



MAJOR ISSUES (February 1994)

%County Probation System Services Have Declined. Because of county fiscal constraints, probation departments have reduced the services they provide to courts and criminal offenders, and the number of offenders they actively supervise in the community. These fiscal constraints have, however, spurred a number of innovative efforts, especially in the area of services for juvenile offenders. (See page D-11.)

%Prison Inmate Population Likely Underestimated. The administration projects that the prison population will increase at an average annual rate of 6.1 percent, reaching 171,000 inmates by 1998-99. Given the current poor fiscal condition of local governments and the current crime legislation pending in Congress and the state Legislature, the population is likely to be even higher. (See pages D-32 to D-39.)

%Prison Inmate Medical Care System Still Needs Work. We recommend a number of steps to improve the delivery of medical care and save money, including the use of the California Medical Assistance Commission to contract for medical services. (See pages D-46 to D-53.)

%State Prisoners in Youth Authority Should Be Returned to Department of Corrections. We recommend that inmates, age 18 and older, who serve their periods of incarceration in the Youth Authority, be returned to the Department of Corrections, because housing these inmates in the Youth Authority is inconsistent with the Youth Authority's mission, and will result in savings of \$10 million when fully implemented. (See page D-75.)

%Counties Need Greater Financial Incentives to Deal with Juvenile Offenders. We recommend the enactment of legislation to increase county payments (on a sliding scale basis) for placement of offenders in the Youth Authority, because the current arrangement in which counties pay only \$25 per ward per month, provides disincentives to counties to develop juvenile treatment and delinquency prevention programs. (See page D-79.)

%Trial Court Funding Program Falls Short of Budget's Claims. The budget provides a significant increase in state financial support of local trial courts. Although the budget indicates that it supports 65 percent of total statewide trial court costs, recent data indicate that the budget will support only about 58 percent. (See page D-88.)

%Improvements Needed to Limit State Costs Under Trial Court Funding Program. Although we believe that the administration's proposal to increase state support of trial courts as part of its state-county restructuring plan has merit, measures will be needed in order to limit the state's long-term financial exposure. We offer a number of suggestions, including enactment of additional court efficiency and cost savings measures and a funding distribution formula based on performance. (See pages D-90 to D-97.)





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OVERVIEW

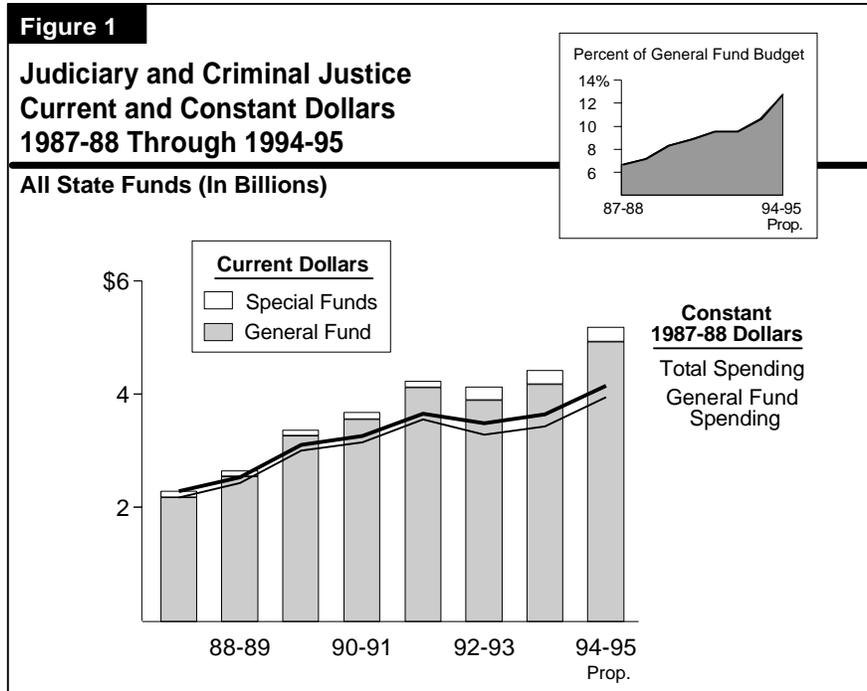
Expenditures for judiciary and criminal justice programs are proposed to increase significantly in the budget year. The principal reason for the increase is the Governor's state-county restructuring proposal, which includes major increases in state funding for support of local trial courts. In addition, the budget proposes full funding for caseload-driven programs in the Departments of Corrections and the Youth Authority.

The budget proposes General Fund expenditures of \$4.9 billion for judiciary and criminal justice programs in 1994-95. This is about 13 percent of all General Fund spending. The budget proposal represents an increase of \$752 million, or 18 percent, above estimated General Fund expenditures in the current year. This increase is primarily due to the proposed increase of \$400 million for state support of trial courts in 1994-95, which is part of the Governor's state-county restructuring plan.

Figure 1 shows that judiciary and criminal justice expenditures from the General Fund increased by \$2.7 billion since 1987-88, representing an average annual increase of 12 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.

Combined General Fund *and* special funds spending is proposed to increase by \$756 million, or about 17 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 8.8 percent annually between 1987-88 and 1994-95. The share of the state's General Fund spending allocated to judiciary and criminal justice has nearly doubled over the same period, increasing from 6.7 percent in 1987-88 to 13 percent in 1994-95.



SPENDING BY MAJOR PROGRAMS

Figure 2 shows expenditures for the major judiciary and criminal justice programs in 1992-93, 1993-94, and as proposed for 1994-95. As the figure shows, the Department of Corrections (CDC) accounts for the largest share—about 57 percent—of total spending in the judiciary and criminal justice area.

MAJOR BUDGET CHANGES

Figure 3 presents the major budget changes resulting in a net increase of \$752 million in General Fund spending for judiciary and criminal justice. Generally, the major changes can be categorized as follows:

Figure 2

Judiciary and Criminal Justice Budget Summary^a
Selected Funding Sources
1992-93 Through 1994-95

(Dollars in Millions)

| | Actual 1992-93 | Estimated 1993-94 | Proposed 1994-95 | Changes From 1993-94 | |
|--|-------------------|----------------------|---------------------|-------------------------|--------------|
| | | | | Amount | Percent |
| Department of Corrections | | | | | |
| General Fund | \$2,365.9 | \$2,723.3 | \$2,974.5 | \$251.2 | 9.2% |
| Bond Funds | 29.6 | 50.7 | 62.4 | 11.7 | 23.1 |
| Totals | \$2,395.5 | \$2,774.0 | \$3,036.9 | \$262.9 | 9.5% |
| Department of the Youth Authority | | | | | |
| General Fund | \$309.1 | \$358.3 | \$377.2 | \$18.9 | 5.3% |
| Trial Court Funding | | | | | |
| General Fund | \$611.5 | \$475.7 | \$875.9 | \$400.2 | 84.1% |
| Special Funds | 119.2 | 141.5 | 141.5 | — | — |
| Totals | \$730.7 | \$617.2 | \$1,017.4 | \$400.2 | 64.8% |
| Judicial | | | | | |
| General Fund | \$141.6 | \$139.5 | \$155.6 | \$16.1 | 11.5% |
| Department of Justice | | | | | |
| General Fund | \$147.8 | \$157.8 | \$176.0 | \$18.2 | 11.5% |
| Special Funds | 44.5 | 48.6 | 49.7 | 1.1 | 2.2 |
| Federal Funds | 13.8 | 17.4 | 16.2 | -1.2 | -6.8 |
| Totals | \$206.1 | \$223.8 | \$241.9 | \$18.1 | 8.1% |
| Office of Criminal Justice Planning | | | | | |
| General Fund | \$25.4 | \$31.5 | \$25.2 | -\$6.3 | -20.0% |
| Special Funds | 17.6 | 12.5 | 17.7 | 5.2 | 41.6 |
| Federal Funds | 59.1 | 61.5 | 60.4 | -1.1 | -1.8 |
| Totals | \$102.1 | \$105.5 | \$103.3 | -\$2.2 | -2.1% |

^a Details may not add to totals due to rounding.

The Budget Proposes to Provide Full Funding for Caseload Increases. This includes funding for projected inmate population increases of 6.9 percent in the CDC and ward population increases of 4.3 percent in the Department of the Youth Authority. The budget contains no proposals that would result in any significant reductions in the inmate and ward populations. The inmate and ward populations assumed in the budget are based on *current law*; however, the Legislature currently is considering

proposals in the Legislature which would significantly increase the 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 a Major Increase in State Funding for Support of Trial Courts as Part of State-County Restructuring Plan. This increase—\$388 million—is part of a major proposal to provide additional funds to counties in exchange for a shift of program responsibilities and funding for a number of health and welfare programs from the state to counties. In addition, the budget proposes that counties and cities retain approximately \$348 million in revenues from fines, fees, and forfeitures that are currently remitted to the state General Fund under the Trial Court Funding Program.

The Budget Assumes Receipt of Federal Funds for Incarceration and Parole of Undocumented Immigrants. The budget assumes that the state will receive \$300 million in federal funds in recognition of the state's costs to incarcerate and supervise undocumented immigrants in the CDC and the Youth Authority. The Governor's Budget does not count these funds as offsets to expenditures, but rather as resources to the General Fund.

The Budget Proposes a Number of Modest General Fund Increases and Redirection of Resources to Support New Programs. These initiatives include programs to improve health care for inmates, provide special education and alcohol and drug treatment services for wards, increase identification and street-level law enforcement efforts to apprehend offenders, and improve data processing capabilities of various departments.

Figure 3

**Judiciary and Criminal Justice
Proposed Major Changes for 1994-95
All State Funds**

Department of Corrections : Requested \$3.1 billion
Increase: \$275 million (+9.6%)

- \$141 million for inmate and parole population increases
- \$133 million for salary and benefit increases
-  • \$15 million for inflation adjustments and price increases
- \$14 million for recurring maintenance and special repairs at existing prisons
- \$8.1 million for additional mental health services for inmates

-  • \$68 million adjustment for various one-time expenditures

Department of the Youth Authority : Requested \$412 million
Increase: \$17.1 million (+4.3%)

- \$13.6 million for salary and benefit increases
- \$3 million for deferred maintenance and special repair projects
-  • \$2.1 million for special education services for wards to meet federal and court requirements
- \$2 million for ward and parole population growth

Trial Court Funding : Requested \$1 billion
Increase: \$400 million (+65%)

-  • \$388 million for state support of trial courts (part of Governor's state-county restructuring proposal)
- \$11.9 million for increased retirement contributions

Department of Justice : Requested \$317 million
Increase: \$14.5 million (+4.8%)

-  • \$6.4 million for workload increases in Appeals, Writs and Trials, and Correctional Law Programs
- \$3.8 million for new law enforcement apprehension program targeting violent criminals and weapons
- \$2 million for implementation of DNA criminal identification program



CROSSCUTTING ISSUES

THE STATE OF CALIFORNIA'S PROBATION SYSTEM

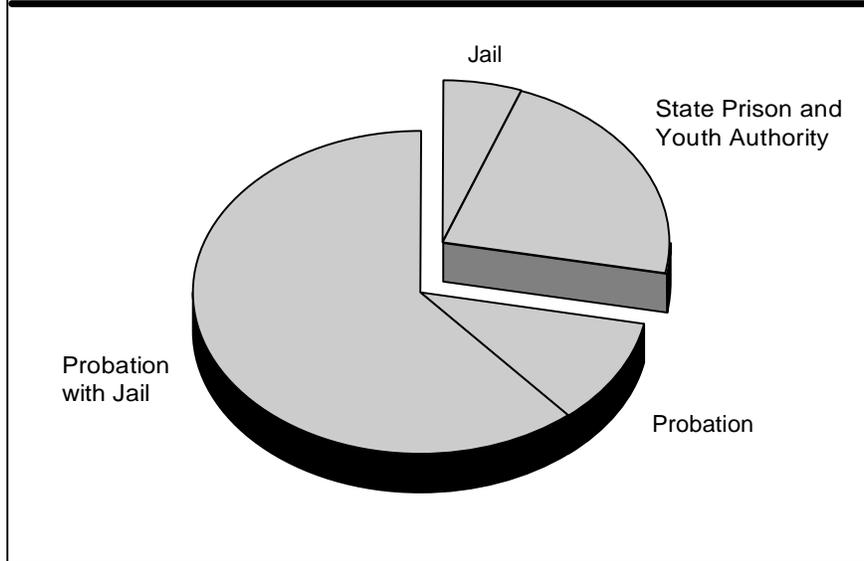
Probation departments play one of the largest, most complex, and least understood roles in California's criminal justice system. Seven out of every ten convicted felons become the responsibility of probation departments. Because of county fiscal constraints, resources for probation departments have shrunk at the same time their responsibilities have grown. As a result, probation departments have reduced services to the courts, they do not actively supervise a significant number of probationers, and they have had to limit incarceration and services options.

