Potential Risks.* Our analysis indicates that the CDC fall projections are reasonable if all potential factors remain relatively constant. However, this is highly unlikely given the current fiscal condition of the state. As already noted, the Governor's proposal to reduce local government spending by \$2.6 billion will have a significant impact on local expenditures. To what extent local spending will affect local law enforcement is unclear. In our view, the most likely scenario is that limited local funding would provide an incentive for local prosecuting and probation agencies, as well as superior courts, to direct more felons to state prison, rather than place them on county probation and/or incarcerate them in county jail, thereby increasing the prison population beyond the projected level.

## **Implications of the Projections**

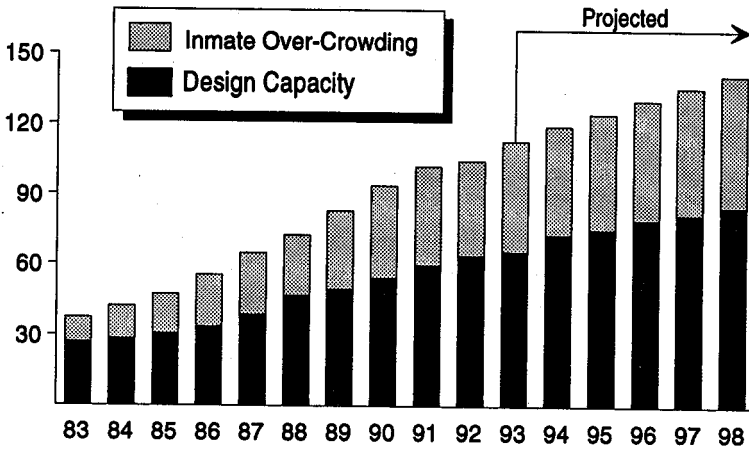
The new projections carry with them significant implications for the current year and beyond. First, they mean that prison overcrowding will continue. Given the current estimate of prison population growth

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and the scheduled completion of new prison beds, the level of prison overcrowding will remain essentially the same in 1997-98, as it is currently (see Figure 10).

**Figure 10**  
**Prison Population Exceeds Design Capacity**  
**1983 Through 1998<sup>a</sup>**

(Inmates in Thousands)



<sup>a</sup> Data as of June 30 for each year.

**Current-Year Deficiency.** In January 1993, the Department of Finance submitted a General Fund deficiency request for approximately \$66 million for unanticipated growth in the inmate population. This figure was offset by anticipated savings, for a net General Fund request of \$40.8 million.

**Future Cost Increases.** As a result of the new inmate projections, the CDC's General Fund costs will continue to increase significantly into the budget year. The Governor's 1993-94 Budget requests an additional \$272 million for the projected increase in the inmate population for the budget year. Given the current level of inmate overcrowding of approximately 180 percent and the projected growth of the inmate population, the Legislature will need to assess whether to authorize additional prison construction, expand alternative inmate housing programs, or reduce the prison population. (We discuss several options for reducing the prison population below.)

## Inmate and Parole Population Projections Will Be Updated in May

*We withhold recommendation on a net increase of \$269 million requested to fund the inmate and parole population growth in the budget year, pending analysis of a revised budget proposal and population projections, to be included in the May revision.*

*In addition, we recommend that the Legislature direct the CDC and the Department of Finance to use the new methodology when the Administration develops its May revision budget proposal.*

The budget requests a net increase of \$269 million and 2,911 positions to accommodate inmate and parole population changes in the budget year.

**Inmate Population.** The budget requests \$272 million and 3,024 positions to accommodate additional inmates in institutions, and to fund associated population-driven support costs. As Figure 11 shows, the total population is projected to increase by 5.4 percent to 119,209 inmates by the end of 1993-94.

**Figure 11**

### Department of Corrections Inmate Population 1991-92 Through 1993-94<sup>a</sup>

	1991-92 Actual	1992-93 Estimated	1993-94 Projected	Percent Change Between 1992-93 and 1993-94
Male felon	94,777	102,733	108,352	5.5%
Male nonfelon and others	3,231	3,366	3,452	2.6
Female felon	5,654	6,263	6,601	5.4
Female nonfelon and others	690	756	804	6.4
<b>Totals</b>	<b>104,352</b>	<b>113,118</b>	<b>119,209</b>	<b>5.4%</b>

<sup>a</sup> Figures are for the last day of the fiscal year shown.

Source: Department of Corrections

**Parole Population.** The budget proposes a reduction of \$2.9 million and the elimination of 113 positions in the parole program. This reduction is due primarily to the full-year effect of a \$32 million unallocated reduction to the parole program in the current year (please

see our discussion of the current-year reductions under "Crosscutting Issues" earlier in this section).

Despite the proposed funding reduction, the department projects that the parole population will increase during the budget year. Figure 12 shows that the parole population is expected to increase by 2.9 percent, from 84,716 at the end of the current year to 87,172 at the end of the budget year.

**Figure 12**

**Department of Corrections  
Parole and Outpatient Population  
1991-92 Through 1993-94<sup>a</sup>**

	1991-92 Actual	1992-93 Estimated	1993-94 Projected	Percent Change Between 1992-93 and 1993-94
Male felon	72,570	73,396	75,935	3.5%
Male outpatient	2,570	2,637	2,650	0.5
Female felon	7,642	7,814	7,670	-1.8
Female outpatient	825	869	917	5.5
<b>Totals</b>	<b>83,607</b>	<b>84,716</b>	<b>87,172</b>	<b>2.9%</b>

<sup>a</sup> Figures are for the last day of the fiscal year shown.

Source: Department of Corrections

*Projections Will Be Updated.* In general, the inmate and parole population projections, which form the basis for the Governor's Budget proposal, change significantly between January and the time the Legislature enacts the Budget Bill. This is because the department receives several more months of actual population data and more up-to-date information on criminal and law enforcement activity prior to the May revision. At the time this analysis was prepared, the actual inmate populations had been slightly below the projected levels for three consecutive months (November and December 1992, and January 1993). Consequently, we withhold recommendation on the net increase of \$269 million requested to fund the inmate and parole population growth, pending receipt of the department's revised estimates in May.

*Spring Estimates Should Incorporate New Projection Methodology.* As we indicated earlier, the CDC has developed a new forecasting methodology that is designed to improve the accuracy of its projections. The estimates included in the Governor's Budget, however, are based

on the previous methodology. Had the CDC used the new forecasting approach, the estimated inmate population for the end of 1993-94 would be about 160 inmates higher than the number shown in the Governor's Budget. If the estimate developed with the new methodology proves correct, the amount proposed in the Governor's Budget would underfund the department in the budget year by at least \$1 million.

Our review indicates that the department has sufficiently demonstrated the short-term and long-term accuracy of the new forecasting approach. Thus, we recommend that the Legislature direct the CDC and the Department of Finance to use the new methodology when the Administration develops its May revision budget proposal.

## **How Can the Legislature Reduce Inmate and Parole Populations?**

*Given the magnitude of the state's fiscal problem, we recommend that the Legislature consider ways to reduce the inmate and parole populations. We offer a number of options for legislative consideration.*

The CDC budget is one of the largest budgets supported by the General Fund, and continues to be one of the fastest growing budgets of the major departments in state government. The Governor's Budget proposes no policy changes that would significantly alter this growth trend. Rather, the budget essentially proposes to provide full funding for CDC's operations in 1993-94. In our view, in order to address the state's short-term and long-term fiscal problems, the Legislature and the Governor should consider budget reductions in *all* areas of the state budget, including corrections.

As we have indicated previously, because the CDC is a *caseload-driven* budget, it will not be possible to significantly reduce expenditures for the department without action to control inmate and parole population growth. In addition, a number of studies have raised questions about the benefits of incarceration for certain types of offenders, and whether incarceration has much impact on reducing crime.

In this analysis, we (1) identify a number of factors the Legislature should consider when deciding how to reduce the inmate and parole populations, (2) discuss how such reductions might affect crime in California, and (3) review five options for reducing the populations that we think deserve the most serious consideration.

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## Factors the Legislature Should Consider When Reviewing Inmate and Parole Populations Reductions

In considering reductions to the inmate and parole population, the Legislature should consider the following:

**Target Nonviolent Offenders.** The number of offenders in prison and on parole who were convicted of nonviolent offenses has increased substantially in recent years, from about 13,000 inmates in 1982 to almost 56,000 inmates in 1992. Nonviolent offenses include property, drug, and other offenses, as opposed to violent offenses, which are physical crimes against a person. As Figure 5 (see page 20) shows, about 57 percent of the total prison population is comprised of these offenders. We believe that targeting reductions to nonviolent offenders makes the most sense, both from a fiscal and public safety standpoint.

**Target Short-Term Offenders.** The state's prison system has increasingly taken on the characteristics of the county jail system—a place to incarcerate offenders with very short terms. According to the CDC, about 2 percent of the inmate population is incarcerated in prison for three months or less and more than 9 percent is incarcerated for six months or less.

Typically, inmates with very short stays remain in reception centers for their entire period of incarceration. Although they have little opportunity to participate in work, education, job training, substance abuse, or counseling programs, the state incurs significant costs to process the inmates, such as: (1) transporting the inmates from county jail, (2) performing medical and psychiatric evaluations, and (3) classifying the inmates in the reception centers. For this reason, we believe that reducing short-term offenders from prison makes sense.

**Make Use of Enhanced Community Supervision for Persons Released from Prison.** Maintaining an offender in the community under correctional supervision is significantly less costly than incarceration in prison. For example, inmates who are released from prison early or inmates who are redirected from prison could be placed in the community with more intensive parole supervision. Alternatively, electronic monitoring devices could be used to ensure that the individuals remain within a confined area. In fact, the CDC currently has about 200 electronic monitoring devices that it is not using.

In order to maximize savings, however, the Legislature must be cautious to avoid "widening the net"—that is, providing enhanced community supervision to offenders who would *not* have gone to prison otherwise.



***Make Use of Other Community-Based Sanctions.*** As we indicated in *The 1991-92 Budget: Perspectives and Issues* (please see page 213), one way to address the growing prison population is through "community corrections." This approach involves the use of intermediate sanctions as an alternative to state prison. There are numerous alternatives available, such as community-based residential facilities, restitution and community service programs, mandatory drug treatment, and intensive probation supervision.

In taking a community corrections approach, it is important to note that not all community-based sanctions will necessarily be less expensive than state prison. This is because of the costs to start-up the program and provide more intensive services. In addition, the Legislature should be cautious that increasing the number of offenders who are dealt with in the community does not simply move the fiscal problem from the state to local governments.

***Consider the Impact of Any Change on Local Governments.*** The state and local criminal justice systems are inextricably linked. Thus, the Legislature should consider what impact reductions in the prison and parole populations will have on the *local* criminal justice system. For example, discharging inmates without parole or shortening the length of parole supervision could result in additional workload for local law enforcement officials.

On the other hand, any savings in the CDC budget could potentially offset reductions in state aid to local governments. To the extent that local government funding is maintained, local governments are more likely to maintain their *own* street-level law enforcement activities.

***Be Aware of Behavioral Changes.*** It is likely that some changes that reduce the inmate and parole population would result in behavioral changes by district attorneys. This is because district attorneys currently have significant discretion regarding the type of offense a person is charged with and, thus, the length of a prison sentence. For example, if the Legislature decided to reduce prison sentences for a selected offense, a district attorney might easily charge a offender with a slightly more serious offense in order to ensure that the offender serves a prison sentence.

## **Will Reductions in the Prison Population Lead to an Increase in Crime in California?**

Unfortunately, there is no clear answer to this question. Much debate centers around the *incapacitation* and *deterrent* effects of incarceration. A

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number of a recent studies may provide some valuable information for the Legislature to consider.

For example, in the early 1980s, the Illinois Department of Corrections released more than 21,000 inmates prior to the end of their sentences in order to limit prison overcrowding. In its major study of the Illinois experience, the National Council on Crime and Delinquency (NCCD) found that early release did not substantially increase the amount of crime, but rather it accelerated the timing of the offenses that these individuals would have otherwise committed.

Washington operated an early release program from 1979 to 1984 in which more than 1,600 inmates were released early during six separate periods. A follow-up study compared the recidivism rates of the group with inmates who were not released early. The study found that the recidivism rates of the early release groups were slightly lower or equal to the comparison groups, and that there was no difference in the types of crime committed by early releases and the companion group. In general, researchers found that the risk to public safety could be managed, as long as the release was targeted at low-risk inmates.

There have also been a number of recent studies of the impact of prisons on crime. Although these studies do not measure the effect of *reducing* prison population on crime, they nevertheless provide some valuable information. Several studies point out that the significant increases in the state's prison population in recent years may have had little effect on the crime rate, particularly violent crime.

In our view, reducing the prison population is not without *risks* to public safety. However, many of the proposals contained in the Governor's Budget, particularly the proposal to shift \$2.6 billion in local property tax revenues to schools, could also result in risks to public safety. For example, if the effect of the revenue shift is to reduce the number of police on the streets, the effect on crime could be greater than it would be if a moderate number of short-term, nonviolent offenders are released from state prison.

### **What Are the Most Promising Options for Reducing the Inmate and Parole Populations?**

In this section we review a number of specific options to reduce the inmate and parole populations. In keeping with the considerations that we outlined above, most of the options are targeted at offenders who are low-level security risks.

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It should be noted that some of these options overlap. That is, adoption of two options may not result in the total savings identified for each, because the options could affect the same offenders. The Legislature will need to determine which options it wishes to implement before it is possible to estimate the total savings.

All of the options would require enactment of legislation. The estimates of savings assume that legislation would become law by July 1, 1993. In most cases, the amount of savings increases after the first year of implementation. Thus, we have identified the potential savings of each option for 1993-94 and 1994-95.

As indicated earlier, there are *numerous* variations on each of the options discussed below. Some variations, such as requiring intensive parole supervision in lieu of incarceration, would reduce the amount of savings indicated below.

***Option: No Parole Supervision for Nonviolent Offenders.*** This option would directly discharge offenders who are convicted of nonviolent offenses and have completed their sentences from prison without parole supervision. General Fund savings resulting from this option would be about \$102 million in 1993-94 and \$115 million in 1994-95.

The offenders covered by this option include various property and drug-possession offenses. Offenders convicted of violent offenses, or offenses related to drug sales, would continue to be supervised on parole. The option would not consider the prior criminal history of the nonviolent offenders. In addition, the estimated savings assumes that the proposal will be applied to individuals who are on parole as of July 1, 1993. Offenders would not be eligible for direct discharge if they are mentally disturbed, had been committed for a violent or other serious offense, or had serious behavioral problems while incarcerated.