The county probation system is an important element of California's criminal justice system. The system touches virtually every person convicted of a felony, either through services to courts or through supervision of the offender after conviction. As Figure 4 shows, more than 70 percent of persons convicted of felonies in California end up on some form of probation. In fact, 53 percent of all adults who are under supervision by the state or local criminal justice system are on probation.

Although probation is operated by counties, it is particularly important to the state because thousands of offenders in the state prison and Youth Authority system have, at one time or another, been part of the probation system. For example, data indicate that 82 percent of the persons in state prison for a nonviolent offense had been on probation at least once before they were sent to prison. In fact, a preliminary review of case files suggests that more than 60 percent were on probation at the time they committed the offense that resulted in their prison incarceration.

Figure 4

**Probation Departments Supervise Seven of Ten Felons
1992**



Equally important, probation departments are responsible for most aspects of the juvenile justice system. Probation departments recommend placements for juveniles, are responsible for supervising most juveniles in the community, and detain most incarcerated juveniles in probation facilities. Less than 3 percent of juvenile offenders are sent to the state's Youth Authority, while all other offenders remain the responsibility of probation departments. Despite its importance in the criminal justice system, the role of probation is not well known.

In this piece, we review the state of California's probation system, describe the services provided, analyze how and why services have declined, and put in perspective what the declines in service mean for the rest of California's criminal justice system and for public safety generally. Our findings are based on a review of available data, site visits, and discussions over a number of years with probation officials and other state and local criminal justice officials.

WHAT IS PROBATION?

Probation is an alternative to incarceration. When the courts grant probation they are ordering that the offender be supervised in the community and required to adhere to specified conditions. The court can grant probation or probation that commences after a short jail sentence. Probation is not a right to which a convicted person is entitled, but is considered an “act of grace and clemency” on the part of the court. In essence, probation is a bargain made by the people with the offender that if the offender complies with the conditions of probation he or she will be rewarded by not having to go to jail or state prison.

Probation benefits the community, as well as the offender. When an offender is allowed to remain in the community, the costs of incarceration are avoided, creating a savings because the costs of providing probation supervision are much less than incarceration. In addition, the offender is frequently allowed to maintain his or her job in order to support the offender's family, pay taxes, and make restitution payments.

There are 59 probation departments in California, one in each county, except for San Francisco, which has separate adult and juvenile probation departments. Probation departments spent more than \$770 million in 1991-92 to provide court services, field supervision, and for the operation of detention facilities. Each department is headed by a chief probation officer who, in most counties, is selected by the presiding judge of the court. Generally, the county municipal and superior courts determine what services the probation department provides. Probation departments are generally treated as county departments, competing for county resources alongside the county's district attorney, sheriff, and other county departments. Consequently, the chief probation officer reports to the presiding judge who mandates what services will be provided, the county board of supervisors who allocate funding, and the county's chief administrative officer who oversees all county budgets.

Parole versus Probation. Parole and probation are frequently mistaken for being the same thing. Although much of their overall mission—supervising offenders in the community—is similar, parole and probation are quite different. Parole is generally a state function while probation is administered by counties. Individuals on parole have completed all or a part of a sentence in a state correctional facility. Probation is given to an offender in lieu of a state prison term. Probationers frequently serve little or no period of incarceration, and if they do, it would normally be in a county facility.

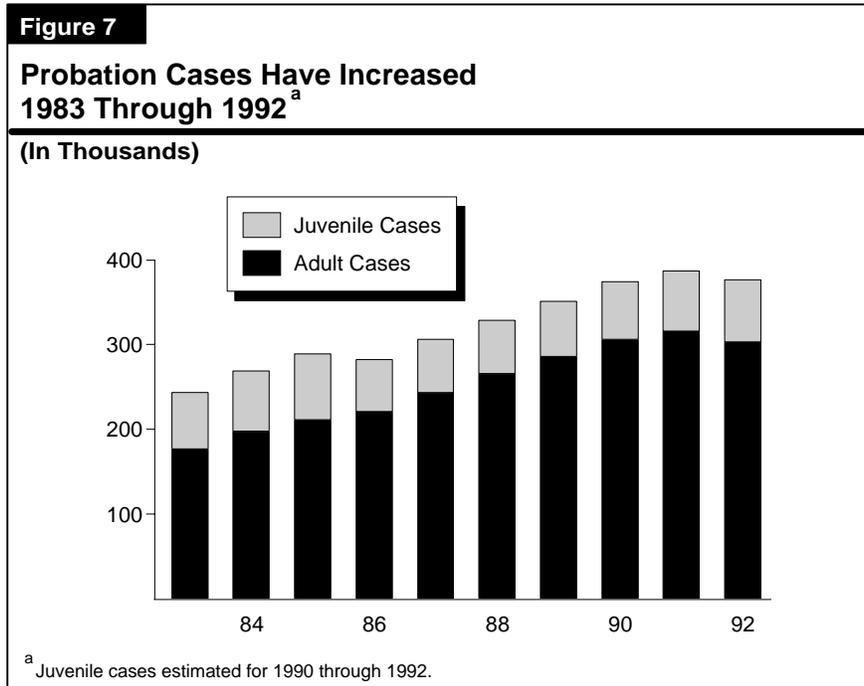
PROBATION PROVIDES A DIVERSE ARRAY OF SERVICES

Figures 5 and 6 show the types of services provided by probation departments. As both figures show, probation services fall into three broad categories: court services, probation supervision, and incarceration. It should be noted that not every probation department provides all of the services, primarily because the role of probation is different in each county.

| Figure 5 | |
|--|---|
| Overview of Probation Services—Court Services | |
| Type of Service | Description |
| Court Services | |
| Pre-Sentencing Reports | <ul style="list-style-type: none"> • Provide the court with information on the offender's criminal history, family relationships, and ability to pay fines and restitution. • Make recommendations to the court regarding sentencing. • Make recommendations on suitability for probation. • Make recommendations on fines and restitution. |
| Pre-Trial Evaluations | <ul style="list-style-type: none"> • Advise court on defendants' suitability for release from custody on "own recognizance." |
| Pre-Trial Supervision | <ul style="list-style-type: none"> • Supervise defendants released on their "own recognizance" in the community to ensure attendance at trial and other court proceedings. |
| Juvenile Placement Reports | <ul style="list-style-type: none"> • Provide the court information on the circumstances surrounding the neglect or abuse of a child and other relevant information. • Make recommendations on placement of the minor child, such as keeping the minor in the family, or placing in a group home. |
| Juvenile Petitions | <ul style="list-style-type: none"> • Provide the court with information on the juvenile offender, the juvenile's family and social situation, the circumstances surrounding the offense, and other criminal history. • Make recommendations to the court on placement, such as probation, juvenile hall or ranch, or placement in the Youth Authority. |
| Probation Revocation Reports | <ul style="list-style-type: none"> • Provide the court with information showing why probation should be revoked, such as violating a condition or committing a new offense. • Make sentencing or placement recommendation. |

| Figure 6 | |
|---|--|
| Overview of Probation Services—Supervision/Incarceration | |
| Type of Service | Description |
| Probation Supervision | |
| Adult Supervision | <ul style="list-style-type: none"> • Make regular contacts with adult offenders on probation to ensure that they are meeting conditions of probation. • Provide or obtain specialized services for offenders, such as substance abuse treatment or sex offender therapy. |
| Juvenile Placement Supervision | <ul style="list-style-type: none"> • Monitor abused or neglected minors in out-of-home placements. |
| Juvenile Supervision | <ul style="list-style-type: none"> • Make regular contacts with juveniles on probation to ensure that they are meeting the conditions of probation. • Make regular contacts with family and school officials regarding offender. • Provide or obtain needed specialized services. |
| Jail Parolee Supervision | <ul style="list-style-type: none"> • Supervise inmates released early from county jail. • Advise the county sheriff on which inmates should be eligible for early release. |
| Diversion Programs | <ul style="list-style-type: none"> • Supervise the performance and attendance of offenders that have been diverted into DUI, domestic violence, or drug diversion programs. |
| Community Service | <ul style="list-style-type: none"> • Supervise and monitor probationers that have to complete community service as part of their sentence. |
| Fines and Restitution Collection | <ul style="list-style-type: none"> • Ensure that court ordered fines and restitution are collected from probationers. |
| Incarceration | |
| Juvenile Hall | <ul style="list-style-type: none"> • House juveniles for short periods, either awaiting court hearings or after sentencing. |
| County Ranches and Camps | <ul style="list-style-type: none"> • House juvenile offenders for periods ranging from 4 to 8 months. |
| Work Furlough | <ul style="list-style-type: none"> • House and supervise inmates sentenced to work furlough in the community. |

Figure 7 shows the number of adults and juveniles on probation from 1983 through 1992. As the figure shows, in 1992, over 300,000 adults were on probation, and we estimate juvenile cases totaled over 70,000. We estimated the juvenile caseloads for 1990 through 1992 because in 1990, the Department of Justice, which maintains criminal justice statistics for the state, stopped compiling information on the disposition of juvenile arrests because of budgetary constraints. As a result, there are no statewide statistics after 1989 on the number of juvenile arrests that result in incarceration or community probation placements.



The lack of this information should be of concern to policymakers given the significant increase in juvenile violent crime and the changing composition of juvenile offender caseloads. (The mix of offenders reflected in the caseloads in the first three years in Figure 7 are substantially different than the last seven years.) For example, since 1987, the rate of juvenile arrests for violent offenses increased almost 64 percent. Yet, there are no statistics on how the state or counties are dealing with this increase in juvenile violent crime. Because probation departments are responsible for the supervision and placement of virtually all juvenile offenders, knowledge on statewide trends is necessary in order to understand how effective the state and counties are in dealing with juvenile crime.

PROBATION CASELOADS AND RESOURCES HAVE CHANGED IN RECENT YEARS

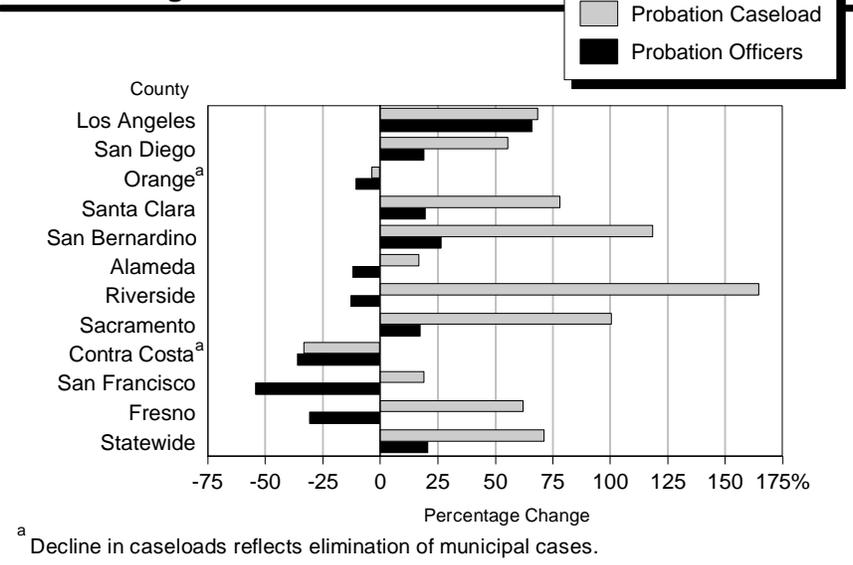
Probation department staffing and resources have not kept pace with either burgeoning caseloads or competition for resources from other county departments. As a consequence, probation services have generally declined throughout the state.

Between 1983 and 1992, probation caseloads increased by 73 percent, and generally became more violent. In 1983, 59 percent of those convicted of a violent felony were placed on probation or probation with jail. In contrast, in 1992, almost 71 percent of felons convicted of violent offenses were placed on probation. Many counties have seen a large growth in their caseloads. For example, the caseload in Los Angeles County grew by 69 percent between 1983 and 1992.

While county caseloads have increased and generally became more violent, staffing and resources generally have not kept pace. For example, from 1983 to 1992, the number of probation officers statewide increased 24 percent, while caseloads grew by 73 percent. Some counties have experienced an actual decline in the number of probation officers. For example, in 1982 Alameda County had 284 probation officers for a caseload of 10,262 adult felons (not including juvenile probationers); in 1992 there were 250 officers for 12,007 felons. Staffing decreased 12 percent, while caseloads of adult felons increased 17 percent. Figure 8 compares changes in probation caseloads and staffing over the past ten years in counties with populations of over 700,000 persons. As the figure shows, only in Los Angeles has staffing come close to

Figure 8

**Probation Staffing Has Not Kept Pace With Caseloads
1983 Through 1992**



keeping up with caseload growth. Although caseloads have increased and resources have declined, counties have adopted methods and programs to become more efficient (we discuss some of these methods below).

Competition for Limited Resources

A factor that affects probation departments in obtaining necessary resources, is their “organizational place” in the county and their relationship to other parts of the county criminal justice system. As noted above, chief probation officers generally report to the county’s judges, but must compete for funding with other county departments before the county boards of supervisors. The probation department competes for resources with other county departments, such as libraries and public works. The departments also compete with other criminal justice programs—the courts, prosecutors, law enforcement, and jails—even after the passage of Proposition 172, that provides additional sales tax revenue for county criminal justice agencies.

In general, probation departments have seen their share of county general purpose revenues decline, especially in comparison to sheriffs and district attorneys. For example, from 1984-85 to 1990-91 (the last year for which we have data), probation departments’ share of general purpose funds declined over 9 percent statewide. In contrast, the state’s sheriffs and district attorneys saw their shares increase by 1 percent and 3 percent, respectively.

Some county probation departments experienced even greater decreases. For example, between 1984-85 and 1990-91, Fresno County’s probation department’s share of county general purpose funds decreased over 24 percent, while the district attorney’s share increased 8 percent. During this same time period, Fresno County’s adult probation caseload increased almost 6 percent and the county’s probation officers staffing decreased 27 percent, from 115 officers in 1985, to 83 officers in 1991.

In Stanislaus County, from 1984-85 to 1990-91, the probation department’s share of general purpose funds decreased 28 percent. However, over the same period, the county’s adult probation caseload increased 203 percent. The county sheriff also saw his share decrease, but to a much lesser extent (a decrease of 9 percent). The district attorney, however, saw his share of county funds increase almost 17 percent.

Probation Must Also Compete for Specialized Services

Competition for county resources also occurs when probation departments try to arrange the delivery of specialized services to probationers in order to meet the conditions of probation, or just to be able to remain in the community. For example, a majority of probationers have substance abuse problems and their criminal activity can be directly related to such abuse. In most counties, however, probation departments do not operate their own substance abuse programs. Generally, when an offender must compete for limited resources, such as substance abuse treatment programs, they do not always receive first preference if non-offenders require the same services. Consequently, the probation department must act as an advocate for the offender in obtaining specialized services, in addition to ensuring that the probationer does not commit new crimes.

PROBATION SERVICES HAVE DECLINED

Most probation departments in California have reduced their services as a result of increasing caseloads and decreasing resources. In general, probation departments are reducing services to adult offenders in an attempt to maintain services for juvenile offenders. Some probationers have fewer incentives to refrain from criminal activity because of the limiting of these services.

Reductions in Court Services

Our review found that probation departments have generally tried to ensure that they maintain full services to juvenile courts, even with the increase of juvenile offenders. However, for adult offenders, most probation departments no longer provide court services to the lower courts and are having greater difficulty providing services to the superior courts.

Municipal Courts. These courts are responsible for adjudicating misdemeanors and some felonies. There were over 1 million misdemeanor arrests in 1992, for offenses ranging from assault, weapons possession, prostitution, driving-under-the-influence, and public drunkenness. These offenses are adjudicated in municipal courts. The judge can sentence the convicted offender to jail, jail with probation, probation, or require a fine/restitution/or community service be performed.

Few of California's probation departments still provide sentencing recommendations for municipal courts. As a result, judges make

decisions about the advisability of placing these offenders in the community or the ability of the offender to pay fines or restitution without any review by probation staff.

Furthermore, most probation departments no longer supervise misdemeanor probationers. This may occur even though under certain circumstances individuals convicted of misdemeanors should be supervised, given that some misdemeanors have the potential to lead to a more violent offense (for example, carrying a concealed weapon is a misdemeanor). As a result, placing a convicted misdemeanant on probation is essentially a “clerical” exercise with no attempt made to ensure that the probationer does not reoffend.

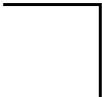
Superior Courts. These courts adjudicate most felonies and have also seen probation services decline. Yet, 129,000 individuals, 72 percent of all felons convicted in 1992, were placed on probation or given jail sentences (for an average of 4 months) in combination with probation.

Most probation departments have had to limit the amount of investigation of convicted felons when preparing pre-sentencing reports for superior courts. Under generally accepted standards, complete reports should advise and recommend sentences to judges and should include all relevant information on the offender, including the offender's prior criminal history, family and community relations, and the offender's feelings of or lack of remorse. Because of the increasing caseloads, some probation departments complete the reports by relying on the court case file for all information, rather than meeting the offender, police investigators, or victims.

The lack of resources has resulted in probation departments no longer advising judges on defendants before trial. Previously, some probation departments had identified for judges, defendants that might be eligible for release on their “own recognizance,” and then supervised these defendants to ensure they appeared for trial. Most departments have discontinued these activities.

Supervision of Probationers Has Declined

The goal of probation is to supervise offenders in the community to protect the public. This entails probation staff ensuring that probationers are meeting the conditions of probation and that they are not engaging in new criminal activity. While there is no statewide data available on probation caseloads, our discussions with individual probation departments suggests that most probation departments have tried to ensure that they maintain high levels of supervision over juvenile offenders. As a result, caseloads for adult offenders in many counties,



have grown to a level that makes it difficult for probation staff to adequately supervise them.

Probation staff often classify an offender as high, medium, or low risk in order to handle the workload. Low risk offenders often do not need direct supervision and are often “banked” in caseloads where one probation officer carries 1,000 or more cases. However, high-risk probationers are considered violent and require close supervision. Even when one of these offenders is defined as high risk, he or she will probably be assigned to a probation officer with a relatively large caseload of 175 probationers. Some counties have high-risk caseloads of up to 300 cases per probation officer.

Because there is no comprehensive definition of what constitutes “supervision,” a probationer might be treated differently depending on the county where he or she completes probation. For example:

- In one county, an offender might be visited periodically in his home or place of work by his probation officer, thus giving a reasonable assurance that the offender is adhering to probation conditions.
- In another county, the probationer convicted of the same offense would be required to report to the probation office. As a result, the probation department would have assurance that the offender was still maintaining contact with the probation officer.
- In another, the same type of offender might be required to mail in a postcard to the probation office on a monthly or semi-annual basis. In this case, an offender is at best monitored, but not supervised.
- In some counties, the offender might not be supervised at all.

Given shrinking financial resources, counties have set priorities and targeted probation services to juveniles and the most violent offenders. As a practical matter, however, providing little or no supervision to a large block of offenders may provide little incentive for some offenders to refrain from criminal activity in the community.

LIMITED RESOURCES HAVE SPURRED INNOVATION

Probation departments have developed pilot projects and special programs designed to maximize limited resources. Some departments have developed programs to meet the specialized needs of adult caseloads, but most departments have concentrated on developing programs to reduce and prevent juvenile crime.

Working to Improve Adult Probation Services

Increasing caseloads and shrinking resources have proved to be both a problem and an opportunity for probation departments. Although there are often greater demands placed on smaller staffs, we identified several innovative efforts during our field visits and conversations with probation officials.

Yolo County, for example, has completely redesigned how its probation department works. It has moved away from the “caseload” model of supervision where the probationer had only one probation officer, to a model where the probationer deals with several different officers. For example, one officer will supervise a probationer’s community service, another will monitor the collection of fines and restitution, and another will supervise the offender in the community. Using this model, Yolo County supervises 100 percent of its caseload, a level of supervision rarely matched in other counties.

San Diego County has taken several steps to improve supervision of adult offenders. For example, the department assigns some probation officers to regions. These officers work in offices located in the area they serve, instead of a headquarters office. As a result, the officers get to know the probationers and the community in which the probationer lives. The San Diego probation department has also developed a special probation unit that works with police and sheriff’s deputies in investigations. Probation officers can frequently assist these agencies with their power to make “warrantless” searches of an offender, not only ensuring that the offender meets the condition of probation, but also ensuring the continuation of criminal investigations. This program leads to more cooperation between the probation department and local law enforcement. This integrated approach helps each agency maximize its resources.

The Solano County probation department hired a certified substance abuse counselor as part of its department because there are a large number of offenders in its caseload with substance abuse problems, and there is difficulty in finding sufficient treatment programs. The counselor holds group and individual substance abuse counseling sessions with probationers, thus ensuring treatment for offenders. But the counselor is also training other probation officers to act as substance abuse group counselors, further increasing the resources available to the department.

Working to Improve Juvenile Probation Services

Maximizing Treatment for Juvenile Offenders. Most counties have attempted to maintain adequate staffing in order to supervise juvenile offenders. For most counties, juvenile probation caseload ratios are much lower than those for adults. Many counties also have developed programs to help juvenile offenders avoid future delinquent behavior. Los Angeles County operates a “boot camp” shock incarceration program at two of its juvenile camps. San Francisco has implemented camp-based and community-based programs for finding employment for youthful offenders. One program pays the probationer’s wages for the first month of employment, so the employer can “test” the offender before actually hiring him or her.