***Option: Reduce Sentences For Specified Nonviolent and Short-Term Offenses.*** There are a number of nonviolent offenses which the Legislature may wish to (1) change to misdemeanors (2) allow the court to place the offender on probation or jail (instead of requiring a *mandatory* prison sentence), or (3) reduce the length of the prison sentence. Many of these are offenses which, until recently, resulted in either prison, a jail sentence, or county probation.

For illustration purposes, Figure 13 shows the maximum savings that would result from not incarcerating these offenders in state prison or supervising them on parole. The actual amount of General Fund savings would depend on the extent of the sentencing modifications made by the Legislature.

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Figure 13

**Department of Corrections  
Savings from Eliminating State Prison Sentences  
for Selected Nonviolent Offenses<sup>a</sup>  
1993-94 and 1994-95**

(In Millions)

Offense	1993-94	1994-95
<b>Nonviolent, Non-Drug Offenses</b>		
Second degree burglary	\$23.8	\$45.3
First degree burglary	22.5	64.7
Petty theft with a prior theft conviction	20.1	39.2
Driving under the influence(DUI)	18.6	35.4
Vehicle theft	17.6	40.1
Receiving stolen property	9.9	18.4
Grand theft	9.0	17.6
Forgery/Fraud	5.6	11.2
Perjury, bookmaking, bribery	1.9	4.2
Subtotals	(\$129.0)	(\$276.1)
<b>Drug Offenses</b>		
Possession of a controlled substance	\$35.2	\$61.7
Possession of a controlled substance for sale	32.3	79.6
Sale of controlled substance	23.4	65.8
Various marijuana offenses	6.9	12.9
Subtotals	(\$97.8)	(\$220.0)
<b>Total Savings</b>	<b>\$226.8</b>	<b>\$496.1</b>

<sup>a</sup> Includes both incarceration and parole savings.

*Option: No Prison for Short-Term Commitments.* As we indicated earlier, offenders with very short sentences have few, if any, opportunities to participate in prison programs, although the state nevertheless incurs all transactional costs of admitting them to prison. The CDC estimates that there will be about 1,200 felons admitted to prison in 1993-94 with less than three months to serve. Since it generally takes between three and four months to complete the intake process for new felons, most of these individuals would never leave the reception center.

Figure 14 shows the General Fund savings, if the state did not receive new felon commitments with less than 3, 6, 9, or 12 months to serve in state prison.

Figure 14

**Department of Corrections  
Savings from Eliminating Prison Sentences  
for Short-Term Commitments<sup>a</sup>  
1993-94 and 1994-95**

(Dollars In Millions)

Months to Serve	Average Months to Serve <sup>b</sup>	1993-94		1994-95	
		Inmate Population	Savings	Inmate Population	Savings
3 or less	1.8	1,200	\$2.5	1,300	\$3.2
6 or less	4.2	5,700	20.9	5,900	28.7
9 or less	6.5	18,900	90.6	19,600	39.1
12 or less	8.2	32,100	172.1	33,200	293.4

<sup>a</sup> Savings based on both incarceration and parole savings.  
<sup>b</sup> Average amount of time to serve for the range.

The Legislature could directly discharge these offenders back to society, or discharge them to intensive parole or probation supervision with electronic monitoring for the duration of their sentence. If the Legislature directs the counties to continue to incarcerate the offenders in county jail for the full length of their terms, the option would simply transfer a cost from the state to counties. Moreover, the current capacity of county jails would preclude this alternative in many cases.

*Option: Extend the Inmate Work/Training Credit System.* Under current sentencing law, inmates who work or participate in work or education programs earn credits, thereby reducing the time that they spend in prison. In general, most inmates can reduce the time that they spend in prison by up to half by working full time.

Currently, inmates held in reception centers or who are unable to be assigned to work or training due to a lack of work or educational slots, can only reduce their time in prison by up to one-third. Extending the same full credits to these inmates would result in substantial savings. The practical effect of this option is to release inmates from prison earlier than they would have otherwise been released.

Figure 15 identifies the savings that would result from implementing a comparable credit schedule for inmates in reception centers and those who are unable to be assigned work/training slots. We have shown the savings under two scenarios: implementation of the changes on July 1, 1993 and implementation retroactive to the start of the inmate's prison commitment.

Figure 15

### Department of Corrections Savings from Changes in Work/Training Credits 1993-94 and 1994-95

(In Millions)

	Implementation on July 1, 1993		Retroactive Implementation	
	1993-94	1994-95	1993-94	1994-95
<b>Day-for-Day Credit</b>				
Inmates in reception centers	\$9.0	\$26.3	\$31.5	\$32.9
Inmates involuntary unassigned	5.4	16.9	26.3	23.2
<b>Two Days-for-Day Credit</b>				
Conservation camp assignment	13.3	19.7	20.7	20.7
<b>Total Savings</b>	<b>\$27.7</b>	<b>\$62.9</b>	<b>\$78.5</b>	<b>\$76.8</b>

Figure 15 also identifies a third option of allowing an inmate to receive two days credit for each day worked in forest fire conservation camps. Although these inmates currently receive a day-for-day credit now, the nature of their work is significantly more physically demanding than assignments within the institutions. A case can be made that these individuals, who fight forest fires and are responsible for the maintenance of numerous state properties, should receive the additional credits.

It should be noted that the savings resulting from all of these options increases substantially in future years.

*Option: Institute an Early Release Program to Discharge Inmates Prior to the End of Their Term.* A number of states have instituted early release programs in recent years, usually because of fiscal difficulties or because of court orders to reduce the level of prison overcrowding. The CDC estimates that releasing inmates with one month left to serve on a prison term would generate \$53 million in net savings in the budget year (the savings have been partially offset by additional parole supervision costs). This option assumes that the policy would be effective July 1, 1993. If the early release option were considered for inmates with two or three months left to serve, the savings in 1993-94 would be \$105 million and \$155 million, respectively.

As with the third option above, there are numerous variations of this option, such as releasing an inmate to more intensive parole supervision in the community and/or electronic monitoring for the duration of his or her term. In addition, the release could be discretionary. The early release program in Illinois, for example, gave great discretion to the

Director of the Illinois Department of Corrections to determine when to release an inmate early.

*Summary.* Figure 16 summarizes the options that we have presented and their fiscal impacts. In most cases, there is a range of fiscal effects depending on the particulars of the options.

**Figure 16**

**Department of Corrections  
Summary of Savings for Options to Reduce  
Inmate and Parolee Populations  
1993-94 and 1994-95**

(In Millions)

Option	1993-94	1994-95
No parole supervision for nonviolent offenders	\$102	\$115
Reduce sentences for specified nonviolent offenses	1.9 to 227	4.2 to 496
No prison for short-time commitments	2.5 to 172	3.2 to 293
Extend inmate work/training credit system	5.4 to 78.5	16.9 to 76.8
Release of inmates one to three months early	53 to 155	—

## Other Budget Issues

### Budget Proposes to Open One New Prison in Budget Year and Delay Opening of a Second Prison

*Although the CDC will complete construction of two new prisons during the budget year, it plans to activate only the new facility in Imperial County. The department plans to delay the opening of the new Riverside County prison until 1994-95.*

The CDC will open two new prisons (California State Prison—Antelope Valley and North Kern State Prison) in the current year. In addition, the department indicates that construction of new prisons in Imperial and Riverside Counties will be completed in September 1993. The Governor's Budget proposes to open the Imperial County facility in the budget year, but delay the opening of the Riverside County facility until 1994-95 because of the state's poor fiscal condition.

*Current-Year Activations.* The 1992 Budget Act deleted all funds to open California State Prison—Antelope Valley (near Lancaster in Los

Angeles County) in 1992-93. However, funds were restored in Ch 695/92 (SB 97, Torres). As a consequence, the CDC opened the 2,220-bed medium/maximum security (Level III and Level IV) prison in February 1993.

The North Kern State Prison (Delano) was completed in 1991-92, but funding to open the facility was deleted from both the 1991 and 1992 Budget Acts. Because of the unanticipated increases in the inmate population, however, the CDC plans to open the 2,500-bed facility in April 1993. The CDC's current-year deficiency includes funds to cover the one-time expenses to activate the facility.

*California State Prison—Imperial County.* The budget requests \$40.5 million for the activation of a prison in the southern portion of Imperial County in October 1993. The new prison is a 2,200-bed medium security (Level III) facility.

*California State Prison—Riverside.* The new prison in Riverside County is designed to house 2,400 medium security (Level III) inmates. Although it will be ready for occupancy in September 1993, the CDC proposes to delay the opening until October 1994. The Administration advises that it may propose to open the facility in 1993-94 when it submits the May revision, depending on the spring inmate population projections. The CDC advises that it would incur one-time General Fund costs of \$25 million to \$30 million to open the new facility in the budget year. We estimate that the delay in activation of the Riverside prison will result in only a slight increase in the level of prison inmate overcrowding.

*Other Changes.* In addition, the CDC plans on downgrading the Correctional Training Facility in Soledad from a medium security to medium/low security (Level III to Level II) prison in the budget year and use the anticipated savings to establish 50 new positions for the new Health Care Services Division (we discuss the new division in detail below). This would reduce the number of Level III design beds by 1,200.

## **New Alternative Sentencing Program Behind Schedule**

*Implementation of the new Alternative Sentencing Program (ASP) enacted last year is significantly behind schedule. We recommend a number of changes to improve implementation of the program.*

The 1992-93 Governor's Budget requested, and the Legislature approved, \$831,000 from the General Fund, \$1.6 million in redirections, and \$1.3 million in savings to establish a new pilot ASP. The program is designed to place 176 nonviolent offenders, in a short-term "shock



incarceration program," followed by intensive supervision of the offenders on parole. The ASP is intended to be more cost-effective than regular incarceration. Furthermore, it is supposed to reduce overcrowding and the rate of recidivism, and expand the parole program into a system of highly structured correctional supervision. Statutory authorization for the ASP was provided in Ch 1063/92 (SB 1124, Presley). In this analysis, we review the implementation of the program.

**Background.** Since offenders in the program would be incarcerated and supervised on parole for significantly shorter periods than similar offenders who are not in the program, the ASP should generate institutional and parole savings when it becomes fully operational. The department anticipated that the ASP would begin to generate \$653,000 in General Fund savings in 1993-94, increasing to \$3 million in savings by 1997-98.

The ASP provides a short period of confinement (120 days) in prison during which less serious, nonviolent offenders, who have never served a sentence in a state or federal prison, are placed in an intensive military-style drill and ceremony, physical exercise and labor, along with structured counseling and education. The program only accepts offenders from six Bay Area counties (Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara).

Upon the successful completion of the period of incarceration, a 44-member platoon of offenders are placed on intensive parole supervision in the community for 180 days. During the first 60 days, ASP parolees live together at a work furlough facility in Oakland and work with the parole staff to locate employment and housing to ensure that the parolees successfully transition back into their communities. During the final 120 days, the parolees are required to meet frequently with their parole agents and in platoon meetings, and are subject to drug testing. Parolees who can successfully complete the intensive parole supervision phase may be fully discharged.

In order to evaluate the program's success, the CDC will track the inmates closely and compare them to a control group of similar inmates who are not part of the program.

**Status of the Proposed ASP Implementation Plan.** In its 1992-93 budget request, the CDC proposed to accept into the program any first-time nonviolent felon who had at least one year and not more than three years to serve at the time of admission to state prison. The department estimated that the first platoon of 44 inmates would begin the program by October 1992, and based on similar programs in other states, that approximately 18 percent of the inmates in each platoon

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would drop out. The CDC estimated that six platoons would have completed the 120-day incarceration phase by the end of 1992-93. Chapter 1063's eligibility for the program was more limited than CDC's initial proposal.

The first platoon began in mid-January 1993, about three months later than planned. Due to the eligibility restrictions included in Chapter 1063, the CDC was unable to fill the first platoon. According to the department, these changes reduced the potential inmate pool by 45 percent. As a result, only three platoons, rather than six platoons, will be able to complete the incarceration phase by the end of 1992-93. Thus, the savings will not be as great as originally assumed when the Legislature approved the program.

*Factors Impeding the Implementation of the ASP.* Our review indicates that there are four factors that account for the implementation delay. Three of the factors are administrative in nature, while the fourth—and more serious problem—relates to the criteria for accepting inmates into the program.

*Administrative Difficulties.* First, the most obvious factor delaying implementation was the late passage of the 1992 Budget Bill, as well as Ch 1063/92. Both measures were not enacted until September 1992.

Second, the CDC management and the labor union representing correctional peace officers could not negotiate a final policy for the program regarding training and overtime for staff. Although the issue was taken to arbitration in December, these issues have yet to be resolved. The arbitrator did, however, rule that the CDC could begin staffing the ASP immediately.

Finally, our review indicates that implementation has suffered because there is no central authority in the department coordinating implementation of the program between the Institutions Division and the Parole and Community Services Division. In our view, the two divisions need to work more closely in order to get the program off the ground.

*Acceptance Criteria.* As indicated previously, the inmate eligibility changes in Chapter 1063 adversely affected the inmate pool from which the CDC can draw for the ASP. The final legislation limited the "time to serve" requirement to two years or less and excluded a number of the original offenses proposed. According to CDC staff, some of the inmates in the first platoon have as little as six or seven months left to serve. Although these inmates would generate savings to the parole program if they successfully complete the program, they would not provide any incarceration savings.

**Limited Success of ASP.** Based on our review of the department's progress in implementing the ASP, we conclude that the success of the program has been limited by the factors outlined above. Specifically:

- The institutional savings will not be as great in the budget year as it would have otherwise been with the three-years-to-serve sentence cap.
- The reduction in the level of overcrowding will not be as great.
- Given the limited population pool, it is difficult to determine whether the program will reduce the rate of recidivism.

**Recommendations.** The ASP is one of the few truly alternative incarceration programs utilized by the state and merits a thorough test. We recommend that the Legislature take the following steps to enhance the potential implementation and success of the program:

- **Coordinate Program Within the CDC.** We recommend that the Director of Corrections advise the Legislature, during budget hearings, on the steps he is taking to improve the coordination within the department for implementing and overseeing the program.
  - **Expand the Counties Served to Include Solano County.** We recommend that the Legislature direct the CDC to expand the number of counties in which it draws participants to include Solano County. Staff in the CDC advise that this is a viable option. Solano County is geographically a part of the extended Bay Area and would not be difficult to include. In fact, according to CDC staff, there would be more eligible inmates coming from Solano than Marin and San Mateo Counties combined. Adding Solano County to the eligibility pool would not require additional legislation.
  - **Expand or Modify the Inmate Eligibility Criteria.** Because the final legislation severely reduced the inmate pool eligible for the program, we recommend that the Legislature reconsider its policy and enact legislation to expand the eligibility criteria for the ASP. Specifically, the Legislature should consider modifying the time to serve criteria back to the original proposal of at least one year but not more than three years, and include all the originally proposed offenses.
  - **Report at Budget Hearings.** Finally, we recommend that the CDC report during budget hearings on its most recent results of identifying eligible inmates to the ASP. Based on the initial results, the CDC should report on the revised projected fiscal
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savings for the next six years in comparison to the CDC initial program proposal.

## **Questionable Billings to the State by Local Return-to-Custody Operators**

*We recommend that (1) the CDC and State Controller's Office (SCO) report during budget hearings on the audit findings for all completed SCO audits of return-to-custody (RTC) facilities, (2) the CDC report on its plan to recover over \$1.9 million of unallowable and questionable billings by the City of Shafter for its RTC facility, as well as for any other RTC audit findings, and (3) the Legislature direct the CDC to enter into an agreement with the SCO to review the financial records of two additional RTC facilities.*

*Background.* Chapter 1450, Statutes of 1987 (SB 1591, Presley), authorizes the Directors of CDC and the Youth Authority to enter into long-term contracts with local governments to house adult and juvenile parole violators and offenders with short terms (less than eight months), in city or county facilities specially designed for their incarceration. The purpose of the facilities is to reduce overcrowding in state prisons caused by the growth of parole violators returning to prison. These types of community correctional facilities are referred to as public return-to-custody, or RTC programs. There are currently seven RTC facilities located in the Cities of Adelanto, Coalinga, Delano, Folsom, Lassen, Shafter, and Taft.

Chapter 1450 specified that the RTC facilities must be staffed by peace officers, and that adult parole violators may not be housed in RTC facilities if they have committed a violent felony or if they are sentenced to serve parole revocation sentences of more than eight months. Contracts may be awarded for a negotiated period of up to 20 years. However, the cost of housing an adult or juvenile parole violator in a contracted facility may not exceed the average cost of housing the violator in comparable state prisons. The long-term contracting was designed to allow the local governments to bill the state for the financing of the construction of the facilities.

*State Controller's Audit of Shafter's RTC Facility Finds Problem.* The City of Shafter (Kern County) is under contract with the CDC for the construction and operation of a RTC facility. In 1992, the CDC entered into an interagency agreement with the SCO to conduct an audit of the construction and financing records associated with the construction of the facility. The interagency agreement required the SCO to conduct its audits in accordance with the *Governmental Auditing Standards* promulgated by the U.S. General Accounting Office, the CDC

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policies published in the department's Financial Management Handbook, and all other applicable laws.

The interagency agreement specified that the scope of audit should include a review of all construction and financing records. Despite this agreement, the SCO audit was limited to examining only those records maintained by the City of Shafter. This was because the construction firm that built the Shafter RTC facility and that obtained the financing for the project, refused to provide the SCO with its construction and financial records for the project, despite 100 percent project funding by the state. The firm's position was that its contract relationship was with the City of Shafter and not with the state. Because of the firm's refusal to provide these records, the SCO audit was limited to \$6.2 million of city-incurred costs and did not include an additional \$13.3 million in construction costs for the RTC facility. Thus, the CDC cannot be sure that the facility lease payments it makes to the City of Shafter are accurate or appropriate.

The SCO's review identified ten audit findings. In a few cases, the findings were very complex and raised numerous questions regarding the transaction between the state, the City of Shafter, and the construction firm. The final SCO audit identified a total of \$1.9 million in questionable costs, of which \$1.8 million were related to pre-start-up activities, equipment, and program costs of the facility. For example, the SCO found that the billings to the state included such items as: (1) purchase of property that was overvalued by approximately \$273,000; (2) \$1.2 million of off-site improvement projects for an industrial park (for example, streets, sidewalks, water and sewer lines, and lighting) that was not part of the RTC facility; and (3) approximately \$7,000 for a City of Shafter patrol officer who was not assigned to the facility.

*Audits of Other RTC Facility Construction and Financial Records.* In addition to the Shafter audit, the CDC also contracted with the SCO to conduct audits of the construction and financial records of the Taft, Delano, Coalinga, and Adelanto RTC facilities. The SCO recently completed its audit for the Taft facility. The findings were not available at the time this analysis was prepared. The same construction firm that was responsible for the construction and financing of the Shafter RTC facility also constructed and financed the Taft RTC facility. According to SCO audit staff, it has completed its field work for the Delano and Coalinga RTC facilities and expects to publish its reports by the end of 1992-93.

The CDC recently conducted its own audit of the City of Folsom RTC facility. The CDC audit, however, used significantly different

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auditing standards than those used for the SCO audits. The areas reviewed were limited to (1) funding debt, (2) pre-start-up and start-up costs, and (3) equipment. While the CDC did not apply the same generally accepted auditing standards used by the SCO, it did identify approximately \$252,000 of questionable billings. The CDC audit staff advises that, had it used the same audit standards as the SCO, it could have found additional audit exceptions.

**Future Actions.** The CDC, in cooperation with the SCO, has been working with the City of Shafter and its attorneys to determine what further action the department must take in response to the SCO audit of the city. The department has formed a committee to review the findings. At the time this analysis was prepared, the CDC had not finalized its plans nor had it stated whether it agrees with the SCO findings. Our review of the SCO audit and discussions with SCO staff indicate that the audit findings are supportable. Thus, we conclude that the CDC should work closely with the City of Shafter to recover the \$1.9 million for the state.

**Analyst's Recommendations.** First, we recommend that the CDC and the SCO report during budget hearings on the final SCO audit results for the Shafter, Taft, Delano, Coalinga, and Adelanto RTC facilities. Second, we recommend that the CDC report on its efforts to recover the \$1.9 million in unallowable and questionable costs identified in the Shafter RTC facility audit report and any additional unallowable or questionable costs identified in the other finalized SCO RTC facility audit reports. Finally, we recommend that the CDC enter into an interagency agreement with the SCO to complete similar audits of the Folsom and Lassen RTC facilities.

## **Funding for Female Offender Pilot Project Should Be Continued**

*We recommend that the Legislature (1) adopt Budget Bill language directing the Department of Alcohol and Drug Programs (DADP) to allocate \$1.2 million in federal funds to continue funding the community treatment component of the Female Offender Substance Abuse Program, and (2) direct the CDC to report during budget hearings on the feasibility of identifying an additional \$620,000 for the institutional component of the program.*

Of the approximately 6,300 female felons and nonfelons in state prison on June 30, 1992, about 2,400, or 38 percent, were specifically sentenced to prison for a drug offense. An additional unknown number of female offenders are also in prison for any number of drug-related crimes, such as a robbery in order to purchase controlled substances. In

addition to substance abuse problems, many of these women also have numerous economic and social problems that make reentry into the community a difficult challenge.

The 1991 Budget Act directed the CDC and DADP to establish two two-year substance abuse treatment demonstration projects with DADP federal block grant funds. One of those pilot projects was established at the California Institute for Women (CIW) in Frontera for the purpose of treating female offenders with substance abuse problems. The Female Offender Substance Abuse Program, also known as the "Forever Free" program, began in May 1991 and was designed for female offenders incarcerated at the CIW. The objective of the program is to assist the female offenders overcome their substance abuse while incarcerated at CIW and upon release into the community. The ultimate goal is to provide this group with the necessary skills needed to successfully cope with a sober, clean lifestyle.

*Female Offender Substance Abuse Program.* This program represents one of the first comprehensive drug treatment programs specifically targeted for female offenders within the CDC. There are four basic requirements for acceptance into the program. An inmate must have between four to six months remaining to serve on her prison sentence. The inmate may not have violated any CDC drug or alcohol requirements in prison, nor can the inmate have a recent record of violence in prison. Finally, the inmate must decline participation in certain other programs that would result in her transfer from the CIW to another institution.

There are two major components to the female offender substance abuse program. The first component consists of an intensive four to seven months of program services within the CIW that includes individual substance abuse counseling, special workshops, educational seminars, parole planning, and increased drug testing. Women in the program are housed together in a 120-bed housing unit where most of the programs are provided. Each woman is assigned a case manager who she sees at least once a week. In these sessions, the woman's history is discussed in detail in order to design a treatment plan to suit her individual needs. In the second month of treatment, the emphasis of these sessions shifts to planning for reintegration into the community.

In the second phase of the program, women paroling to Los Angeles, Orange, Riverside, and San Bernardino Counties have the opportunity to be placed in a residential treatment program to continue their structured substance abuse treatment in the community. Placement into the

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residential treatment program is for up to a maximum of six months following the release from prison.

**Funding for Program Expires on June 30, 1993.** As already noted, the program was funded with federal block grant funds allocated by DADP through an interagency agreement with CDC. However, the DADP funding for the program terminates on June 30, 1993. Because the DADP anticipates a \$30.5 million reduction in its federal block grant funds, it has decided not to continue funding for the CIW Female Substance Abuse Program. Although the budget requests \$1.8 million of reimbursement authority for support of the program in the budget year, the CDC has not yet identified a source of funds for the program.

When the Legislature directed the CDC and DADP to jointly establish the two two-year inmate or parolee substance abuse programs, it also required the DADP to complete an evaluation of the programs. The Legislature did not, however, specify a completion date of the final evaluations. The CDC has completed some preliminary studies of those female inmates who have completed the program or received some services.

The CDC preliminary studies show that the typical participant in the program is a 32-year-old woman of color with two dependent children, who has over 15 to 20 years of drug use, completed some high school, and has a poor or nonexistent job history. The department plans to track program participants for as long as possible to determine the impact of the program on participants. At a minimum, the CDC indicates that it will track the participants for one year upon release from CIW.

**Pilot Program Should Be Continued.** Because the program is currently being evaluated, the DADP decision to discontinue funding for the program appears premature. The program is the only treatment program currently being funded for women with a high risk of failure on parole due to their substance abuse problems. If the DADP evaluation ultimately indicates that the program is effective, and the program has already been dismantled, program structure and staffing will have to be recreated. In our analysis of the DADP, we recommend that a comprehensive evaluation of the program be completed by September 30, 1993 (see the Health and Social Services Section of this *Analysis*).

Given the relatively small size of the program and the expectation that the evaluation will be completed soon, we believe it makes more sense to continue funding the program until the results of the evaluation are known. One funding option would be for the DADP to continue funding the community treatment component of the program,

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which would require an allocation of \$1.2 million of federal block grants. The CDC could either attempt to redirect existing available resources or work with the Office of Criminal Justice Planning in identifying an additional source for the incarceration component of the program, which totals \$620,000.

***Analyst's Recommendation.*** We recommend that the Legislature consider this a priority program for funding. As such, we recommend that the Legislature (1) adopt Budget Bill language directing the DADP to provide \$1.2 million in continued block grant funding for the community treatment component of the program for an additional year, and (2) direct the CDC to report during budget hearings on the feasibility of identifying an additional \$620,000 funding for the institutional component of the program. We make a similar recommendation in our analysis of the DADP (see the Health and Social Services Section of this *Analysis*).

### **Civil Addict Program Has Failed to Provide Substantive Treatment**

***We recommend the enactment of legislation to eliminate the Civil Addict Program, because the program has failed to provide substantive treatment services for committed nonfelon narcotics addicts. We recommend that the CDC submit a plan during budget hearings on how it can phase out the program, beginning in 1993-94***

The Civil Addict Program provides substance abuse rehabilitation for persons who are identified by the court as narcotic addicts. There are currently about 3,500 civil addicts held in state prison and approximately 3,400 additional civil addicts being supervised in the community. The Narcotic Addict Evaluation Authority (NAEA), a seven-member panel appointed by the Governor for terms of four years each, is charged with determining when to release an addict from the program. Our review indicates that the program has not been a success and has failed to provide substantive treatment.

***Background.*** The Civil Addict Program was first established by the Legislature in 1961 and modified over the years for the purpose of providing rehabilitative treatment for addicted drug offenders or drug offenders in danger of becoming addicted to narcotics.

Individuals must satisfy a rigorous set of criteria before being committed to the program by the court. Because the use of drugs alone does not constitute a drug addiction, not all drug offenders are eligible for commitment to the program. In most cases, commitment to the program is in lieu of prosecution for a criminal offense. During the

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institutional phase of the program, all civil addicts are required to complete a one-month long, 120-hour educational program. It was the intent of the Legislature that this treatment program not be considered punitive.

**Concerns Regarding the Lack of Sufficient Treatment Provided By the Civil Addict Program.** The department advises that, over the years, redirections and changes in priorities have diluted the Civil Addict Program's original treatment intensity.

With the exception of the initial 120-hour substance abuse educational program, the CDC does not provide *any* additional programming specifically designed or targeted for substance abuse treatment. Even then, only half of the 120 hours are truly dedicated to substance abuse education; the other hours simply consist of physical exercise. The significant difference between the Civil Addict Program outpatient status and normal felon parole is the intensity of the supervision and frequency of drug-use testing. The CDC, however, is proposing to make a one-time adjustment of the ratio of parole agents to civil addicts on outpatient status as part of the department's 1992-93 budget reduction plan. This will reduce the intensity of the community supervision of civil addicts. In addition, the CDC advises that it has no data to show that individuals released from the program have lower levels of recidivism than other similar inmates who are not part of the program.

**Legislature Should Eliminate Program.** Given the lack of substantive treatment and program success, we recommend the enactment of legislation to eliminate the program. Our discussions with the Administration indicate that it also has substantial concerns about the program. The Youth and Adult Correctional Agency is currently in the process of entering into an agreement with an outside consulting firm to determine whether the state should even have a civil addict program. In our view, the answer is already clear.

**Impact of Elimination of Program.** The majority of civil addicts committed to this program were convicted of felony crimes. A much smaller percentage of this population were committed after being charged with a misdemeanor. By eliminating the program, the CDC will have to return all civil addicts to their original courts to determine their final dispositions. The CDC estimates that elimination of the program on July 1, 1993 could result in *costs* of \$20.2 million in 1993-94. This is because many of the addicts who had committed a felony could ultimately return to the CDC as convicted felons and serve longer terms than they would have under the Civil Addict Program.

Because of the magnitude of the fiscal effect, we recommend that any legislation phase out the elimination of the program.

The CDC advises that more than half of the addicts had committed a nonviolent offense. Thus, as we indicated earlier, the Legislature may wish to enact legislation that would result in fewer of these individuals being incarcerated, too. This would reduce or eliminate the \$20.2 million cost resulting from elimination of the Civil Addict Program.