Delinquency Prevention. Many counties have recognized that preventing juvenile crime is more effective than probation supervision or incarceration. Research from the Orange and Los Angeles County probation departments has shown that up to 70 percent of juvenile offenders commit one offense, but never commit another, as a juvenile or an adult. Conversely, as few as 10 percent of juvenile offenders account for up to 80 percent of all future offenses, both juvenile and adult. These juveniles often have identifiable behavioral and family problems. The research, along with the practical observations of juvenile probation staff, underline the need to deal with this small group of offenders before they embark upon a lifetime of criminal activity.

Several county probation departments have identified factors that are necessary for a successful prevention/intervention effort:

- *Early Identification.* The earlier a youth “at-risk” is identified, the greater the chance that probation, school, social services, and community services will address the behavioral and family problems that contribute to delinquent behavior.
 - *Integrated Services.* The probation department alone cannot provide the services needed to help delinquent youths. Schools, child welfare services, county mental health, county drug and alcohol programs, and local law enforcement must all participate in the provision of services.
 - *Community Involvement.* Community-based organizations, such as churches, boy’s clubs, neighborhood organizations, need to participate in the provision of services to at-risk youths. Examples of this support include mentoring, recreational activities, supervision, and counseling.
 - *Governmental Support.* Local and regional governments have to support these programs with not just financial support, but also by
-

allowing jurisdictional boundaries to be crossed and alternative solutions tried. For example, one county probation department is recommending to city planning commissions that they consider delinquency mitigation at the same time they consider other types of environmental mitigation in a city's general plan.

Some Innovative Preventative Programs Have Been Implemented. Several of the approaches outlined above are already being implemented with success in several counties. The following are some examples of innovative programs. In Humboldt County, the probation department brought together community leaders in each jurisdiction in the county to develop prevention plans. The implementation of the plans, such as creating teen centers and other programs, have been completed using mostly volunteer community resources.

In Solano County, the probation department in conjunction with local law enforcement, county agencies, and community-based organizations has established a diversion program for delinquent youths in the City of Vallejo. Youthful offenders, many of them gang members, are identified by the probation department, as needing special services to prevent future delinquency. Local reserve police officers monitor the offender's attendance in school on a daily basis. County agencies have made a variety of family and other support programs available to the offenders. For example, community organizations provide mentors and, a recreation program staffed by former gang members who provide role models for the offenders. County data show that the project has decreased recidivism from 80 to 20 percent.

Orange County is beginning an integrated services pilot project in two cities. The probation department plans to work with local schools, county social services, and community based organizations to provide a variety of services to young, first-time offenders who exhibit specific indications of future delinquency. The goal of the pilot project is to help these offenders and to provide valid research data on what works and what does not.

What are the Implications for the Legislature?

The Legislature should consider a number of steps to improve probation, including improving access to statewide data, establishing a statewide "clearinghouse" for information and ideas, and enacting legislation to provide more local funding flexibility in order to encourage innovation.

As we have indicated, probation services have not kept up with increasing caseloads and the service needs of probationers. Most probation departments lack sufficient resources to provide pre-sentencing

reports to the courts or supervise probationers in the community. While many county probation departments have made laudable efforts to develop pilot and special program services for adults and juveniles, continued growth in caseloads and decreases in available county revenues could erode whatever benefit comes from these efforts. Given that seven out of ten felons are supervised by probation departments, the lack of resources could result in limited incentives for unsupervised felons to refrain from criminal activity.

As we have pointed out previously, the state has an interest in the success of local governments in delivering services, including probation services. This is, in part, because so many probationers end up being incarcerated in a state facility at state expense. However, we believe that diversity and flexibility in delivery of local services by counties—including probation services—is a good thing. This is because probation, like other services, is driven in large part by the public preferences of local communities. Given the diversity of California's population and communities, we believe that mandating uniform delivery of probation services is counterproductive.

Keeping these factors in mind, we believe that the Legislature should consider the following steps to improve probation in California:

- ***Improve Access to Statewide Criminal Justice Information.*** As we pointed out, there is little data available on a statewide basis on probation caseloads and outcomes, especially in the area of juvenile probation. Improvement in collection, analysis, and dissemination of data could help policymakers in allocating resources for probation and all other criminal justice services. While funding would be needed for improving information collection, there is a potential for future savings as the information is used to promote efficiency in service delivery and to reduce crime.
 - ***Establish A Statewide "Clearinghouse" for Probation Information and Ideas.*** While local jails are a county responsibility, the state, through the Board of Corrections, provides a forum for the statewide establishment of minimum standards for building, operating, and training staff that work in jails. The board also establishes minimum training standards for probation staff. The Board of Corrections could also provide some statewide oversight of probation service needs and gather data that are currently unavailable. In addition, it could provide a forum for sharing ideas on innovative programs.
 - ***Encourage Innovative Probation Programs.*** The Legislature should encourage, with both appropriate funding and legislation,
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innovative probation programs. Programs that make use of integrated services should be especially encouraged. One of the barriers to better coordination of service delivery is the restriction on the use of funds imposed by categorical program funding. Integration of services can be better achieved by providing funds in a way that allows local governments discretion in setting priorities for the use of available funds. For example, one of the difficulties faced by Orange County in setting up its pilot projects was getting agreement among social service agencies for sharing costs and providing services. Consequently, the Legislature could enact legislation to (1) allocate a portion of existing categorical funds as block grants to local agencies and (2) establish outcome-based performance measures. This would allow for program accountability, while allowing local agencies flexibility in structuring their collaborative efforts.

BUDGET PROPOSES TO MODIFY DISTRIBUTION OF PENALTY ASSESSMENTS

The Governor's Budget proposal to change the distribution formula for penalty assessment revenues will result in a permanent, ongoing loss of revenue to the General Fund. The loss in 1994-95 will be about \$34 million.

The Governor's Budget estimates that revenues from penalty assessments will be about \$196 million in 1994-95. Of this amount, \$58.7 million will be transferred to the General Fund and the remainder (\$137 million) will be deposited into the state Penalty Fund, for distribution to a variety of other special funds. The Governor's Budget proposes to modify the statutory distribution of the monies in the state Penalty Fund.

Background. Penalty assessments are imposed on persons who violate criminal and traffic laws. Funds are collected by the courts and transmitted to the State Treasurer. Chapter 189, Statutes of 1991 (AB 544, Isenberg), as part of the trial court realignment, increased the penalty assessment rate by 40 percent, from \$7 to \$10 for every \$10 fine, penalty, or forfeiture. In addition, Chapter 189 divided the penalty assessment revenues between the General Fund (30 percent) and the Penalty Fund (70 percent). (Previously, all of the funds were deposited in the state Penalty Fund.)

Revenues to the Penalty Fund have declined in recent years, due in part to changes enacted in Chapter 189, as well as the state's overall economic problems, which resulted in lower fine and assessment collections at the local level.

Distribution of Penalty Fund Revenues. Penalty assessment revenues deposited in the Penalty Fund are divided among eight other special funds, based on a statutory formula, which support programs in seven different departments. The largest recipients are the Restitution Fund, which support's the Board of Control's Victims of Crime Program, the Driver Training Fund, which supports driver training programs in local schools, the Peace Officers' Training Fund, which supports the training programs operated by the Commission on Peace Officer Standards and Training (POST), and the Victim/Witness Assistance Fund, which

supports various programs that serve victims of crime in the Office of Criminal Justice Planning (OCJP).

As a consequence of the drop in penalty assessment revenues in recent years, a number of the programs supported by the Penalty Fund have been reduced, or have received supplemental appropriations from the General Fund in order to maintain existing funding levels.

Governor Proposes to Revise Distribution Formula. The Governor's Budget proposes to permanently modify the state Penalty Fund's distribution formula in order to provide more revenues to programs that provide money and services to victims of crime. According to the administration, the changes in the distribution formula are proposed in order to address a serious shortfall in the Restitution Fund (we discuss the shortfall in our analysis of the Board of Control in the chapter on State Administration), and to ensure that funding for the OCJP's victims' of crime programs do not fall below the 1992-93 levels.

Specifically, the Governor proposes to significantly reduce the amount of money that goes to (1) the Driver Training Fund (from 25.7 percent to 0.69 percent of Penalty Fund revenue), and redirect those revenues to the Restitution Fund (increasing the share of Penalty Funds from 32.02 percent to 53.35 percent) and (2) the OCJP's Victim/Witness Assistance Fund (increasing the share from 8.64 percent to 12.32 percent). The budget proposes no changes to the distribution formula that would affect the other five special funds.

As a consequence of the proposed change in the distribution formula, revenues to the Driver Training Fund will drop by about \$34 million, and revenues to the Restitution Fund and Victim/Witness Assistance Fund will increase by about \$29 million and \$5 million, respectively.

Proposed Transfer Will Result in Loss of General Fund Revenue. In recent years, the Legislature and Governor have appropriated only small amounts from the Driver Training Fund, and transferred the balance of the fund to the General Fund, pursuant to Control Section 24.10 of the annual budget act. In 1992-93, \$36.4 million was transferred to the General Fund, and \$39.3 million was transferred in 1993-94.

Thus, although the proposed transfer appears on the surface to be a simple redirection of special fund revenues within the state Penalty Fund, the proposal will, in fact, result in a loss of about \$34 million to the General Fund in the budget year. The loss will likely grow in future years as the total level of penalty assessment revenues increases.



DEPARTMENTAL ISSUES

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 28 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 \$3.1 billion for the CDC in 1994-95. This is \$275 million, or 9.6 percent, above estimated current-year expenditures. There are two main factors contributing to this increase. First, the budget requests \$141 million for the increase in the inmate population, which includes the activation of two new prisons. Second, the budget requests \$131 million for general salary and wage increases for the CDC staff. Expenditures from the General Fund total \$3 billion in the budget year, an increase of \$251 million, or 9.2 percent, over total General Fund expenditures in 1993-94.

As similarly proposed in the Governor's Budget last year, the administration assumes that the state will receive an additional \$300 million in federal funds for the incarceration and supervision on parole of undocumented immigrants who have committed felonies in California. The funds are not included in the CDC's budget, however, but are scheduled as General Fund revenues.

OVERVIEW OF THE INMATE POPULATION

Who Is In Prison?

Figures 9 through 12 illustrate the characteristics of the state's prison population, as of June 30, 1993. As the charts show:

- The majority of inmates are incarcerated for *nonviolent offenses* (Figure 9).
- About two-thirds of all inmates were committed to prison from southern California, and about 40 percent are from Los Angeles County (Figure 10).
- More than two-thirds of all inmates are between 20 and 34 years of age, with the number of inmates falling dramatically starting in the early thirties (Figure 11).
- The prison population is divided relatively evenly among Whites, Blacks and Hispanics (Figure 12, page 32).