Elimination of the program would also result in General Fund savings of \$443,000 for support of the NAEA. We recommend that the CDC submit a plan during budget hearings to phase out the program, beginning in 1993-94.

### **Department to Establish a New Health Care Services Division**

*We recommend that the department report during budget hearings on the new Health Care Services Division (HCSD), including (1) how it will ensure staff accountability and fiscal responsibility, (2) the possible transfer of responsibility for the parole psychiatric services program to the new division, and (3) the impact of the department's plan to redirect positions from existing programs to the new division.*

The budget requests authority to establish 57 new positions in the current year and an additional 50 new positions in the budget year, funded through the redirection of existing resources and future savings, to create a new HCSD. We review the department's proposal below.

**Background.** The budget proposes \$256 million for medical, dental, and psychiatric services in 1993-94, which is a 3 percent increase over the current year. This amount will support a total staff of 2,815 among the 26 institutions.

Currently, medical staff in the institutions either report directly to the chief medical officers or to the chief psychiatrists of the institutions, who, in turn, report to the institution warden and/or the assistant deputy director of the CDC's Office of Health Care Services. The medical budgets are included in the individual prison budgets and are managed by the prison's budget staff.

**Concerns Regarding the Delivery of Medical Services.** The CDC has had major difficulties in planning and managing its medical resources. Each institution expends its medical funds based on its own institutional priorities. In our *Analysis of the 1992-93 Budget Bill* (please see page VI-31), we identified a number of problems with CDC's health care system, including:

- Lack of emphasis on planning and staff experienced in medical planning.
- Diversion of medical resources to address other issues.
- Lack of coordination between CDC and other agencies, such as the Departments of Mental Health and Health Services.
- Lack of the most basic data and information needed for control and planning of medical resources.

Last year, the Legislature adopted supplemental report language requesting the CDC to develop a comprehensive strategic plan for the delivery of health care services. The department was directed to submit a report to the Legislature by June 30, 1993 on the development of the plan.

**HCS D Proposal.** The department proposes to establish the HCS D as part of an overall effort to improve inmate health care. The purpose of this new division is to provide greater fiscal and management accountability of medical services and resources that, according to the CDC, will lead to greater efficiencies in the delivery of medical services. Rather than each state prison having its own medical budget, the CDC would develop and implement a more coordinated statewide approach to delivering health care services through the enhancement of the current level of health care management staff. The HCS D would be headed by a new deputy director position.

We find the CDC's budget proposal to be very comprehensive. Each phase of the project and objectives are clearly identified. Although our review of the proposal indicates that the positions requested for implementation of the HCS D are justified, we have the following concerns with specific aspects of the plan.

**Staff Accountability.** In reviewing the structure of the new division, we were unable to determine the lines of authority between the medical staff at the institutions and HCS D staff. In order to clarify accountability among medical and institutional staff, we believe that the CDC should make all institutional chief medical officers accountable to the new deputy director. All medical staff, including institutional mental health staff, should report directly to the chief medical officers.

**Fiscal Responsibility.** The concerns we expressed above regarding staff accountability also apply to the control of the medical budget. Although the proposal identifies a fiscal and business services unit in the division, it does not specifically identify whether the HCS D or the individual institutions will be responsible for the medical budgets. We believe that the only way for HCS D to be held truly accountable for

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medical resources and expenditures, on a statewide basis, is for the division to have authority through the chief medical officers for medical expenditures, rather than the individual institutions.

*Parole Psychiatric Services.* The proposed mission of the HCSD is also to provide medical services to parolees. Although the budget proposal identifies institution psychiatric services as part of the CDC delivery of medical services, the proposal does not incorporate the *parole* psychiatric services program into the new division. We believe that the parole services program should also be incorporated into the new division, so that a closer link can be developed between services provided to inmates while incarcerated with services provided when they are released to the community on parole.

*Redirection of Existing Resources to Fund Current-Year Positions.* Of the 57 positions being redirected in the current year, 20 positions will come from the Planning and Construction Division and 37 positions from the Administrative Services Division. Given the recent budget reductions in these divisions, we are concerned about how the redirection of these positions will affect the level of oversight and monitoring of other CDC programs.

*Analyst's Recommendation.* Our analysis indicates that the CDC deserves credit for reorganizing its inmate health services delivery system. We believe that the proposed HCSD will improve the delivery of such services. Given the concerns noted above, however, we recommend that the CDC address the following specific questions during budget hearings: (1) how will it ensure staff accountability and fiscal responsibility of the new division, (2) should the parole psychiatric services be transferred to the new division, and (3) what impact will the redirection of positions have on existing programs.

### **Inappropriate Use of Bond Funds to Support Administrative Costs**

*We recommend the deletion of \$16.2 million in bond funds requested to pay for administrative support positions and recurring maintenance costs because the request represents an inappropriate expenditure of these funds. (Reduce Item 5240-001-751 by \$15.9 million and Item 5240-001-747 by \$363,000.)*

The budget includes four separate requests totaling \$18.5 million from bond funds to pay the costs for administrative support, recurring maintenance, and removal of hazardous substances. We have identified concerns with two of these requests:

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- \$17 million from the 1990 Prison Construction Fund to offset General Fund costs for existing administrative support positions and recurring maintenance costs.
- \$363,000 from the 1988 Prison Construction Fund to permanently establish nine new personnel positions to recruit staff for new prisons.

We discuss the specific requests and our concerns below.

**\$17 Million Bond Fund Shift.** The budget proposes to use \$17 million from the 1990 Prison Construction Fund bond account to offset the following existing General Fund costs:

- \$455,000 for 11 existing accounting staff in the Accounting Systems Section of the Administrative Services Division (ASD).
- \$620,000 for 13 existing staff in the Contract Services Section of the ASD.
- \$2.3 million for an unspecified number of existing positions within the Planning and Construction Division (P&CD).
- \$13.6 million for recurring maintenance in prisons.

The CDC advises that it completed an informal review of staff work assignments in the ASD and P&CD to determine which positions were performing duties related to the acquisition of new capital facilities. The study identified 11 accounting staff and 13 contract services staff in ASD that were doing such work. The CDC could not identify, however, specific positions in the P&CD that it would fund with these bond proceeds. Rather, it *assumes* that a portion of these positions should be funded with \$2.3 million of bond funds.

In *The 1991-92 Budget: Perspectives and Issues* (please see page 249), we identify criteria for determining appropriate uses of state bond proceeds. In that analysis, we noted that the use of bond funds for departmental support costs which were not directly related to the *acquisition* of or substantially extended the life of capital facilities was inappropriate. Our review indicates that the proposal for the accounting and contract staff are justified based on the criteria. However, the request for the P&CD positions has not been justified. This is because the department could not identify the specific positions it proposes to fund with bond proceeds. Thus, we were unable to verify that the positions are directly related to the acquisition of capital facilities.

The request to use \$13.6 million of bond funds for ongoing maintenance is inconsistent with the criteria referenced above. Ongoing maintenance should come from existing operating resources. In

addition, the 1990 Prison Construction Bond Act provides that these funds may only be used for the acquisition, construction, renovation, remodeling, and deferred maintenance of Youth Authority and CDC correctional facilities.

***Personnel Recruitment Positions.*** The budget also proposes to use bond funds to support nine new personnel positions to recruit staff for newly opened prisons. The budget proposes to open one new prison in the budget year. (The department requested authorization to establish four of these positions in the current year through a deficiency proposal submitted to the Legislature in January 1993.)

Although our review indicates that the requested positions have merit, they do not meet the criteria for bond funding. Unlike the ASD positions requested, these positions are not involved with acquisition of new capital facilities. Based on these concerns, we recommend that the request be denied.

***Bond Funds Are Running Out.*** Approval of these proposals, along with proposals for bond expenditures in the Youth Authority budget (see our analysis of the Youth Authority later in this *Analysis*) would leave only \$50 million in general obligation bond funds for the CDC and the Youth Authority. However, the CDC and Youth Authority have identified five-year capital outlay needs totaling \$560 million (excluding any new prison facilities).

***Summary of Analyst's Recommendations.*** Because of the concerns listed above, we recommend that the Legislature delete funding for the following requests:

- \$2.3 million for an unspecified number of existing positions within the P&CD.
- \$13.6 million for the costs of recurring maintenance in prison.
- \$363,000 for nine new personnel positions to recruit staff for new prisons.

We suggest that the Administration resubmit the proposals for legislative consideration with a different funding mechanism.

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## DEPARTMENT OF THE YOUTH AUTHORITY (5460)

The Department of the Youth Authority is responsible for the protection of society from the criminal and delinquent behavior of young people (generally ages 11 to 24). The department operates training and treatment programs that seek to correct and rehabilitate youthful offenders, rather than punish them. The department operates 11 institutions, 4 conservation camps, and 18 parole offices.

The budget proposes total expenditures of \$348 million for the Youth Authority in 1993-94. This is \$3.3 million, or less than 1 percent, above current-year expenditures. Expenditures from the General Fund total \$323 million in the budget year, an increase of \$9.3 million, or about 3 percent, over expenditures in 1992-93. Approximately 87 percent of the total amount requested is for operations of the department's institutions and camps. The remaining 13 percent is for parole service programs.

### **New Ward Population Projection Shows Steady Growth**

*Following several years of slight declines, the ward population is expected to increase steadily, reaching just over 10,000 wards by 1996-97. There are several reasons for the increase, including the increasing number of admissions to the Youth Authority for violent offenses.*

The Youth Authority's fall 1992 ward population projections (which form the basis for the 1993-94 *Governor's Budget* as well as the department's five-year facilities master plan) estimate that the number of wards housed in the Youth Authority will grow at an average annual rate of 4.6 percent over the next five years (through 1996-97), reaching just over 10,000 wards on June 30, 1997.

Figure 17 shows the population from 1985-86 through 1996-97. The projected increase is significant, given the trend during the past five years in which the population *declined* at an average annual rate of about 2 percent. In this analysis we review the factors that determine the Youth Authority's institution population, the reasons for the projected increases, and the changing characteristics of the population.

***What Determines the Youth Authority Ward Population?*** There are several factors that determine the Youth Authority's ward population, including:

- ***Juvenile Admissions.*** The largest group of commitments to the Youth Authority comes from juvenile court. A small group



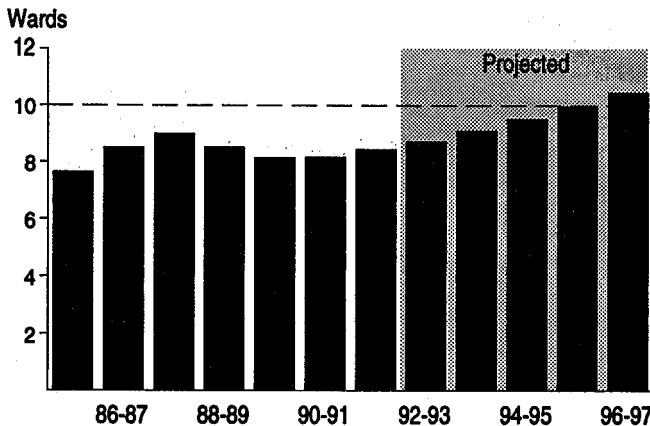
(about 5 to 10 percent) of juvenile commitments to the Youth Authority comes from criminal court.

- **Corrections' Inmates.** Another large segment of the Youth Authority population is comprised of inmates from the California Department of Corrections (CDC), frequently referred to as "M cases." These are individuals under the age of 21 committed to the CDC who are ordered by the court to be transferred to the Youth Authority to serve all or a portion of their commitment time.
- **Parole Violators.** These are parolees who violate a condition of parole and return to the Youth Authority.
- **Institution Length-of-Stay.** Length of stay for juvenile court commitments is determined by the policies of the Youthful Offender Parole Board (YOPB); length of stay for CDC "M cases" is determined by sentences imposed by the court and adjusted by sentence-reduction credits.

**Figure 17**

**Youth Authority Population  
Estimated to Exceed 10,000 by 1996-97  
1985-86 Through 1996-97**

(In Thousands)



**"Bed Savings" Alternative Programs Mitigate Population Increases.** Since 1986-87, the department has implemented a number of alternative

institution and parole programs designed to reduce the need for institutional beds. The programs include special substance abuse and parole violator programs, electronic monitoring, and a short-term, military-style "shock" incarceration program known as the LEAD (leadership, esteem, ability, and discipline) Program. The department estimates that these programs reduced the need for 1,227 beds at the end of 1991-92. Despite these efforts, however, the overall population has continued to increase since 1991-92.

***Projected Increases Driven by Statewide Juvenile Population Increases.*** According to information provided by the Youth Authority, the projected increase through 1996-97 is due primarily to anticipated increases in institution admissions, which are driven by increases in the statewide juvenile population. Although the department projects that the rate of juvenile court admissions to the Youth Authority will continue at the 1991-92 rate—108.3 admissions per 100,000 Californians, ages 12 to 17 years—through 1996-97, the increases in the statewide juvenile population will result in a steady increase in commitments (from 2,635 in 1991-92 to 3,285 in 1996-97).

***Upturn in Juvenile Court Admissions Began in 1991-92.*** The rate of juvenile court admissions had been dropping for the three years prior to 1991-92 when it started to rebound. This decline appears to have been driven primarily by decreases in admissions to the Youth Authority from Los Angeles County, as shown in Figure 18. According to the Youth Authority, the reasons for the decline in admission rates from Los Angeles County prior to the current year are not known.

***More Serious Commitments Increase Average Length of Stay.*** The composition of offenders committed to the Youth Authority in recent years has changed dramatically. As Figure 19 shows, the number of wards admitted to the department for violent offenses has increased significantly, while admissions for other offense categories have generally remained stable or declined. Violent offenses include homicide, robbery, assault, sex offenses, and kidnapping.

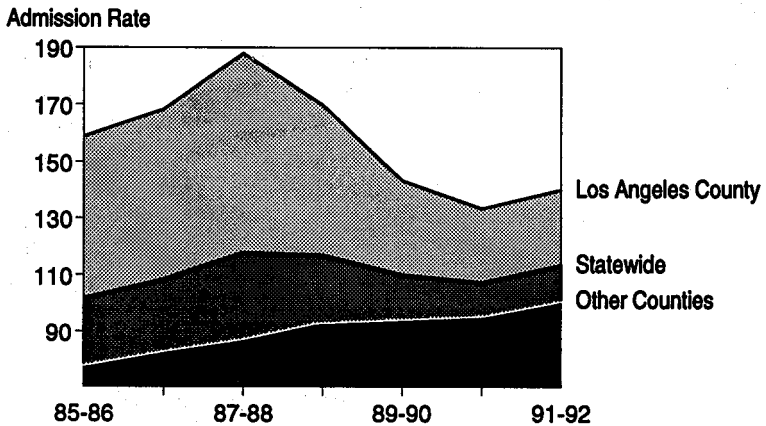
The average length of stay in the Youth Authority in 1991-92 was 21.7 months. In projecting future admissions, the department assumed that the YOPB would continue its existing policies that determine length of stay. However, the department estimates that the average length of stay will increase to 22.8 months by 1996-97 because of the increasing share of admissions for violent offenses. This is because wards committed for violent offenses are incarcerated for longer periods than wards committed for nonviolent offenses.

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**Figure 18**

**Admissions to Youth Authority  
Heavily Driven by Los Angeles County  
1985-86 Through 1991-92**

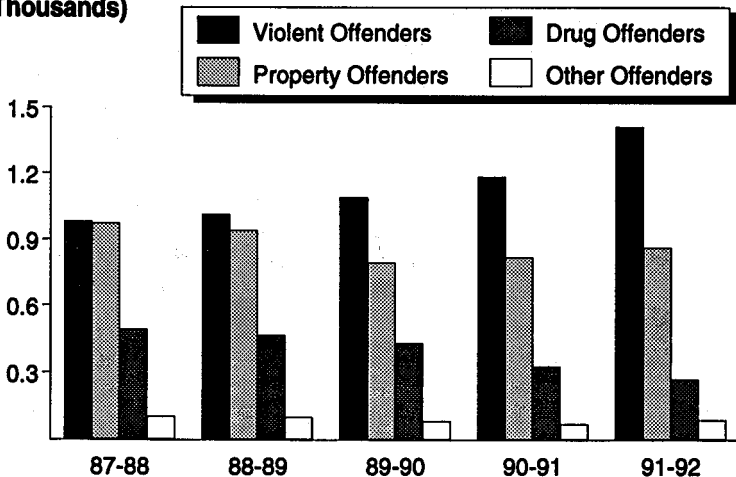
(Admissions Per 100,000 State Population, Ages 12 - 17)



**Figure 19**

**More Serious Commitments Coming to Youth Authority  
First Admissions From Juvenile Court  
1987-88 Through 1991-92**

(In Thousands)



In summary, the most important factors driving population changes through 1996-97 at the Youth Authority are the increases in juvenile admissions (due to increases in statewide juvenile population and an upturn in admission rates) and length of stay (due to the increase in serious commitments). The other factors—commitment of corrections' inmates and parole violation rates—are expected to change slightly, thus having a small impact on the population through 1996-97.

### Ward and Parolee Population Projections Will Be Updated in May

*We withhold recommendation on \$4 million requested from the General Fund to accommodate the projected ward and parolee population changes, pending receipt and analysis of the revised budget proposal and population projections to be contained in the May revision.*

The budget requests an increase of \$4 million from the General Fund to accommodate ward and parolee population changes in the budget year. The amount includes \$3.7 million (\$3 million from the General Fund and \$682,000 from Proposition 98) for ward population increases and \$247,000 for parolee population increases. Figure 20 shows the department's ward and parolee population, along with estimated overcrowding in Youth Authority institutions.

Figure 20

#### Department of the Youth Authority Ward and Parolee Population 1991-92 Through 1993-94<sup>a</sup>

	1991-92 Actual	1992-93 Estimated	1993-94 Projected	Percent Increase Between 1992-93 and 1993-94
Ward Population	8,444	8,729	9,092	4.2%
Youth Authority wards	(7,240)	(7,489)	(7,812)	4.3
Corrections' inmates housed in Youth Authority	(1,204)	(1,240)	(1,280)	3.2
Institution overcrowding <sup>b</sup>	126.2%	130.4%	135.9%	5.5
Parolee Population	5,781	6,164	6,489	5.3
Youth Authority parolees	(4,726)	(5,144)	(5,504)	7.0
Corrections' parolees supervised by Youth Authority	(1,055)	(1,020)	(985)	-3.4

<sup>a</sup> Figures are for the last day of the fiscal year shown.

<sup>b</sup> Based on institution design bed capacity of 6,692 wards.

**Ward Population.** As the figure shows, the department projects that the ward population will reach 9,092 wards at the end of the budget year, an increase of 363 wards, or 4.2 percent, above the current-year estimate.

The highlights of the department's ward population estimates for the current and budget year include the following:

- **Admissions.** Of the total admissions to the Youth Authority in 1993-94, about 54 percent will be commitments from juvenile court. About 25 percent will be parole violators, 17 percent will be CDC inmates housed in the Youth Authority, and 3 percent will be juvenile commitments from criminal court.
- **Length of Stay.** The average length of stay for the Youth Authority wards will increase slightly, from 21.7 months in the current year to 21.9 months in the budget year. The average length of stay for CDC inmates housed in the Youth Authority will increase from 17.5 months to 18.2 months.
- **Overcrowding.** Overcrowding in the Youth Authority institutions will increase to about 136 percent by the end of 1993-94.
- **Gender Composition.** The ward population will be about 97 percent male and 3 percent female at the end of 1993-94.

**Budget Proposes New LEAD Program in Southern California.** The budget proposes to establish a new "bed savings" program in 1993-94 to reduce the need for institutional beds. Specifically, the budget requests \$500,000 from federal funds (appropriated in Ch 10/92 [SB 676, Presley]) to establish a second LEAD Program. The program, which is modeled after the existing program at the Preston School of Industry in Ione, would place selected first-time, nonviolent offenders in a four-month intensive incarceration program, followed by six months of intensive parole supervision. The 60-bed institutional program would be located at the Fred C. Nelles School in Whittier. The department estimates that the program will eventually reduce the need for 126 beds annually.

Our review indicates that, although the department estimates that the program will reduce the need for 74 institution beds in 1993-94, no adjustment has been made to the department's 1993-94 ward population estimate. According to the Youth Authority, an adjustment will be made at the time of the May revision.

**Parolee Population.** As Figure 20 shows, the department estimates that the parolee population will reach 6,489 parolees at the end of 1993-94, an increase of 325 parolees, or 5.3 percent over the current-year

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amount. Of this amount, about 85 percent are Youth Authority parolees and the remaining 15 percent are CDC parolees supervised by the Youth Authority.

***Action on Ward and Parole Caseloads Should Await May Revision.*** The department will submit a revised budget proposal as part of the May revision that will reflect more current population projections. These projections could result in a substantial change in the requested amounts.

For example, the actual ward population in late January was slightly below the estimated amount. If this trend continues, the budget could be adjusted downward. On the other hand, other factors, such as closure of county probation camps in the coming months, which we discuss later in this analysis, could result in greater population. Finally, as indicated above, the impact of the new LEAD Program on the ward population has not been accounted for in the current projections, but will be factored into the projections used to develop the May revision.

For these reasons, we withhold recommendation on \$4 million requested to support ward and parolee population changes, pending receipt and analysis of the revised budget proposal.

## **Closure of County Probation Facilities Could Have Dramatic Impact on Youth Authority**

*We recommend that (1) the Legislature direct the Youth Authority and the Department of Finance to consider the impact of potential closures of county juvenile camps and ranches on the Youth Authority's ward and parole population projections when developing the May revision, and (2) the Youth Authority report during budget hearings on its efforts to put a mechanism in place to charge counties for additional commitments resulting from the closures.*

**Background.** In general, juvenile courts have four major choices for treating youthful offenders whom the courts declare as wards. These choices are: (1) placement at home on probation; (2) commitment to a county juvenile hall, camp, or ranch; (3) placement in Aid to Families with Dependent Children-Foster Care (AFDC-FC), usually in a group home setting; and (4) commitment to the Youth Authority.

Placements on probation or in a county facility are supported almost entirely by county general funds. Placement in AFDC-FC is supported by state, county, and federal funds. Youth Authority commitments are supported almost entirely by the state (counties pay only \$25 per month for each commitment from the county).

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**Counties Consider Closure of Camp Programs.** Because of fiscal constraints, two counties (Alameda and Kern) have recently closed camps and ranches, and several other counties are considering closure, including Contra Costa, Los Angeles, Riverside, and Santa Clara. Los Angeles County recently announced it plans to tentatively close most or all of its 19 camps at the end of April 1993. These camps house about 2,100 juvenile offenders.

Our analysis indicates that closure of county camps and ranches could result in a large increase in the ward population and increase General Fund costs substantially. In addition, the closure could have negative fiscal consequences for AFDC-FC, as well as negative programmatic consequences for the wards. *The Governor's Budget and the Youth Authority's ward and parole population projections do not account for any reduction of county camp programs.* We discuss these fiscal and programmatic consequences in further detail below.

**Potential Increase in Youth Authority Population and Costs.** A reduction in the number of wards housed at the county level would increase the number of wards committed to the Youth Authority each year. For example, there are 4,500 juvenile offenders admitted to Los Angeles camp programs annually for an average stay of about six months. According to the county, most of these offenders have been involved in violent offenses, 90 percent have gang affiliations, and many have substance abuse problems. Given the serious profiles of these offenders, it is highly likely that closure of the county's camps will increase pressure on the Youth Authority to accept an even larger number of juveniles from the county. As a result, the proportion of the Youth Authority's population from Los Angeles County, which is already more than 40 percent, would increase.

The Youth Authority and Los Angeles County estimate that if the county closes its camps, anywhere from one-third to one-half of its 4,500 juveniles would be placed in the Youth Authority, or about double the number currently committed from the county. In addition, it is likely that the wards would stay substantially longer in the Youth Authority than they did in the county program. This is because current YOPB guidelines generally require longer periods of incarceration than Los Angeles County requires for similar offenders.

Based on these estimates, closure of the Los Angeles camps could increase Youth Authority's costs by at least \$25 million in 1993-94 and substantially higher amounts thereafter. In addition, the increase in commitments would significantly increase overcrowding in Youth Authority institutions.

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**Potential Increase in Foster Care Caseloads and Costs.** Any reduction in camp programs is likely to increase placement in foster care group homes and family homes. For example, Los Angeles County estimates closure of the camps will result in 1,000 of the 4,500 commitments being placed in family homes or group homes in 1993-94. Since the state pays for 20 to 40 percent of the costs of these programs (depending upon the percentage of cases eligible for federal funding), such placements could increase state costs by more than \$13 million in 1993-94. (Please see our analysis of the Department of Social Services for more information on the impact on foster care.)

**Potential Adverse Impact on Wards.** As we indicated earlier, there are generally only four placement options for a juvenile court. Curtailment of camp programs effectively eliminates one of the options that the court has often found to be the most appropriate treatment setting for wards. For example, wards who might otherwise need a short period of treatment in a local secure facility may be shifted to the Youth Authority for a longer period. In addition, a substantial number of wards who would otherwise be committed to camps could be placed on probation at home (Los Angeles County estimates that 1,100 additional wards would be placed on probation at home). Such placements could have negative public safety consequences because supervision would be much more limited.

**The State Could Recover Youth Authority Costs.** Current law provides a mechanism for the state to recover costs from counties for increased commitments to the Youth Authority. Specifically, current law specifies that any county that reduces the capacity of its camp programs below the 1990-91 capacity of the facilities and, during the year following the reduction, increases its commitments to the Youth Authority, must pay for the costs of the additional commitments. The statute permits the State Controller to recover the costs by redirecting funds that the county would have received for social services programs.

This mechanism may provide an incentive for counties to keep their camps open. However, existing law also provides that, until July 1, 1993, the recovery provisions do not apply to counties that reduced capacity as "a result of unforeseeable circumstances." Even if the state were to recover costs for additional commitments, it could not do so until *one year after* the commitments were received by the Youth Authority. Finally, the Youth Authority advises that it has never sought to recover costs from counties, although it is currently considering how to put the mechanism in place. It should be noted that in 1991 and 1992 the Legislature enacted legislation to exempt two counties (Alameda and Kern) from these provisions.

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**Analyst's Recommendation.** In our view, the number of counties considering closing camp facilities is only likely to grow in the coming months, given the local fiscal situation. In addition, actions by the state that reduce assistance to counties in 1993-94 may increase the likelihood of camp closures. Given the fiscal and programmatic consequences that these actions could have on the Youth Authority, we recommend that (1) the Legislature direct the Youth Authority and the Department of Finance to consider the impact of the camp closures on the Youth Authority's ward and parolee population projections when developing the May revision, and (2) the Youth Authority report during budget hearings on its efforts to put a mechanism in place to charge counties for additional commitments resulting from the closures. (For further discussion on the state and local fiscal relationship, please see our piece in *The 1993-94 Budget: Perspectives and Issues.*)

### **Special Education Programs Remain Out of Compliance with Federal Law**

*We recommend that the Youth Authority report to the Legislature during budget hearings on (1) its current efforts to come into compliance with the federal requirements for special education programs and (2) the status of the judgment against the department in the Nick O. v. Terhune lawsuit.*

**Background.** In 1989, both the federal and state Departments of Education found the Youth Authority to be out of compliance with federal and state special education requirements. In general, these requirements provide that the state undertake certain identification (referral and assessment), education planning, and placement activities. In 1989, the Youth Law Center (YLC), a nonprofit foundation in San Francisco, sued the department (*Nick O. v. Terhune*) for noncompliance in the special education program, paralleling the findings of the state and federal agencies. In 1990, the Youth Authority and the YLC entered into a "stipulated judgment" to resolve the lawsuit in which the department agreed to provide the federally required services. The agreement included compliance monitoring by the YLC for three years (through May 1993) and specified that failure of the department to achieve compliance would be grounds for extending the order *and for additional relief.*

**Legislature Provided Funding.** In order to bring the department into compliance, the Administration requested and the Legislature approved significant additional resources for special education. Specifically, the 1991 Budget Act contained \$1.8 million and the 1992 Budget Act contained \$2.1 million for compliance purposes. The Governor's Budget

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requests \$2.2 million for 1993-94. The augmentations have come from Proposition 98 monies. Positions have been established in order to provide the identification, educational planning, and placement services entitled by wards with specified educational needs.

**Monitors Find that Department Remains Out of Compliance.** Recent reports from the court-appointed monitors indicate that the department remains substantially out of compliance. They have cited many specific elements that are out of compliance with the judgment, including:

- Services are not equivalent in quantity and quality to those available to students in public schools.
- Lack of sufficient qualified staff to provide services.
- Students in need of special education are not identified, located, and evaluated within prescribed timelines.
- Individual educational plans (IEPs) do not contain specific instructional objectives that are measurable and within the student's capabilities.
- Students do not receive the amount or type of classroom instruction specified in their IEPs.