Figure 9

Prison Population by Type of Offense June 30, 1993

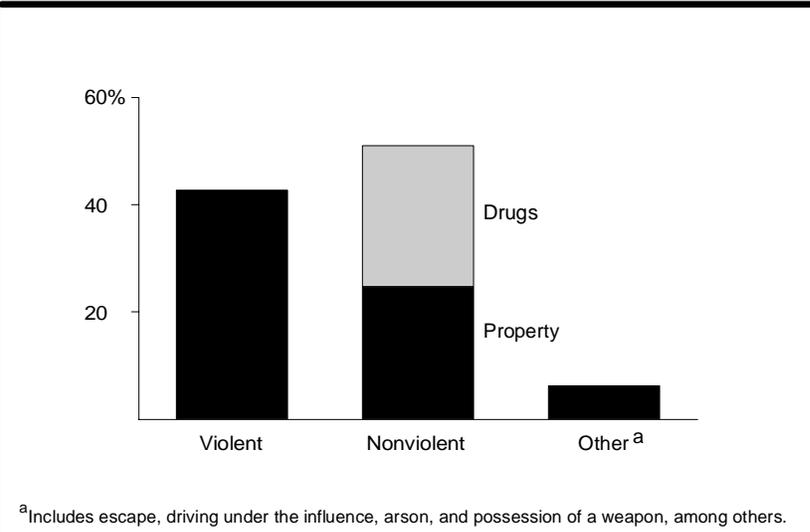


Figure 10

**Prison Population by Area of Commitment
June 30, 1993**

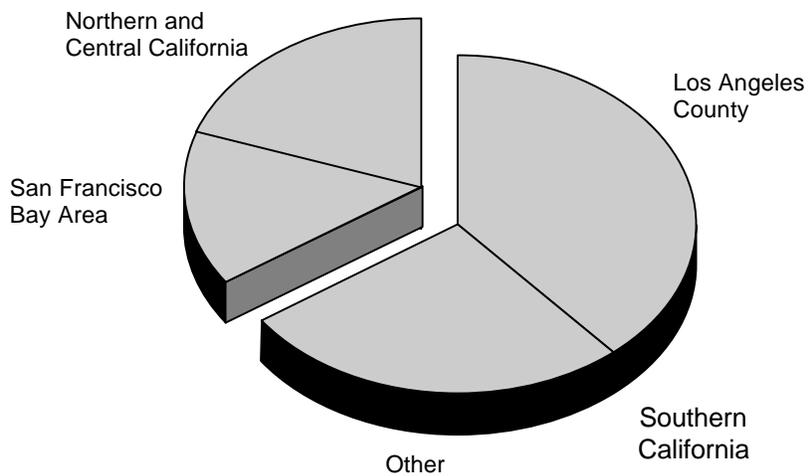


Figure 11

**Prison Population by Age Group
June 30, 1993**

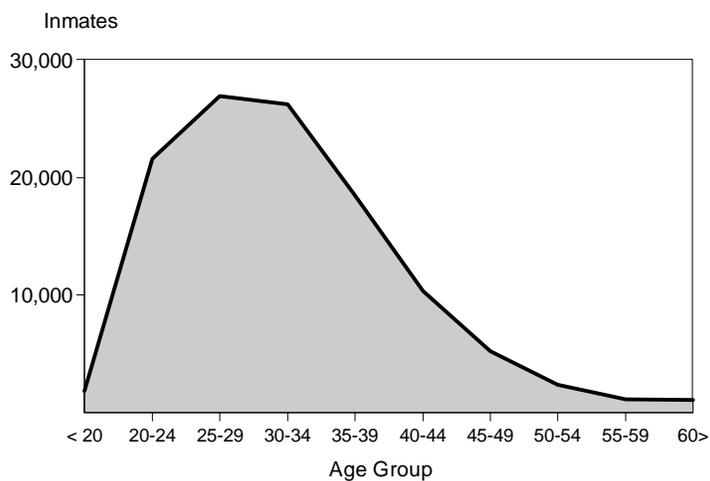
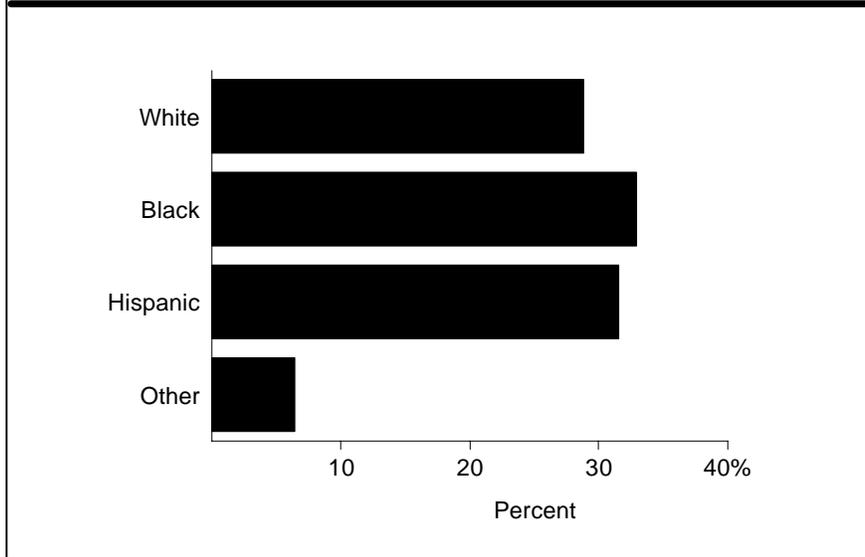


Figure 12

**Prison Population by Ethnicity
June 30, 1993**



INMATE AND PAROLE POPULATION MANAGEMENT ISSUES

Recent Projections Show Continued Steady Growth In Prison Population

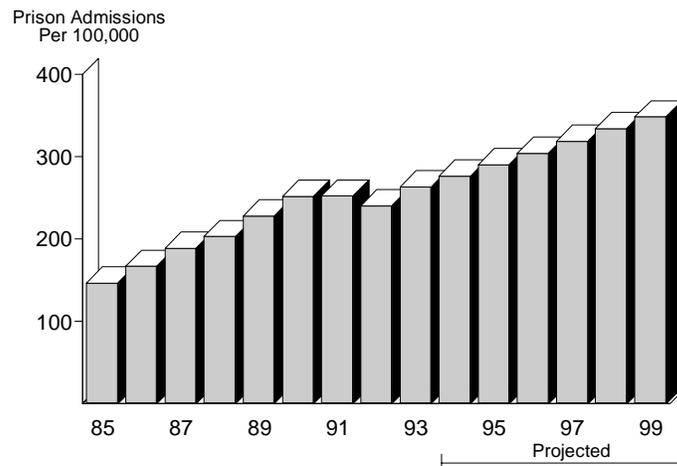
The CDC's most recent projections estimate that the inmate population will continue to increase, reaching approximately 171,000 inmates by 1998-99. There are, however, a number of potential factors that could result in substantial increases in these projections.

Every fall the CDC projects the prison inmate and parolee populations for the current year, the budget year, and the following four years. The department's fall 1993 population projections show the inmate population reaching over 126,000 inmates by June 30, 1994, and increasing to approximately 135,000 inmates by June 30, 1995, which represents an increase of 9.3 percent in the current year and 6.9 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 6.1 percent through 1998-99, reaching a total of 171,000 inmates by the end of the period. Although a substantial increase, this is approximately half the annual growth rate of 12 percent observed over the last ten years. The CDC will revise its fall 1993 projections in the spring of 1994. One of the principal reasons for the projected growth in the population over the

long run is the increasing incarceration rate for state prison, as shown in Figure 13.

Figure 13

**Incarceration Rate for State Prison^a
1985 Through 1999**



^aPrison incarceration rate is based on the number of felon admissions to prison from court per 100,000 California residents, aged 18 to 49 years.

Short-Term Projections Show Slight Increase Over Previous Spring Estimate. The fall 1993 inmate population projections show a slight increase over the spring 1993 projection. In the spring 1993 projection, the CDC estimated that the prison population would total approximately 130,000 inmates by June 30, 1995. The fall projections now show 135,000 inmates by the same date, an increase of 3.9 percent over the earlier projection.

The increase in projections is due not to an increase in the number of persons being sent to prison, but rather due to an increase in the length of time served by both new commitments to prison from court and parolees returned to prison for violating the conditions of their parole.

Potential Risks to Accuracy of Projections. The accuracy of the department's projections depends 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 these 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 smaller growth or decline in the inmate population. These factors are discussed below.

Sentence Increases Through Legislation. The department's projections assume *no changes in the current law* that will increase sentence lengths beyond those enacted through 1993. 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.

During 1993, the Legislature considered over 130 bills that would increase sentences. Currently, the Legislature has before it a number of major proposals relating to criminal sentencing laws. Any one of these proposals could easily increase the prison population by thousands, to tens of thousands, of inmates. However, most of these proposals would not have an *immediate* impact on the prison population. In some cases, the major impact would not occur until several years after enactment of the legislation.

Reduction in Inmate Educational or Work Opportunities. Inmates who work or participate in education programs earn credits, thereby reducing the time 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. According to the CDC, approximately 17,000 inmates who would like to work or be enrolled in an educational program, are currently waiting for such an assignment.

Changes 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. For example, last fall several counties announced that they would have to close some county jails due to lack of sufficient funding to operate them. However, Proposition 172 was approved by the voters in November 1993 and provided local law enforcement with dedicated sales tax revenues. As a result, most jail facilities remained open, but at least two were closed. Still, counties continue to have significant fiscal constraints. In fact, the CDC's budget proposes to lease two county jails in southern California for state inmates (we discuss this issue later in this analysis). Both jails were closed due to lack of funding for their operation.

In addition, the Congress is currently considering significant legislation that would provide additional funds for local governments to increase the number of law enforcement personnel on the street. Ultimately, this increase in street-level law enforcement personnel would add a corresponding workload for other players in the criminal justice system, such as the county jails, local prosecutors and courts, and state prisons. Conversely, any reduction in the funding of street-level law enforcement in cities or counties would result in offsetting or dropping the number of new admissions to state prison.

Changes in Policies of Local Prosecuting Agencies. Changes in the prosecution patterns of local district attorneys could increase the prison population. For example, if laws are enacted to prohibit prosecutors from agreeing to plea bargaining, or should prosecutors decide themselves to reduce the number or types of cases they agree to plea bargain, the result would be longer jail or prison sentences. Currently, more than 80 percent of convictions are obtained through a plea bargain, as part of an agreement with the district attorney's office to obtain a lesser criminal charge. If the number of plea bargain convictions were to decrease, this could increase the state prison population because of more individuals sent to prison or longer sentences.

Changes in Parole Revocation Policies and Procedures. The CDC implemented new policies and procedures beginning in 1991 that have contributed to slowing the prison population growth. Specifically, these policies and procedures:

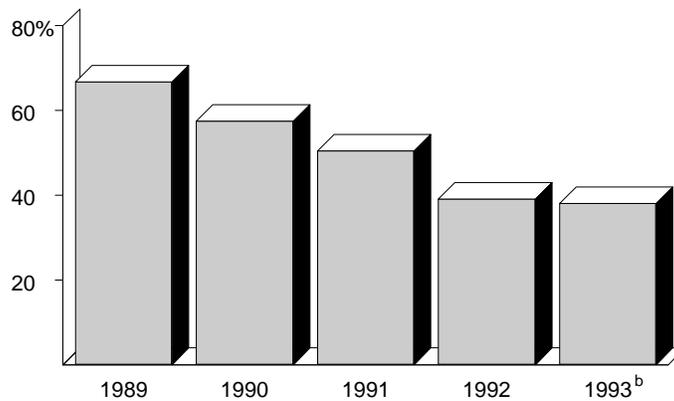
- Limit the revocation of parolees who are arrested by local authorities for minor offenses that would not ordinarily be subject to local prosecution (such as, disturbing the peace). This permits the CDC's parole agents to divert some offenders from prison to community-based sanctions or treatment programs, such as substance abuse treatment.
- Delay the issuance of warrants on parolees at large for 60 days. The CDC will not issue a warrant until the parolee has been absent for more than 60 days, unless the parole violation constitutes a crime or the parolee poses a threat to public safety. This delay allows the parole agent more time to locate the parolee, and determine whether a community-based sanction would be more appropriate, than returning the individual to prison.

Overall, the concept of these new policies is to ensure the successful completion of parole by diverting nonviolent parole violators from costly prison beds for short periods of incarceration to more appropriate community-based sanctions which attempt to deal with the source of the parolees' problems.