The monitors indicated that "in spite of some excellent staff and productive programs, the system...is not significantly better today than it was when the *Nick O.* cause was first advanced" and concluded that, without a dramatic turn around, the legally defined needs of disabled wards in the Youth Authority will remain unmet.

The Youth Authority staff indicates that it is aware of the difficulties and is continuing to take steps to come into compliance. The department advises that it has had particular difficulty in recruiting and retaining staff for special education programs, especially in southern California.

**Analyst's Recommendation.** Although the Legislature has approved all resources requested by the department in order to meet the requirements of the judgment, the requirements remain unmet. We are concerned that the continuing failure to come into compliance with the judgment could have substantial fiscal and programmatic consequences for the state, especially as the deadline for the judgment approaches in May. Given these factors, we recommend that the department report to the Legislature during budget hearings on (1) its current efforts to come into compliance with the federal requirements and (2) the status of the judgment.

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## **Bond Fund Proposals Leave Little Money for Future Needs**

*We recommend that, prior to budget hearings, the department provide the Legislature with a list of the specific maintenance projects it intends to support with bond funds, along with information on why the projects are critical and how they will extend the life of the facilities.*

The budget requests \$3.6 million from the 1986 Prison Construction Bond Fund for the Youth Authority. Of the total, \$3 million is proposed as an augmentation for deferred maintenance in Youth Authority institutions. The remaining \$610,000 would be spent to replace existing radio equipment at the Northern California Youth Center (NCYC) in Stockton. Although these requests appear justified, we are concerned about the bond financing mechanism proposed by the Administration.

*Deferred Maintenance.* The department estimates that it will spend \$1.4 million from the General Fund for recurring maintenance and special repair projects in 1992-93. The request for the budget year would bring total spending for maintenance to \$4.4 million in the budget year.

The department advises that a survey of all facilities identified \$27 million in deferred maintenance projects that are needed in order to minimize deterioration of existing facilities and to reduce future repairs and replacement. Of this amount, the department estimates that \$9 million worth of projects are most critical and in need of immediate attention. The proposal indicates that, subject to availability of funding, the department will seek an additional \$3 million in 1994-95 and 1995-96 to fund the critical projects. (We discuss the needs for maintenance of state facilities in more detail in the Capital Outlay section of this *Analysis*.) At the time this analysis was prepared, the department had not provided a list of specific projects it planned to undertake with the \$3 million augmentation.

*Radio Replacement.* The department cites a number of deficiencies in its existing radio communication system at NCYC, which consists of four separate facilities. The proposal would replace the existing low-band radio communication equipment with a new system, which would enable security staff to communicate better.

*Analyst's Concerns.* Our review indicates that the proposed augmentations are programmatically justified. In addition, we believe that the Administration deserves credit for taking steps to address the backlog of maintenance projects in Youth Authority institutions. However, we note two concerns about the use of bond funds to finance the proposals.

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First, approval of these proposals, along with proposals for bond fund expenditures in the CDC budget (see our analysis of the CDC earlier in this analysis) will leave only \$50 million in general obligation bond funds for the CDC and the Youth Authority. However, the CDC and the Youth Authority have identified five-year capital outlay needs totaling \$560 million (this amount does not include any new prison facilities). (We note that the Governor's Budget proposes to spend more prison bond funds in 1993-94 on support budget activities in the CDC and Youth Authority—\$55 million—than on capital outlay—\$50 million—for the two departments.)

Second, although we find that the proposed expenditures appear to be consistent with the provisions of the bond act that created the 1986 Prison Construction Bond Fund, we believe that funding deferred maintenance from bond funds is generally not in the state's best interest, unless the specific projects are critical and will substantially extend the useful life of the facility. (We discussed criteria for determining appropriate uses of state bond proceeds on page 249 in *The 1991-92 Budget: Perspectives and Issues*).

Because the department has not provided a list of how it intends to spend the \$3 million, we are unable to determine whether the projects are of a critical nature and, thus, should be funded from bond funds. Consequently, we recommend that the department, prior to budget hearings, provide the Legislature with a list of the specific projects it intends to pay for from bond funds, along with information on why the projects are critical and how they will extend the life of the facilities.

## **TRIAL COURT FUNDING (0420 AND 0450)**

The Trial Court Funding Program, enacted by Ch 945/88 (SB 612, Presley), the Brown-Presley Trial Court Funding Act, requires the state to assume primary responsibility for funding the operations of the trial courts in counties that choose to participate in the program. Chapter 90, Statutes of 1991 (AB 1297, Isenberg), the Trial Court Realignment and Efficiency Act of 1991, significantly modified the program and specifies the Legislature's intent to increase state support for trial court operations 5 percent per year from 50 percent in 1991-92 to a maximum of 70 percent in 1995-96.

The budget proposes total expenditures of \$706 million for support of the Trial Court Funding Program and assumes that all 58 counties will participate in 1993-94. The amount requested is \$45.7 million, or 6.1 percent, below estimated expenditures in the current year. The

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program is supported by appropriations of \$495 million from the General Fund and \$211 million from the Trial Court Trust Fund.

The Trial Court Funding Program is comprised of four funding components:

- Contributions to Judges' Retirement Fund (Item 0390).
- Salaries for Superior Court Judges (Item 0420).
- State Block Grants for Trial Court Funding (Item 0450).
- Trial Court Trust Fund (Chapter 696, Statutes of 1992 [AB 1344, Isenberg])

Figure 21 shows proposed expenditures for each component of the Trial Court Funding Program and *total* state funding for support of the trial courts in the current and budget years. We discuss Contributions to the Judges' Retirement Fund (Item 0390) in detail in the State Administration Section of this *Analysis*. The other components are discussed below.

**Figure 21**

**Total State Funding for Support of Trial Courts 1991-92 Through 1993-94**

(Dollars in Millions)

	1991-92 Actual	1992-93 Estimated	1993-94 Proposed	Percent Change From 1992-93
Contributions to Judges' Retirement System for superior and municipal court judges (Item 0390)	\$44.6	\$54.4	\$60.8	11.7%
Salaries and benefits of superior court judges (Item 0420)	73.7	73.9	75.8	2.7
State block grants for trial court funding (Item 0450)	629.0	483.6	358.6	-25.8
Block grants for trial courts	(575.6)	(430.2)	(358.6)	(-16.6)
Block grant supplement for salaries of municipal court judges	(49.1)	(49.1)	(—)	(-100.0)
Block grant supplement for salaries of justice court judges	(4.3)	(4.3)	(—)	(-100.0)
Trial Court Trust Fund	—	140.0	211.0	50.7
<b>Totals</b>	<b>\$747.3</b>	<b>\$752.0</b>	<b>\$706.3</b>	<b>-6.1%</b>
State share of statewide trial court costs <sup>a</sup>	51%	50%	46%	—

<sup>a</sup> Based on Judicial Council estimates.

As the figure indicates, there have been significant reductions in General Fund block grant expenditures since 1991-92. In addition, the figure shows that a significant amount of the total funding for the program in the current and budget years will depend on locally generated revenues deposited into the Trial Court Trust Fund. Finally, the figure shows that the Governor's Budget does not set aside funds for municipal and justice court judges' salaries in 1993-94. Rather, the budget assumes that these costs will be paid from the block grant appropriations (we discuss municipal and justice court judges' salaries in greater detail below).

Currently AB 32 (Isenberg) is moving through the Legislature to provide the distribution formula for the Trial Court Trust Fund revenues in the current year. However, the bill is silent about the distribution of trust funds in the budget year. The Legislature will have to address the distribution of trust fund revenues in the budget year.

The Judicial Council has submitted a report, pursuant to Chapter 90, on how the state can incorporate trial court expenditures into the annual state budget. The report recommends that the Legislature budget state funds based on specific court activities, such as bailiff services, rather than block grant payments as is currently done. The council recommended that the state assume funding for additional functions each year as it increases funding for support of the trial courts.

## **Funding for Trial Court Program Becomes More Complex**

### **1992-93 Governor's Budget**

When the 1992-93 Governor's Budget was first proposed, it maintained *total* General Fund expenditures for the Trial Court Funding Program at the 1991-92 amount of \$748 million. Although the request for 1992-93 was identical to 1991-92 expenditures, the proposed amount was \$143 million less than the Legislature's expressed intent for funding 55 percent of the total statewide operating costs for the trial courts in 1992-93.

As a means of closing the 1992-93 budget gap, the Legislature and the Governor agreed to reduce General Fund support for trial court block grants by \$100 million below the original \$748 million budget request.

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## **Additional Fees Captured for Support of the Trial Courts**

In an attempt to restore state support for the trial courts, the Legislature enacted Chapter 696. The measure significantly changes the funding sources for trial court operations and enacted optional provisions designed to make trial courts more efficient. In part, the measure establishes:

- A new formula for distributing trial court funding block grants for the first six months of 1992-93.
- New trial court fees and increases other trial court civil fees, which are captured by the state to support trial court operation costs. These funds are deposited in the new Trial Court Trust Fund.
- New trial court operation and coordination efficiencies, such as a single presiding judge and/or executive officer for all participating courts of a coordination plan.

In recognition of these efficiencies, the Legislature reduced funding by an additional \$35 million in General Fund costs, for a total reduction of \$135 million.

## **Fitting the Pieces Together**

The Judicial Council estimated that \$208 million would be collected from the capture of the new and increased trial court civil fees (primarily through civil filing fees and court reporter fees). The combination of the efficiencies (\$35 million) and new revenues (\$208 million) allowed the state to fund trial court operations at the intended level of 55 percent in 1992-93. However, changes in current-year revenue projections for the Trial Court Trust Fund will result in the state funding about 50 percent of total trial court costs (we discuss the Trust Fund in greater detail below).

## **1993-94 Budget Issues**

### **Budget Falls Short of Legislative Intent for Second Straight Year**

*Although Chapter 90 expresses the Legislature's intent to support 60 percent of total trial court costs in 1993-94, the proposed budget will support only about 46 percent of these costs. If the Legislature wishes to fund the program at the 60 percent level, the budget would have to be augmented by about \$218 million.*

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As indicated above, Chapter 90 specifies the Legislature's intent to increase state support of the trial courts by 5 percent per year, up to a state-supported funding level of 70 percent by 1995-96. This would result in the state supporting 60 percent of the statewide costs for trial court operations in 1993-94. Our review indicates, however, that the budget, as submitted, proposes to fund trial court operations significantly below the 60 percent level. This will be the second straight year that the budget fails to provide appropriations sufficient to fund trial court operations at the levels specified by the Legislature.

***Budget Proposes Funding Reductions in Block Grants.*** The most significant change proposed in the Trial Court Funding Program is the reduction of the trial court funding block grants. The budget proposes expenditures of \$359 million from the General Fund to provide block grants for trial court operations. This is a decrease of \$125 million, or 26 percent, below estimated block grant expenditures for the current year (see Figure 21 on page 68).

***Superior Court Judges' Salaries and Judges' Retirement System.*** As Figure 21 shows, the budget provides for an increase of \$1.9 million, or 2.7 percent, in expenditures for superior court judges salaries. This increase reflects a salary increase that will be provided to superior court judges effective January 1, 1994. The budget also provides a significant increase (\$6.4 million, or 12 percent) in state contributions to the Judges' Retirement System (please see the State Administration Section of this *Analysis* for details).

***Municipal and Justice Court Judges' Salaries.*** As we indicated earlier, the budget assumes that costs of salaries for municipal and justice court judges will be paid from the block grant appropriation. The Department of Finance advises that expenditures for municipal and justice court judges are anticipated to remain at the 1992-93 level—approximately \$53.4 million. However, this level of funding does not account for the statutorily required increase in municipal and justice court judges' salaries that will take effect at the same time as increases for superior court judges salaries. As a result, expenditures for municipal and justice court judges' salaries will increase by \$1.3 million during the last half of 1993-94. Because expenditures for municipal and justice court judges salaries are contained within the appropriation for trial court block grants, the salary increase will further reduce state funding for trial court block grants by \$1.3 million.

***Budget Supports About 46 Percent of Statewide Trial Court Operating Costs.*** Based on information provided by the Judicial Council, we estimate that total expenditures to support the trial courts in 1993-94 will be about \$1.5 billion. Thus, the total proposed budget of



\$706 million will support about 46 percent of the estimated statewide trial court costs in the budget year. If the Legislature wishes to carry out the intent of Chapter 90 for the state to fund 60 percent of court costs, the budget would need to be increased to at least \$924 million, or \$218 million more than the proposed amount.

### **Trial Court Funding Program Is Increasingly Dependent on Local Revenue Sources**

*Since the enactment of Ch 90/91, funding for the Trial Court Funding Program has become increasingly dependent on revenues remitted to the state by local governments and the trial courts, which are then redistributed back to counties.*

In recent years, the state's support of the Trial Court Funding Program has become increasingly dependent on revenues transferred to the state from local governments, which, in turn, have been redistributed back to counties. Figure 22 shows the revenue sources for the Trial Court Funding Program. We have identified revenue sources as:

- "Pre-Ch 90/91," to identify General Fund support pursuant to Ch 945/88.
- "Fines and forfeitures," to identify funding remitted to the state General Fund, pursuant to Chapter 90.
- "Trust Fund," to identify civil fee revenues (for example, filing fees) remitted to the state pursuant to Ch 696/92.

In 1990-91, the year before the enactment of Chapter 90, the state expended \$507 million from the General Fund for support of the Trial Court Funding Program. In 1991-92, under Chapter 90, the state expended \$747 million to support the trial court funding program. However, \$305 million of this amount was generated from counties' remittance of local fines, fees, and forfeitures to the state General Fund. As a result, the state actually reduced its General Fund expenditures from "pre-Ch 90/91" resources to \$442 million.

In the current year, the state again reduced its General Fund pre-Chapter 90 expenditures for the Trial Court Funding Program. Total state expenditures for the program in 1992-93 are estimated at \$752 million. However, \$484 million of this amount is from local sources, thereby reducing state pre-Chapter 90 expenditures to \$268 million, or 36 percent of the *total* trial court operating costs. Of the \$485 million from local sources, \$345 million is from local fines, fees, and forfeitures. The remaining \$140 million is due to increased civil

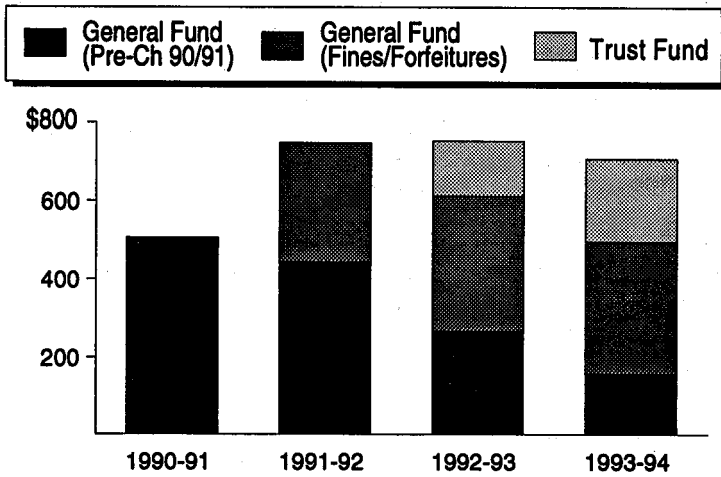
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fees, which it is estimated the state will be able to capture pursuant to Chapter 696.

**Figure 22**

**Trial Court Funding Program Increasingly Dependent on Local Revenue Sources 1990-91 Through 1993-94**

(In Millions)



In the budget year, local revenue collections will account for \$553 million, or 78 percent, of the \$706 million in total expenditures for trial court operations.

The increasing reliance of the state to fund the Trial Court Funding Program using locally generated revenues is indicative of one of the ways the program has fallen short of the Legislature's expectations. These shortfalls are discussed in more detail below.

**Trial Court Funding Program Has Not Met Expectations**

*The Trial Court Funding Program has not met the primary purposes expressed by the Legislature in Chapter 90. The Legislature needs to assess whether to continue the program.*

When Chapter 90 was enacted, the measure expressed three primary purposes for the Trial Court Funding Program. The purposes were shaped by both the fiscal problems facing the state in 1991-92 and the

Legislature's desire to improve the trial court system. The measure's expressed purposes are to:

- Increase state funding for the trial courts.
- Transfer local court revenues to the state for a net benefit to the General Fund.
- Improve the public's access to justice through the implementation of efficiencies and cost savings measures.

***Increased State Funding for the Trial Courts.*** As we indicated above, although the state has increased funding for trial court operations in 1991-92 and 1992-93, a significant amount of the funding for these years as well as 1993-94 is a redistribution of locally generated revenues. In addition, the Governor's Budget proposes to *reduce* funding in the budget year by 6.1 percent below the current-year amount (from \$752 million in 1992-93 to \$706 million in 1993-94).

***Transfer of Local Court Revenues to the State.*** Chapter 90 increased certain fines, fees, and forfeitures that are collected through the courts. It also transferred a significant portion of local fines, fees, and forfeiture revenue to the state General Fund. As a result, it was anticipated that there would be a net increase in annual revenues to the General Fund through 1995-96. When the legislation was initially proposed in 1991, it was estimated that the legislation would provide a net gain of roughly \$300 million for the General Fund in 1991-92—revenues that could be used to help close the state's projected \$14.3 billion budget gap. Instead, because of poor revenue performance, the changes made by Chapter 90 resulted in additional General Fund *costs* (above what they would have otherwise been without Chapter 90) of about \$57 million in 1991-92. Based on the most recent revenue projections, it appears that the Trial Court Funding Program will result in additional General Fund costs in the current year, too.

***Implementation of Efficiencies and Cost Savings.*** Another purpose of the Trial Court Funding Program was to improve public access to justice by requiring trial courts to implement certain efficiencies and cost saving measures. For example, Chapter 90 required trial courts to develop coordination plans designed to achieve maximum utilization of court resources and reduce statewide operating costs by 3 percent in the current year, 2 percent in the budget year, and an additional 2 percent in 1994-95. In addition, Chapter 696 provides other optional efficiencies that are estimated to save at least \$35 million in General Fund expenditures annually.

Assessing whether the programs have been successful in achieving court efficiencies is difficult because of the lack of quantitative data.

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Based on our site visits and discussions with local court personnel, it appears that the program has had mixed results. We do know that all courts developed coordination plans as required by Chapter 90. However, it is unknown how much, if any, savings resulted from these plans. In general, it appears that courts that have implemented the efficiencies contained in Chapter 90 were moving in that direction before its enactment. Courts that have not implemented the changes have indicated a number of reasons for this, such as geographical constraints (wide geographical areas making coordination of court operations difficult). We conclude that the majority of courts fall into this latter category.

**Conclusions.** Our analysis of the Trial Court Funding Program since 1991 indicates that the program has not met the Legislature's expectations based on the purposes stated in Chapter 90. Specifically, (1) state funding for the courts has not increased as anticipated, (2) the net General Fund revenue benefits to the state have not materialized, and (3) some, but not a majority, of courts have embraced the efficiency and coordination efforts. Therefore, the Legislature should assess whether to continue the program.

### **Trust Fund Revenues Are Likely to Fall Short of Expectations**

*Currently, Trial Court Trust Fund revenues are significantly below projections. We recommend that the Legislature adopt incentives to require the timely remittance of trust fund revenues.*

As indicated above, Ch 696/92 increases certain trial court civil fees and allows the state to capture these fees (in the new Trial Court Trust Fund) to support a portion of the costs of trial court operations. It is generally assumed that the revenues supporting the trust fund are more stable and predictable than fines and forfeitures revenues (provided under Ch 90/91). This is because trust fund revenues are generated from court fees that must be paid *before* a matter can proceed through the court system.

At the time Chapter 696 was enacted, the Judicial Council estimated that \$208 million would be deposited in the Trial Court Trust Fund in the current year. More recent projections by the Judicial Council have revised downward the current-year collection estimate to about \$140 million. For the budget year, the council estimates revenues of \$211 million. Based on current trends, however, it appears that the projections may be overstated because current-year collections are lagging behind projections.

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***Current-Year Revenues Lag.*** Because of implementation delays, counties were not expected to begin remitting revenues to the state until October 1992. Based on the revised current-year projections, approximately \$64 million should have been deposited in the trust fund for the months of October, November, December 1992, and January 1993. However, as of February 1993, only \$26 million had been remitted to the State Controller and deposited into the trust fund. In addition, our review of the State Controller's report indicates that many counties have submitted little or no revenues in some of the individual revenue components. For example, 34 counties have not remitted any revenues for superior court reporter service fees and 20 counties have not remitted any revenues for superior court filing fees pursuant to Chapter 696.

***Current-Year Revenue Lag Resembles 1991-92 Experience.*** In 1991-92, when Chapter 90 was enacted, many counties delayed the remittance of Chapter 90 revenues to the state for a variety of reasons, including confusion over assessing the increases in fines and forfeiture assessments. In addition, our review indicates that many counties chose to ignore the remittance guidelines and instead retained the revenues within their respective treasuries. This reluctance by counties to remit revenues in a timely manner was later addressed by the Legislature in subsequent legislation. Currently, it appears that a similar situation is occurring regarding counties' remittance of Chapter 696 revenues.

In view of the above, we recommend that the Legislature examine the remittance practices for counties and adjust the incentives for counties to remit collected revenues in a more timely manner. Currently, the State Controller is authorized to conduct periodic audits of counties' remittances to the state. As part of an audit, the Legislature should direct the Controller to include an audit of the counties' remittance of trust fund revenues. Based on similar guidelines provided under Chapter 696, the Controller should assess penalties against delinquent counties on future trust fund payments.

## **JUDICIAL (0250)**

The California Constitution vests the state's judicial power in the Supreme Court, the courts of appeal, and the superior, municipal, and justice courts. The Supreme Court and the six courts of appeal are entirely state-supported. Under the Trial Court Funding Program, the state also provides a significant amount of funding for the trial courts in participating counties, while the counties bear the remainder of the

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costs. (For more information on the Trial Court Funding Program, please see Item 0450 earlier in this *Analysis*.)

**Judicial Council.** The Judicial Council has 21 members and is chaired by the Chief Justice. As required by the State Constitution, the council seeks to improve the administration of justice by (1) overseeing judicial business; (2) making appropriate recommendations to the courts, the Governor, and the Legislature on the operations of the courts; and (3) adopting rules for court administration, practice, and procedure.

**Proposed Budget.** The budget proposes total appropriations of \$156 million (\$155 million from the General Fund, \$250,000 from special funds, and \$835,000 in reimbursements) for the support of judicial functions in 1993-94. This is an increase of \$13.1 million, or 9.1 percent, above estimated current-year expenditures.

### **Caseload Growth in Court-Appointed Counsel Program Overbudgeted**

*We recommend a General Fund reduction of \$974,000 for the Appointed Counsel Program because the requested amount is overbudgeted. (Reduce Item 0250-001-001 by \$974,000.)*

The budget requests \$39.3 million from the General Fund for the Appointed Counsel Program for the courts of appeal in 1993-94. This is an increase of \$3.4 million, or 9.4 percent, above estimated current-year expenditures for the program. The Appointed Counsel Program uses private attorneys working under the supervision of nonprofit organizations to provide appellate defense services for indigent persons.

The proposed increase is driven primarily by a projected increase in caseload requiring the appointment of private attorneys in the budget year. The Judicial Council estimates that the caseload will increase from 8,917 private appointments in the current year to 9,680 in the budget year. The council does not anticipate an increase in the per-appointment cost in the budget year.

**Additional Caseload Uncertain.** The Judicial Council indicates that there are two primary reasons for increasing the number of court-appointed counsel. First, five additional appellate justices were appointed to the Second Appellate District in January 1993 and, as a consequence, it is assumed that additional cases will be processed by the court. Second, the Los Angeles County Superior Court has recently taken steps intended to increase the number of cases moving to the appeals court. However, given historical experience, there is considerable uncertainty as to the extent to which additional justices or the

actions of the Los Angeles Superior Court will affect the need for court-appointed counsel.

*Program Has Been Overbudgeted Since 1990-91.* Data provided by the Judicial Council indicate that caseload expenditures for the Appointed Counsel Program have fallen below projected levels annually for the past three years. In addition, the data show that the rate of caseload growth has actually slowed since 1989-90. In the current year, for example, the Judicial Council budgeted for 9,294 counsel appointments based upon an expected rate of increase of 9.6 percent over 1991-92. However, more recent projections show that counsel appointments are expected to total only 8,917, or 7.6 percent above 1991-92.

*Analyst's Recommendation.* Based on the above-mentioned factors, we believe that the need for appointed counsel will not be as large as requested. Rather, we believe that a more reasonable increase to meet the caseload requirements would be \$2.4 million, or 6.7 percent, above current-year expenditures. Thus, we recommend a General Fund reduction of \$974,000.

### **Assigned Judges Program Should Be Paid from Trial Court Funding Block Grants**

*We recommend a General Fund reduction of \$4.5 million for the Assigned Judges Program because funding for this program should be provided to counties through the Trial Court Funding Program. (Reduce Item 0250-001-001 by \$4.5 million and Item 0450-101-001 by \$10.2 million; augment Item 0250-001-001 by \$10.2 million.)*

The Constitution provides the Chief Justice of the California Supreme Court with the authority to assign active and retired judges to hear cases in trial courts on a temporary basis. These assignments are generally made due to illness or disqualification of permanent judges, judicial vacancies, or court calendar congestion. Chapter 1389, Statutes of 1989 (SB 1350, Lockyer), centralized the payment of salaries and expenses of assigned judges within the Judicial Council. The annual Budget Act contains an appropriation in the Judicial budget for the Assigned Judges Program. If the appropriation is insufficient to cover costs, the Controller is authorized to redirect additional amounts to this program from the appropriation for State Block Grants for Trial Court Funding (Item 0450).

According to the Judicial Council, the costs for the Assigned Judges Program will be \$10.2 million in 1993-94. The budget proposes an expenditure of \$4.5 million from the judicial appropriation for a portion

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of these costs. The remaining \$5.7 million would be redirected from Item 0450. Both appropriations are from the General Fund.

**State Payments Under Trial Court Funding Program.** Under the Trial Court Funding Program, the state pays for a significant portion of the operating costs of the trial courts from block grants provided to each county (see our analysis of Trial Court Funding for more details). These costs include salaries and benefits for judges and other operating expenses of the courts.

We believe that the Assigned Judges Program is a *trial court* cost and, therefore, should be *entirely* supported from trial court funding appropriations under Item 0450. It is illogical to have the state judicial appropriation pay for the salaries and expenses of an assigned judge when the position is *vacant*, when the trial court funding appropriation would support the position when it is *filled* by a permanent judge. For this reason, we recommend the Legislature reduce the judicial appropriation by \$4.5 million and pay for the entire \$10.2 million cost of the program from The Trial Court Funding appropriation. Because Chapter 1389 requires the Judicial Council to administer the program, we recommend that \$10.2 million be redirected from Item 0450 to Item 0250.

### **Staffing for Trial Court Budgeting Committee Not Needed**

*We recommend a reduction of five budget analyst positions for the Trial Court Budgeting Committee because the positions are not needed. (Reduce Item 0250-001-001 by \$387,355.)*

Chapter 696, Statutes of 1992 (AB 1344, Isenberg), expresses the Legislature's intent to change the method of appropriations for trial court funding from a block grant payment system to a system of line-item expenditures within the annual Budget Act. The statute also authorizes the Judicial Council to appoint a standing Trial Court Budgeting Committee, which has the authority to allocate trial court funds to participating counties. Administrative support for the committee will be provided by the Judicial Council.

The budget proposes an increase of \$387,355 from the General Fund to cover the costs of five budget analyst positions to carry out the duties and responsibilities of the committee. The budget, however, provides for *block grant* expenditures for trial court operations, not line-item expenditures, as specified in Chapter 696. Until the state actually moves from block grant payments to line-item expenditures, there is no need for the establishment of support positions for the committee. Therefore,



we recommend that the five analyst positions be deleted for a General Fund savings of \$387,355.

### **Funds Requested for Records Storage Not Justified**

*We recommend a General Fund reduction of \$136,250 for records storage because the expenditure is not justified. (Reduce Item 0250-001-001 by \$136,250.)*

The budget requests \$136,250 from the General Fund for records storage for the Supreme Court, courts of appeal, and the Judicial Council. This is a new expenditure item within the Judicial budget.

A review of the various lease contracts for the Supreme Court, courts of appeal, and the Judicial Council shows that storage space is provided as part of the individual lease agreements. In addition, the council's request does not document a need for additional storage space beyond that provided in the leased facilities.

For these reasons, we recommend the Legislature deny this request for a General Fund savings of \$136,250.