Since the implementation of these new policies, the department has significantly reduced the rate parolees are returned to prison from a statewide average of approximately 70 percent to the current statewide average of about 38 percent, as shown in Figure 14. Although this has significantly reduced the need for additional prison beds, the department has found that those parole violators who are now returned to prison, do so for a longer period of time. This increased length of stay, however, only partially offsets the savings from the reduced need for prison beds.

Figure 14

**Parole Violation Rates^a
1989 Through 1993**



^a Percent of parolees returned to prison, per 100 parolees, for technical violations.

^b 1993 rate is based on three quarters of data.

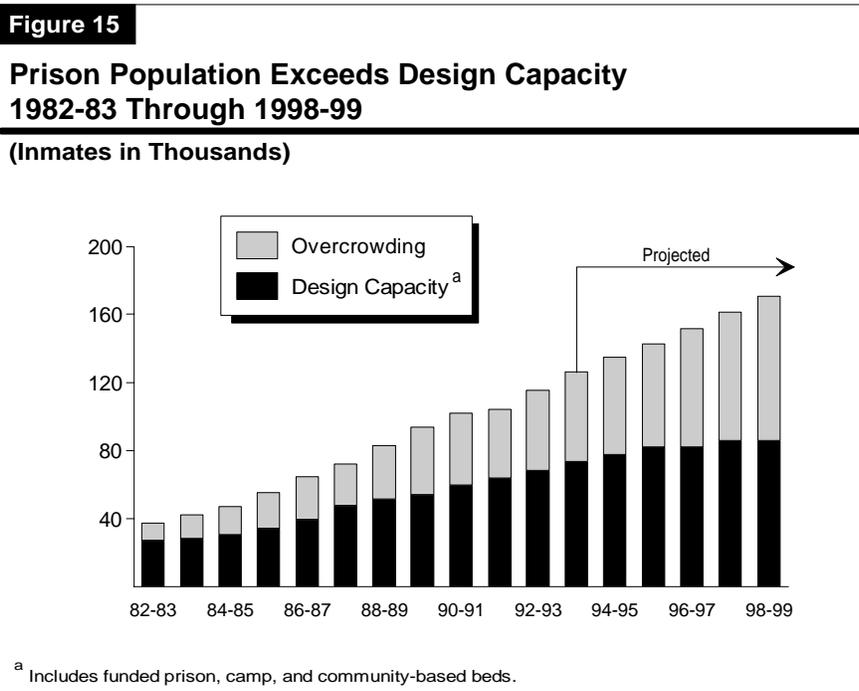
If, in the future, the department chooses to apply more strict parole revocation criteria or eliminate these new policies, the rate at which parolees are returned to prison could significantly increase.

LAO Assessment of the Potential Risks. Our analysis indicates that the CDC fall projections are reasonable assuming recent prison population trends continue. However, several factors could significantly affect those trends: (1) given the current fiscal condition of many local governments and their lack of resources for appropriately dealing with felons at the local level, judges may sentence more offenders to state prison; (2) the current crime legislation pending before Congress is likely to include funding for additional local law enforcement, that would, in turn, result in an increase in prison population; and (3) the state Legislature seems likely to enact major legislation this year to increase criminal sentencing.

Implications of the Projections

As a result of the increase in the prison inmate population, there will be a small deficiency in the departments's budget in the current year. In addition, the level of overcrowding is estimated to increase in the future.

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 and the scheduled completion of new prison beds, the level of prison overcrowding will significantly worsen by 1998-99, as shown in Figure 15 and discussed below.



Small Current-Year Deficiency Due to Inmate Population Growth. In January 1994, the Department of Finance submitted a General Fund deficiency request for \$16.4 million due to the projected growth in the inmate and parolee populations. This relatively small current-year deficiency reflects the small change between the CDC's spring and fall population projections.

Budget Proposes to Open Additional Prisons During the Budget Year.

In addition to the two prisons opened during the current year at a total cost of \$80 million, the budget proposes to open two additional prisons during the budget year. The budget proposes to begin activation of the California State Prison, Madera II (Madera County) at a total cost of \$10 million and to fully open the Pleasant Valley State Prison (Fresno County) at a total cost of \$41 million. The Madera County prison will be designed to house approximately 2,000 female inmates and the Fresno County prison will be designed to house up to 2,200 male inmates.

Additional Authorized Prisons Under Construction or in Planning Stage. The budget includes an additional \$3.3 million to provide activation staff for two additional prisons that will be opened during 1995-96. One prison will be located near Susanville (Lassen County) and house approximately 2,000 male inmates, and the second prison will be located in Soledad (Monterey County) and house about 2,200 male inmates. Finally, the department is in the planning stage of one additional prison and one 1,000-bed drug abuse treatment facility, both to be located in Corcoran (Kern County), but a completion date is yet to be scheduled. As a result of its current construction plan, the department will have activated six prisons within a three-year period (through 1995-96). However, even with this ambitious construction schedule, given the projected inmate population, the level of inmate overcrowding will be approximately 200 percent of design capacity by the end of 1998-99. None of these prison activations relate to the Governor's proposal to construct an additional six prisons.

Significant Future General Fund 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 and through the end of the decade. The Governor's 1994-95 Budget requests an additional \$146 million for the projected increase in the inmate population for the budget year. Given the current level of overcrowding of approximately 180 percent (1993-94) and the projected growth in 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.

Inmate and Parole Population Projections Will Be Updated in May

We withhold recommendation on a net increase of \$141 million requested to fund the inmate and parole population growth in the budget year, pending review of a revised budget proposal and population projections, to be included in the May revision.

The budget requests a net increase of \$141 million and 2,226 personnel-years to accommodate inmate and parole population changes in the budget year.

Inmate Population. The budget requests \$146 million and 2,312 personnel-years to accommodate additional inmates in institutions, and to fund associated population-driven support costs. As Figure 16 shows, the total population is projected to increase by 6.9 percent to about 135,000 inmates by the end of 1994-95.

Figure 16

**Department of Corrections
Inmate Population
1992-93 Through 1994-95^a**

| | Actual 1992-93 | Estimated 1993-94 | Projected 1994-95 | Percent Change 1993-94 to 1994-95 |
|------------------------------|-------------------|----------------------|----------------------|--|
| Male felon | 104,768 | 114,433 | 122,352 | 6.9% |
| Male outpatient and others | 3,534 | 3,734 | 3,802 | 1.8 |
| Female felon | 6,450 | 7,254 | 7,885 | 9.0 |
| Female outpatient and others | 782 | 902 | 942 | 4.4 |
| Totals | 115,534 | 126,323 | 134,981 | 6.9% |

^a Figures are for the last day of the fiscal year shown.
Source: Department of Corrections

Parole Population. The budget proposes a reduction of \$4.5 million and the elimination of 86 personnel-years in the parole program. This reduction is primarily due to a lower than previously anticipated parolee population. Although the CDC's spring 1993 population projection had estimated that there would be approximately 100,000 parolees by end of the budget year, the fall 1993 projection now estimates that total to be about 93,000, or 7,000 less parolees. Figure 17 shows that the new estimated parole population is expected to increase by 7.5 percent, from

87,000 at the end of the current year to a projected 93,000 at the end of the budget year.

Figure 17

**Department of Corrections
Parole and Outpatient Population
1992-93 Through 1994-95^a**

| | Actual 1992-93 | Estimated 1993-94 | Projected 1994-95 | Percent Change 1993-94 to 1994-95 |
|------------------------------|-------------------|----------------------|----------------------|--|
| Male felon | 70,812 | 73,020 | 78,723 | 7.8% |
| Male outpatient and others | 4,923 | 5,174 | 5,225 | 1.0 |
| Female felon | 7,024 | 7,156 | 7,830 | 9.4 |
| Female outpatient and others | 1,128 | 1,239 | 1,284 | 3.6 |
| Totals | 83,887 | 86,589 | 93,062 | 7.5% |

^a 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 population had been slightly below the projected levels for two consecutive months (November and December 1993). Consequently, we withhold recommendation on the net increase of \$141 million requested to fund the inmate and parole population growth, pending receipt of the department's revised estimates in May.

Plan To Lease County Jail Beds Contains Uncertainties

We withhold recommendation on \$20.3 million requested to lease 1,800 jail beds from two counties, pending receipt of final lease agreements. We further recommend that the department report during budget hearings on the alternatives the state may utilize should the state and counties fail to negotiate satisfactory lease agreements.

The CDC's budget includes \$4.5 million in the current-year and \$20.3 million in the budget year to contract with two counties to house state inmates in county jails. According to the CDC, these funds are needed in order to provide an additional 1,800 beds to house the projected inmate population growth through at least 1997-98. The CDC's 1994-95 inmate housing plan proposes to lease 1,800 county jail beds from San Bernardino County (800 beds at the Central Detention Center) and Los Angeles County (1,000 beds at the Mira Loma facility). The activation of these beds will begin with 500 Level III (medium security) county jail beds in March 1994. The department will then activate 500 Level II (minimum to medium security) county jail beds in April 1994 and an additional 500 Level II beds in May 1994. Finally, the department plans to activate an additional 300 Level II county jail beds in June 1994.

The CDC estimates that for the current year the average daily population in the leased beds year would be about 400 inmates and, thus, has budgeted \$4.5 million to cover these costs. The full fiscal impact of the proposal would take effect in the budget year when all leased beds would be utilized at a budgeted cost of \$20.3 million.

County Jails Closed Due to Lack of County Funding. Although both San Bernardino County and Los Angeles County are currently under court order to limit the size of their jail populations, both counties closed their facilities due to a lack of resources to operate them. In fact, the CDC received over 1,000 inmates in two weeks from Los Angeles County due to the closure of some of its jail facilities last year.

Proposal Contains Several Uncertainties. We have identified several uncertainties with this proposal that could affect its eventual costs. First, the CDC has yet to reach a final agreement with the two counties regarding the level of staffing that will be provided at these facilities. It has, however, budgeted the cost of these 1,800 leased county jail beds at a significantly lower staffing ratio than that in state prisons. Given the proposed level of funding and staffing level, the average annual cost per leased county jail bed would be approximately \$11,300. The current annual average cost for a CDC bed is approximately \$21,000.

In addition, since the department has not yet completed its negotiations with the counties, the department has not determined how medical services will be provided to inmates, what types of programming will be made available to inmates, or the level of inmates that will actually be housed in each facility. The CDC is certain that it will not house in the county jails Level I (minimum security) or Level IV (maximum security) inmates, or inmates with severe behavioral problems. Finally, it is not known who will provide the staffing for these facilities. According to the department, San Bernardino County prefers to provide its own staff for the Central Detention Center, and the CDC hopes to have state personnel staff the Mira Loma facility.

Analyst's Recommendation. Given these uncertainties, we withhold recommendation on the request, pending receipt of the final authorized lease agreements. In addition, we recommend that the department report during budget hearings on alternatives that the state could utilize should the state and counties fail to reach an agreement.

Alternative Sentencing Program: An Update

Although preliminary results for the Alternative Sentencing Program (ASP) have not been promising, the number of participants in the program to date is far too small to draw any final conclusions about its ultimate outcome. We recommend enactment of legislation to expand the criteria for inmate participation in the program.

Chapter 1063, Statutes of 1992 (SB 1124, Presley) authorized the CDC to establish a new pilot ASP program at San Quentin State Prison. The department believes that the program will be more cost-effective than regular incarceration, reduce overcrowding, and reduce the rate of recidivism for these offenders. 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 first group of ASP participants entered the program in mid-January 1993.

Background. The ASP provides a short period of incarceration (up to 120 days) in prison during which less serious, nonviolent offenders from one of several Bay Area counties or Los Angeles County, who have never served a sentence in a state or federal prison, are placed in a program of intensive military-style drill and ceremony, physical exercise and labor, and structured counseling and education.