## **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 \$286 million for support for the DOJ in the budget year. This amount is \$6.9 million, or 2.5 percent, more than estimated current-year expenditures. The requested amount includes \$160 million from the General Fund, \$46.5 million from special funds, \$14.2 million from federal funds, and \$66 million from reimbursements. Although the budget proposes to reduce expenditures for most DOJ programs in the budget year, it requests increases of \$7.7 million, or 16 percent, for the Criminal Law Section, and \$767,000, or 3.1 percent, for the Public Rights Section. We discuss these requests later in this analysis.

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## **Local Agencies Should Support Criminalistic Laboratories**

*We recommend a General Fund reduction of \$7.5 million and an increase in reimbursements of \$7.5 million for support of regional criminalistic laboratories, because these services should be paid for by local governments. (Reduce Item 0820-001-001 by \$7.5 million.)*

The budget requests \$7.5 million from the General Fund for the support of ten regional criminalistic laboratories in 1993-94. The laboratories serve *local* law enforcement agencies by providing analysis of all types of physical evidence, controlled substances, and, when requested, assist local law enforcement agencies in processing and analysis of crime scenes. Local governments pay nothing for the services. These laboratories generally serve less populated counties. Local agencies that do not use the DOJ's regional laboratories provide their own criminalistic services at local cost.

In our view, the benefits from the work performed by the regional laboratories are almost exclusively limited to local governments. Consequently, we believe that local governments should be required to reimburse the state for these costs. This is consistent with current policy, which requires a local government to reimburse the DOJ for chemical analysis it performs in driving under the influence cases. In addition, Ch 1199/92 (AB 2409, Isenberg) allows counties to establish special funding sources from criminal fine revenues to cover costs for forensic laboratory work. Thus, these fine revenues could offset the costs to counties for reimbursing the DOJ.

For these reasons, we recommend that the Legislature reduce the requested amount by \$7.5 million and increase reimbursements by the same amount. As an alternative, if the Legislature does not wish to delete all state funding for the laboratories or wishes to phase it out over time, it may require local governments to pay some portion of the costs (for example, 50 percent of the total costs or pay for selected services, such as crime scene analysis). The Legislature could also direct the DOJ to develop a fee scheme to charge local governments based on their ability to pay for the services.

## **Local Agencies Should Have Direct Access to Telecommunication System**

*We recommend that the Legislature direct the DOJ to provide local law enforcement agencies with direct access to telecommunication services. We further recommend that the DOJ report at budget hearings on the amount of reimbursements it estimates it may receive by providing direct access.*

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The budget requests \$1 million from the General Fund for support of the statewide California Law Enforcement Telecommunications System (CLETS). The system, which was established in the late 1960s, provides participating local law enforcement and criminal justice agencies with 24-hour-a-day access to statewide law enforcement and criminal justice information, such as information on stolen vehicles and property, wanted and missing persons, and drivers' licenses and vehicle registrations. In addition, the CLETS provides state and local agencies access to national and international law enforcement and criminal justice information systems.

**Background.** Under current law, the DOJ provides one CLETS access terminal to each county at state expense. The terminal is located in a secured law enforcement or criminal justice facility (typically the county sheriff's department). The county agency then provides access to the terminal for other local law enforcement and criminal justice agencies. Current policy allows the county agency to charge other agencies for the costs of providing terminal access, but stipulates that charges should cover only the actual costs of providing the service (typically, the county does the actual billing). In addition, CLETS policy allows some user-agencies to bypass the county agency's terminal with the county agency's written approval, if the user-agency agrees to pay the costs for direct access service.

**Wide Disparity in Local Charges.** Our review indicates that a wide disparity exists in the amounts that local user-agencies are charged by the host agencies for CLETS terminal access. In some counties, terminal access is provided at no cost to the user-agency, while user-agencies in other counties can pay in excess of \$150,000 annually for terminal access and services. Because the DOJ does not regulate or review the costs that are charged, or allow user-agencies to readily bypass the county agency, some county agencies have essentially established a monopoly. Conversely, based on the number of CLETS inquiries and transmissions, costs to local agencies that have *direct* access to CLETS through the DOJ average less than \$1,000 per year.

The CLETS was developed at a time when computer technology was relatively expensive and unfamiliar to most local law enforcement and criminal justice agencies. Now, most agencies have extensive access to computers and computer technology within their own operations and the capability to directly access CLETS information through the DOJ. Most agencies that obtain direct access to CLETS would likely incur savings.

**Artificial Barriers Should Be Removed.** We see no reason why local law enforcement and criminal justice agencies should not be allowed to

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contract directly with the DOJ, at a cost to the user-agency, for direct access to CLETS. Such action could (1) increase the response time for the user-agencies to receive information, thus improving their operations, (2) potentially reduce operating costs to the user-agencies, and (3) potentially save state General Fund monies by having the user-agencies reimburse DOJ for a portion of its costs of operating CLETS. We suggest that the DOJ continue to provide one CLETS access terminal at state expense to each county.

*Analyst's Recommendations.* We recommend that the Legislature direct the DOJ to provide direct access to CLETS to various local law enforcement agencies that are willing to contract with the state for those services. We further recommend that the DOJ report at budget hearings on the amount of reimbursements it estimates it may receive by providing direct access.

### **Child Care Provider Applicant Projections May Be Overstated**

*We withhold recommendation on \$1.6 million from the DOJ Sexual Habitual Offender Fund, pending receipt of revised applicant projections.*

Chapter 1338, Statutes of 1992 (SB 1184, Presley), which became effective January 1, 1993, requires any person requesting information from DOJ criminal records files on child care provider applicants to pay a \$15 fee. Revenues from the fee are deposited in the Sexual Habitual Offender Fund and are used to support the DNA Offender Identification Database and the Sexual Habitual Offender Program.

The budget requests \$1.6 million from the Sexual Habitual Offender Fund to support these two programs in the budget year.

Although the fund is established within the DOJ, the Department of Social Services (DSS) actually processes the applications and collects the fee payments from child care applicants. The DOJ estimates that the DSS will process about 107,000 applications in the current year and 105,000 applications in the budget year. Based on information provided by the DSS, we believe the DOJ projections may be overstated in both the current and budget years.

At the time we prepared this analysis, the DSS advised us that it anticipated that the number of child care applicants would be significantly below that estimated by the DOJ. The department indicates that the numbers of child care applicants have decreased over the past few years and this trend is expected to continue. The department attributes this decrease to enactment of Chapter 1338 and Ch 709/92 (AB 396, no author), which requires child care providers to pay an

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annual licensing fee (fees range from \$25 to \$500, depending on the type of facility and child capacity). As a result, the DSS believes that an increasing number of child care providers will forgo the application and licensing fees and, instead, will choose to provide unlicensed child care services.

*Revised Estimates Needed.* Because of the possible differences in projections between the DOJ and the DSS, we are concerned that there may not be adequate revenues to support the DNA Offender Identification Database and the Sexual Habitual Offender Program. Thus, we withhold recommendation on this request, pending receipt of revised child care applicant projections and information on how reduced revenues would affect the programs.

### **Staffing Needs Under Review**

*We withhold recommendation on \$8.4 million from the General Fund for workload increases in the Appeals, Writs and Trials Program, \$1 million from the General Fund for workload increases in the Correctional Law Program, and \$389,000 in reimbursements for toxics recovery litigation, pending additional information from the DOJ.*

The budget requests General Fund increases of \$8.4 million for the Appeals, Writs and Trials Program and \$1 million for the Correctional Law Program. The budget also requests an increase of \$389,000 in reimbursements from the Department of Toxic Substances Control for toxics recovery litigation. The three funding requests are based on expected workload increases for the budget year. However, the DOJ was unable to provide the necessary supporting information for these budget proposal increases by the time this analysis was completed. Thus, we withhold recommendation on these proposals, pending receipt and review of the necessary supporting information.

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# LIST OF FINDINGS AND RECOMMENDATIONS

Analysis  
Page

## Crosscutting Issues

1. **Impact of Current-Year Reductions.** Judiciary and criminal justice departments and programs took a variety of actions to implement current-year budget reductions, including increasing caseloads for parole supervision and personnel reductions. Many of these actions will result in increasing fiscal and programmatic responsibilities of local governments and delaying case work at the state level. 11
2. **Assuming Federal Funds for Incarceration of Undocumented Immigrants Entails Budgetary Risks.** Recommend that the Legislature review the Governor's contingency plan during budget hearings and develop an alternative, based on its priorities. 15

## Department of Corrections

### *Inmate and Parole Population Issues*

3. **Steady Growth in Prison Population.** Department projects that the prison population will grow at average annual rate of 5.2 percent, reaching 141,000 inmates by 1997-98. 22
4. **Inmate and Parole Population Projections Will Be Updated in May.** Withhold recommendation on \$269 million requested to fund inmate and parole population growth in the budget year, pending analysis of the May revision. 28
5. **Legislature Should Consider Measures to Reduce Inmate and Parole Growth.** Recommend that the Legislature consider various options for controlling inmate and parole 30

population as it looks for ways to solve the state's overall fiscal problem.

***Other Budget Issues***

6. **Budget Proposes to Open One New Prison and Delay the Opening of a Second.** Although the CDC will complete the construction of two new prisons, the budget proposes opening only one of the new prisons in the budget year and delay opening the second one because of the state's poor fiscal condition. 38
  7. **New Alternative Sentencing Program Behind Schedule.** Recommend a number of changes to improve the implementation of the new Alternative Sentencing Program. 39
  8. **Questionable Billings to the State by Local Return-to-Custody Operators.** Recommend that (a) the CDC and the State Controller's Office (SCO) report during budget hearings on the results of recent financial audits of return-to-custody (RTC) facilities, (b) the CDC report on it plan to recover unallowable billings by RTC facility operators, and (c) the Legislature direct the CDC to enter into agreement with the SCO to review the financial records of three additional RTC facility operators. 43
  9. **Pilot Female Offender Substance Abuse Treatment Project Should Continue.** Recommend that the Legislature (a) adopt Budget Bill language directing the Department of Alcohol and Drug Programs to continue funding the community treatment component of the project, and (b) direct the CDC to report during budget hearings on the feasibility of identifying additional funds for the institutional component of the project. 45
  10. **Civil Addict Program Has Failed to Provide Substantive Treatment.** Recommend (a) the enactment of legislation eliminating the Civil Addict Program and (b) the CDC submit a plan during budget hearings on how it can phase out the program beginning in 1993-94. 48
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	Analysis Page
11. <b>Department Establishes a New Health Care Services Division.</b> Recommend that the CDC report during budget hearings on several concerns regarding the new Health Care Services Division.	50
12. <b>Inappropriate Use of Bond Funds. Reduce Item 5240-001-751 by \$15.9 million and Item 5240-001-747 by \$363,000.</b> Recommend (a) the deletion of \$16.3 million in proposed bond fund requests because the uses are inappropriate and (b) that the CDC resubmit its requests with an alternative funding source.	52

### **Department of the Youth Authority**

13. <b>New Ward Population Projection Shows Steady Growth.</b> Following several years of slight declines, the ward population is expected to increase steadily, reaching just over 10,000 wards by 1996-97.	55
14. <b>Ward and Parolee Population Projections Will Be Updated in May.</b> Withhold recommendation on \$4 million, pending analysis of the May revision.	59
15. <b>Closure of County Probation Facilities Could Affect Youth Authority.</b> Recommend that (a) the Legislature direct the Youth Authority and the Department of Finance to consider the impact of closure of county juvenile camps on the Youth Authority's ward and population projections when developing the May revision, and (b) the Youth Authority report during budget subcommittee hearings on its efforts to put a mechanism in place to charge counties for additional commitments resulting from the closures.	61
16. <b>Special Education Programs Remain Out of Compliance with Federal Law.</b> Recommend that the Youth Authority report to the Legislature during budget hearings on (a) efforts to come into compliance with the federal requirements for special education programs and (b) the status of the judgment against the department in the <i>Nick O. v. Terhune</i> lawsuit.	64



17. **Bond Fund Proposals Leave Little Money for Future Needs.** Recommend that, prior to budget hearings, the department provide the Legislature with a list of the specific maintenance projects it intends to pay for from bond funds, along with information on why the projects are critical and how they will extend the life of the facilities. 66

### **Trial Court Funding**

18. **Budget Falls Short of Legislative Intent.** Although the Legislature expressed its intent to support 60 percent of trial court costs in 1993-94, the proposed budget will support only 46 percent. In order to fund the program at the 60 percent level, the budget would have to be augmented by about \$218 million. 70
19. **Trial Court Funding Increasingly Dependent on Local Revenues.** As funding mechanisms have changed, the program has increased dependence on revenues remitted to the state by local governments and courts, which are redistributed back to counties. 72
20. **Trial Court Funding Program Has Not Met Expectations.** The program has not met the primary purposes expressed by the Legislature. The Legislature will need to assess whether to continue the program. 73
21. **Trust Fund Revenues Likely Overstated.** Revenues to the Trial Court Trust Fund are significantly below projections. The Legislature will need to adopt incentives to require timely remittance of revenues by counties. 75

### **Judicial**

22. **Court-Appointed Counsel Caseload Growth Overbudgeted.** Reduce Item 0250-001-001 by \$974,000. Recommend reduction due to overbudgeting. 77
23. **Assigned Judges Program Should Be Paid from Trial Court Block Grants.** Reduce Item 0250-001-001 by 78
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**\$4.5 million and Item 0450-101-001 by \$10.2 million; Increase Item 0250-001-001 by \$10.2 million.** Recommend that the Assigned Judges Program be funded from the Trial Court Funding Program because the cost of assigned judges is a trial court cost.

- 24. **Staffing for Trial Court Budgeting Committee. Reduce Item 0250-001-001 by \$387,355.** Recommend reduction because positions are not needed. 79
- 25. **Funds Requested for Records Not Justified. Reduce Item 0250-001-001 by \$136,250.** Recommend that funding requested for record storage space be denied because the cost for such storage is included in lease contracts. 80

### Department of Justice

- 26. **Local Support for Criminalistic Laboratories. Reduce Item 0820-001-001 by \$7.5 million.** Recommend that local law enforcement agencies reimburse the state for criminalistic services provided by state laboratories, for General Fund savings of \$7.5 million. 81
- 27. **Local Agencies Should Have Direct Access to Telecommunication System.** Recommend that the Legislature direct the DOJ to provide local law enforcement agencies with direct access to the statewide law enforcement telecommunications system. 81
- 28. **Child Care Provider Applicant Projections Need Review.** Withhold recommendation on DNA Offender Data Base and the Sexual Habitual Offender Program, pending receipt of additional information. 83
- 29. **Information Needed for Attorney Workload Increases.** Withhold recommendation, pending receipt of additional information supporting the increases in attorney workload requests. 84