Upon the successful completion of the short period of incarceration, the offenders are placed on intensive parole supervision in the community for 180 days. During the first 60 days, ASP parolees live together at a community correctional facility in either Oakland or Los Angeles, 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 assigned parole agents and in group meetings, and are subject to frequent drug testing. Parolees who can successfully complete the intensive parole supervision phase may be fully discharged earlier than they would be otherwise.

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. A formal evaluation of the program will be completed and presented to the Legislature on or before October 1, 1996.

The ASP is one of more than 40 "shock incarceration" programs (also commonly referred to as "boot camps") that have been established throughout the country since 1983. Although there have been no long-term studies on the impact of these types of programs on recidivism rates, the results from many preliminary studies have not been encouraging.

California ASP Participant Profile. As of December 31, 1993, 370 inmates volunteered for and were admitted to the ASP program. About 42 percent of the offenders admitted into the program were sentenced to prison for property crimes. The single largest offense for the ASP felons was driving under the influence (DUI)—22 percent of the total ASP admissions.

Although about 18 percent of the total ASP admissions were technically convicted of a violent felony, in reviewing the felons' records, the CDC staff concluded that the actual circumstances of the individual offenses were not violent and that acceptance of these felons into the program was permissible under statutory inmate selection criteria. Most of these felons had been convicted of second degree robbery.

In reviewing the ASP participant profile data and the preliminary results, we are concerned that the department may be accepting offenders into the program who may be inappropriate. For example, those offenders convicted of a DUI would have to have been convicted several times locally before being sent to prison. Given that these offenders frequently have severe alcohol or drug abuse problems, a program that provides a short-term of incarceration with intensive services may not affect the individual's potential to re-offend and return to prison. In addition, some of the offenders do not have a sufficiently long enough sentence to justify the additional costs of the program. Thus, it appears that due to a limited pool of qualified candidates for the ASP, the department has been forced to accept offenders who may not have been accepted otherwise.

Preliminary Results—Institutional Phase. The following dispositions of the ASP participants represents preliminary results as of December 31, 1993. Although not statistically valid, these results are valuable for reviewing the progress of the program to date.

Of the 370 felons that were admitted into the program, 22 felons were removed within a week of acceptance into the ASP due to a late determination that the inmates were undocumented immigrants. In addition, 42 felons failed the program during the 120 day period of incarceration at San Quentin State Prison and were returned to the general prison population to complete their remaining prison sentence. These felons failed this phase of the program because of their inability to comply with program rules, confrontations, physical altercations, stealing from fellow inmates, threatening violence, and escape.

Of the remaining 306 felons in the program, 221 successfully completed the incarceration (“institutional”) phase and graduated to the parole work training phase, and the remaining 85 felons had not yet completed their participation in the program at San Quentin State Prison (see Figure 18). The number of inmates who successfully completed the institutional phase (221 inmates) was significantly below the department’s projection of 432 participants. The failure rate for this phase of the program is approximately 12 percent for disciplinary reasons (excluding the documented felons). (Unfortunately, this failure rate is not comparable to the assumed rate at the start of the project because that rate anticipated primarily medical reasons for failure.)

| Figure 18 | |
|---|-----------------------------------|
| Alternative Sentencing Program Results | |
| As of December 31, 1993 | |
| Program Phase | Number of ASP Participants |
| Institutional phase | |
| Admitted | 370 |
| Failed/dropped | (64) |
| Continuing phase | (85) |
| Successfully completed | (221) |
| Parole phase | |
| Admitted | 221 |
| Failed/dropped | (27) |
| Continuing phase | (171) |
| Successfully completed | (23) |

Preliminary Results—Parole Work Training Phase. Of the 221 felons who made it to the work training phase of the program, 136 successfully completed and were placed on intensive parole supervision, 68 had not yet completed, and the remaining 17 felons failed.

Preliminary Results—Parole Intensive Supervision Phase. Of the 136 participants who were placed on intensive parole supervision, 23 have successfully completed the program and have been fully discharged, 5 have been placed on regular parole for minor violations, 4 violated the conditions of parole and were sent back to general prison population to complete their remaining prison sentence, and one has absconded. The remaining 103 felons are still currently on intensive parole supervision. Although the original overall parole phase failure rate was assumed to be 10 percent, the actual failure rate is currently 12 percent.

Administrative Attempts to Improve the Project. As we pointed out in our previous review of the ASP (see our *Analysis of the 1993-94 Budget Bill*), the inmate eligibility criteria adopted in Chapter 1063 limited the potential inmate pool for participation in the ASP. The CDC has attempted to make administrative changes to compensate for the limited inmate pool. It has expanded the program from the original six Bay Area counties to include an additional northern California county and Los Angeles County. In addition, the CDC has also implemented procedures at reception centers to quickly identify any potential candidates and redirect them to the ASP. Still, the program suffers from a lack of first time nonviolent offenders to place in the program.

Fiscal Implications of Preliminary Result. At the time Chapter 1063 was enacted, the CDC estimated that the program would result in net savings of \$620,000 in 1993-94, increasing to net savings of \$2.6 million by 1997-98 and annually thereafter. Because of delays in implementing the program, and because of the additional costs associated with expanding the program to Los Angeles, it appears unlikely that the program will result in the projected net savings in the current and budget years. We have requested the CDC to prepare an estimate of the net cost or savings of the ASP based on actual admissions.

We will continue to monitor the program and advise the Legislature on its fiscal impact as additional data become available. In addition, we find that some of the offenders who have been accepted into ASP may not be the most suitable for the program because of either their remaining time they have to serve in prison when the state receives them, or because of the nature of their offense. Although the department has made significant attempts to identify the most appropriate felons available for the program, a sufficient pool of inmates is still not available.

Analyst's Recommendation. As we indicated last year, we believe that the ASP needs a larger pool of first-time offenders from which to draw. Otherwise, the program may fail. Thus, we recommend the enactment of legislation to expand the inmate eligibility criteria to include offenses of inmates who have at least one year, but not more than three years, to serve (the criteria originally proposed by the administration). The

legislation could be written so as to authorize the CDC to exclude any felon that the department feels would be a threat to public safety, even though that felon would technically qualify.

INMATE MEDICAL CARE ISSUES

Options for Contracting Medical Services Should Be Explored

We recommend that the CDC report during budget hearings on the possibility of (1) utilizing the services of the California Medical Assistance Commission (CMAC) in contracting for medical services, and (2) contracting out all medical services for a single prison in 1995-96, on a pilot basis, in order to determine whether the state could benefit from such contracts. We recommend further that the Legislature direct the CDC to separate out the medical budget from the Institutions Division and transfer the staff and funds to the newly created Health Care Services Division (HCSD) by 1994-95.

The department's budget for 1994-95 includes over \$372 million for medical and psychiatric services for inmates and parolees. The CDC currently contracts for a substantial amount of its medical services. However, this contracting has been done individually by each prison without much statewide planning and coordination. In essence, there has been no statewide medical budget, but rather numerous individual medical budgets, one for each prison.

Department Should Consider Medi-Cal Model for Contracting. In its recent report, the Little Hoover Commission noted that the CDC is at a disadvantage when negotiating medical contracts because it does not have a large enough base of cases to have sufficient leverage with providers. Recently, the Little Hoover Commission recommended that the department and the CMAC explore opportunities for reducing the costs of medical contracting in the prison system. The CMAC has the experience of negotiating contracts with hospitals, county health systems, and health care plans for the delivery of health care services to Medi-Cal recipients. We believe that the CDC should explore the possibilities of utilizing the CMAC when contracting for prison medical services.

Pilot Project to Test Privatization of Medical Services. We believe that it would be advantageous for the department, on a pilot project basis, to extend its use of contracting to include all medical services for an entire prison. Such a pilot would allow the department to compare the cost of providing medical services on contract to one prison to the costs of CDC staff providing the services at another prison. We suggest that the prison for contracting medical services (1) not have a hospital, (2) have a

pharmacy, and (3) be a newly built institution in order to avoid transitional problems.

Medical Budgets Should Be Separated From Institution Budgets. We believe that the department needs to separate its medical budget and expenditures from the budget for the regular institution if it is going to successfully negotiate contracts for medical services. This is because the medical resources scattered amongst the various prisons need to be treated and managed as a single resource.

Analyst's Recommendation. Given that contracting for medical services may provide opportunities for savings and better management, we recommend that the CDC report during budget hearings on the possibility of (1) utilizing the services of the CMAC in contracting for medical services and (2) contracting out the medical operation of a prison in 1995-96, on a pilot basis, to determine whether there would be any efficiencies or savings to the state. We recommend further that the Legislature direct the department to separate out the statewide medical budget from the Institutions Division and transfer the staff and funds to the newly created HCSD by 1994-95.

Mental Health Care Delivery System Under Court Review

We recommend that the department report during budget hearings on the state's potential financial liability should the department lose a current case regarding the level of mental health care provided inmates. The department should also report on the status of the court case.

The CDC's 1994-95 budget includes \$36 million from the General Fund to provide mental health services to inmates in the budget year. The budget also includes another \$10.3 million for outpatient psychiatric services for parolees and their families. Although the Legislature has continually appropriated millions of dollars to enhance the psychiatric services provided to inmates and parolees, the CDC is regularly challenged in court regarding the level of mental health care provided to inmates. In fact, the department is currently involved in major litigation that could potentially result in additional costs to the state of millions of dollars.

Existing Delivery of Mental Health Services. Mental health services are currently provided to inmates at four different levels of care. These four levels are designed to provide a continuum of care to mentally ill inmates. These levels of care are discussed below.

- ***Acute Inpatient Psychiatric Care.*** The acute inpatient psychiatric care units are located at the California Medical Facility (CMF) at Vacaville and provide services to inmates who are acutely mentally ill. The units are part of the CMF's licensed hospital, but are operated by the Department of Mental Health (DMH) via an interagency agreement between the two departments. In addition, the CDC contracts with DMH for additional inpatient care at various state mental hospitals. The CMF psychiatric programs are only available to male inmates. Female inmates may receive acute inpatient psychiatric care at one of the DMH state mental hospitals.
- ***Day Treatment Program.*** The day treatment program is also operated by the DMH and is a component of the acute care psychiatric hospital at the CMF. This treatment program provides a less intensive level of care than the inpatient program, but a higher level of care than the satellite outpatient treatment programs.
- ***Intermediate Outpatient Care.*** The department has two satellite intermediate outpatient care programs for male inmates; one is located at the CMF and the other is at the California Men's Colony (CMC) in San Luis Obispo. The department also has a third satellite intermediate outpatient care program for female inmates at the California Institute for Women (CIW) at Frontera. These units are operated by the CDC and treat inmates who do not need acute psychiatric care, but who need a higher level of care than that provided to the general prison population.

Due to the significant growth in the inmate population, the department also recently established new psychiatric intermediate outpatient programs at San Quentin State Prison for parole violators, R.J. Donovan State Prison in San Diego for medium security level inmates, and Pelican Bay State Prison in Del Norte County for maximum security level inmates.

- ***Other Institutional Care.*** Each prison that does not have a satellite unit has a smaller mental health unit which is operated by the CDC staff. These units screen and identify inmates in the general population who are experiencing mental illness and treat inmates whose illnesses have stabilized.

Current Mental Health Delivery System Under Court Review. The department's current mental health delivery system has constantly been challenged in the courts by prisoner advocacy groups. In response, the state has over the years augmented resources and improved the operations of the system. The major criticisms of the department's mental health system is that the services are not available to all inmates, and not all inmates with mental health needs are appropriately identified.

Two lawsuits were filed against the department in federal court under the federal Civil Rights of Institutionalized Persons Act. Both suits—*Gates v. Deukmejian* and *USA v. Deukmejian*—claimed that the mental health treatment at the CMF was deficient in its provisions of psychiatric services to inmates. Rather than enter into a prolonged litigation process, the department negotiated a settlement with the complainants. The resulting consent decrees established specific standards and guidelines for the CMF psychiatric outpatient program. The court assigned a monitor to ensure the department's compliance with the consent decrees. As a result of the court decisions, the department has spent several millions of dollars in order to upgrade its mental health services at CMF.

Another case is currently in litigation (commonly referred to as the *Coleman* case), in which the department's *entire* mental health delivery system is under review by the courts to determine if the state has failed to provide the legally required minimum level of psychiatric care and services to inmates with mental illnesses. The department advises that its budget proposal for a new mental health care delivery system was motivated, in part, in anticipation of an unfavorable court decision (we discuss the major components of this proposal below).

Analyst's Recommendation. Given that the Legislature has provided additional resources for mental health treatment in the past, and the potentially major costs of providing more treatment services, we recommend that the department report during budget hearings on the state's potential financial liability should the state lose the *Coleman* case litigation. The department also should report on the status of this court case.

NEW MENTAL HEALTH CARE DELIVERY SYSTEM HAS MAJOR FUTURE COSTS

We recommend approval of \$8.1 million from the General Fund and 117 positions to begin implementation of the first phase of a major new mental health care delivery system in the budget year. The plan includes future phases that will result in additional costs of at least \$18 million.

The budget requests \$8.1 million from the General Fund and 117 positions to standardize psychiatric evaluations in inmate reception centers, develop a mental health clinical case management system, establish short-term mental health crisis beds for the institutions, and provide additional security for the program.

Implementation of the New Mental Health Services Delivery System. The department is proposing to significantly modify its existing mental health system within the institutions. The department's plan is divided into three phases, with the funds requested for 1994-95 representing only

the first phase. The first phase can be separated into four different components. They are as follows:

- ***Standardization of Reception Center Psychiatric Evaluations.*** The budget requests \$1.9 million and 30 positions to augment reception center staff to improve and standardize the psychiatric evaluation of new inmates. Currently, there is no standardized process for completing psychiatric evaluations of inmates when they first enter the state prison system. This component is intended to ensure early access to mental health services for all inmates.
- ***Clinical Case Management.*** The CDC is requesting \$3.2 million and 33 positions to implement a clinical case management system that would track and monitor inmates with limited mental health care needs. There are approximately 3,000 inmates who would receive these case management services. Currently, these individuals require psychiatric medication in order to remain stable in the inmate general population.

This component would add a level of care that was previously unavailable to inmates with marginal mental health needs. In addition, the department believes some inmates who are currently receiving a higher level of psychiatric care could be transferred to the clinical case management program which would free up beds for more intensive treatment services.

- ***Short-term Mental Health Inpatient Crisis Beds.*** In order to provide services for inmates who are in need of immediate psychiatric care, the department is requesting \$2.1 million and 36 positions to establish mental health crisis beds at four prisons with infirmaries, three prisons with hospitals, and one prison with a skilled nursing facility. Inmates who experience a mental health problem could first be stabilized and evaluated in this short-term setting before being transferred, if necessary, to a higher level of care.
- ***Additional Medical Guarding Posts.*** Since the department's proposing a new medical program for inmates who are considered unpredictable, it also is requesting \$916,000 and 18 positions to provide additional security coverage.

Future Cost Of New Mental Health Delivery System. In addition to the proposal for the budget year, the department's plan includes two other phases that would be funded in future years. The second phase of this project would require additional staff and support to continue the development of the clinical case management system and additional mental health inpatient crisis beds. In addition, phase two would include licensed subacute and administrative staff for the Health Care Services Division. The department's current estimate of the cost for phase two is

approximately \$12.3 million and 155 positions. This figure does not include any additional security costs that may be necessary.

Phase three of this project would fully implement the new mental health delivery system at all prisons. It would also activate 351 infirmary beds, including 130 mental health inpatient crisis beds. The department estimates that it will need \$5.5 million and 51 positions to complete phase three of this project. This figure, however, does not include the additional security costs that may be necessary.

The total cost of completing all three phases of this project will be \$25.9 million, plus the additional security costs for phases two and three.

In addition to the costs associated with the new mental health delivery system, the proposal identifies an additional \$87 million to construct 208 new infirmary beds.

Analyst's Recommendation. We believe that the department's budget year proposal is reasonable. Thus, we recommend approval of \$8.1 million from the General Fund and 117 positions to begin implementation of the proposed major new mental health care delivery system in the budget year. We note, however, that this request only represents the first phase of a three-phase implementation schedule. The additional costs for phases two and three are currently estimated to be at least \$18 million.

Contracted Mental Health Beds Are Underutilized

We recommend a General Fund reduction of \$570,000 and the elimination of 10 contracted mental health treatment beds at the Napa State Hospital, because these beds are not fully utilized by the CDC. (Reduce Item 5240-001-001 by \$570,000.)

Currently, the CDC has an interagency agreement with the DMH to provide mental health treatment services to state prisoners. The budget proposes \$26.2 million for the DMH to provide mental health treatment beds to CDC inmates in 1994-95.

Background. The DMH will set aside in the budget year, 502 mental health treatment beds for the placement of state inmates under the jurisdiction of the CDC. These beds are located at three state hospitals. The Atascadero State Hospital (ASH) will provide 412 of these beds. In addition, the ASH has another 35 beds for a pilot sex offender project, Sex Offender and Treatment Evaluation Project (SOTEP), which is targeted for CDC state prisoners. There are also 10 beds located at the Napa State Hospital and 45 beds located at Patton State Hospital for CDC prisoners. Inpatient treatment of CDC inmates in the DMH costs on average, about \$60,000 per inmate, versus average per capita costs in the CDC of about \$21,000, due to a more intense level of services provided by the DMH.

History of Underutilization of Costly Treatment Beds. There have been a number of significant problems between the CDC and the DMH regarding placement of inmate patients in these beds. In the past, the DMH has refused to accept state inmates who were in serious need of mental health treatment. The CDC, however, has often placed with the DMH inmates who were too violent for hospital staff to handle.

In 1992-93, the Legislature reduced the number of beds at the ASH based on weekly utilization reports that showed that the beds were significantly underutilized. Although about 38 beds were underutilized, the Legislature eliminated funding for only 23 beds, with the 15 remaining beds being redirected by the CDC to Patton State Hospital.

Subsequently, a federal court ordered the CDC and the DMH to reestablish the original 38 beds at the ASH by May 1, 1993. The judge based his decision on the specified conditions of the court-approved *Gates Consent Decree*, which stipulates the level of mental health treatment the state shall provide prisoners. Although the CDC and DMH have amended their interagency agreement to authorize the additional beds at the ASH, the CDC's budget does not have the funding at this time. If the beds are actually utilized, the department advises that funds will be requested in the CDC's updated inmate population budget request in May 1994.

Review of Previous and Current Year Bed Utilization. In our review of the CDC's use of the contracted mental health beds, we again found the beds to be underutilized at the ASH, excluding the SOTEP beds, and at the Napa State Hospital as well. The average monthly usage of the ASH beds during 1992-93 was 358 beds, which was 15 beds less than what was authorized under the interagency agreement. The average monthly use of the ASH beds for the current year has been 373 beds, which is 39 beds less than what is authorized. In addition, the average monthly use of the mental health treatment beds at the Napa State Hospital was 5 beds in 1992-93 and has been 3 beds in the current year.

Analyst's Recommendation. Because the *Gates Consent Decree* prohibits the state from eliminating any mental health treatment beds for state prisoners at the ASH, we recommend that the Legislature eliminate the 10 beds at Napa State Hospital and direct the CDC to transfer any state inmates receiving treatment there to the ASH. The ASH has more than enough capacity to absorb these few inmates. This will result in a General Fund savings of \$570,000.

Medical Information Still Lacking

The CDC has implemented its new Health Care Costs and Utilization Project to track inmate health care costs. However, the new system is

still unable to provide the department with the types of health care cost data that is needs to better manage its medical resources.

In 1991-92, the Legislature appropriated \$1.2 million to the CDC to implement a medical accounting system. Although the system was supposed to provide the department with all the necessary medical cost data for effectively managing these costly resources, it has failed to provide some of the basic information necessary to achieve the objectives of the project.

Background. In 1990-91, the department began to establish a new health care cost accounting system using the Department of Finance's Calstars accounting system. The new accounting system was established to provide the department with information on health care costs and information on inpatient and outpatient utilization. The purpose of the system was to provide the department with information that it could use in day-to-day health care management decisions, as well as short-range and long-range health care planning.

In 1991-92, the Legislature approved the department's request for 21 additional positions, funded through the redirection of medical contract funds, to fully implement the system. In 1992-93, the department completed this project, which is now called the Health Care Cost and Utilization Project (HCCUP). The objectives of the HCCUP are to provide:

- Full-cost information for purposes of conducting comparative analyses of similar services provided at the various institutions, and projecting the budgetary implications of expanding or decreasing services.
- Full-cost information in order to compare the cost of services provided internally by the CDC versus services provided through external contracts.
- Accountability for strategic health care management and planning within the CDC.

Better Information on Contract Medical Services. The HCCUP has collected some valuable data that has allowed it to better manage contracted hospital services. For example, each prison is individually responsible for contracting with local hospitals for medical services that the institution is unable to provide. In the past, there had been no central review or control of these contracts. As a result, one institution could contract with one hospital at a particular fixed rate for a service, while another institution could contract with the same hospital for a higher or lower rate. Now that all institutions are reporting their contract rates to a central authority for review and comparison, the department can identify those hospitals that provide a particular service at a competitive rate and use that knowledge in renegotiating hospital contracts.

Department Still Unable to Track Some Basic Medical Data. Although the HCCUP has been helpful in tracking contracted medical services, unfortunately, these services account for only a small percentage of the department's total medical costs. Thus, the department is still unable to track some of the most basic of medical cost information.

There is still little data on what services are provided and at what costs. In addition, the department still has not been able to provide accurate vacancy reports for medical positions. This is because each institution continues to use different definitions of a vacant position.

Department Needs to Improve Its Health Care Cost Accounting System. The department's 1994-95 budget includes \$372 million for medical, dental and psychiatric services for inmates and parolees. A comprehensive medical accounting system should provide the CDC with better control and oversight of all of these medical expenditures. The system should also provide the department with the ability to identify those services that the department should be providing "in-house" and those that may be provided more cost effectively on a contract basis. The department advises that a better system may be implemented in the future as part of the Correctional Management Information System (CMIS), which we discuss later in this analysis.

ADMINISTRATIVE ISSUES

Costs of Correctional Management Information System Project Uncertain

We withhold recommendation on \$2.1 million from the General Fund requested to fund the CDC's automated offender information system project for the third year, pending notification that the department has awarded a consulting contract. We further recommend that the CDC consider contracting for professional assistance in overseeing and managing this critical project.

The budget requests \$2.1 million from the General Fund to continue the CDC's multi-year automated project which is known as the Correctional Management Information System (CMIS). The CMIS will create a single automated system that would maintain a host of offender information. This requested funding will provide the CDC with the necessary resources to complete the third year of this project, which includes contracting with a consultant to develop the information data system and train the department staff to take over its operation. The total cost to complete this project is estimated at approximately \$63 million. This figure does not include additional phases to integrate other systems, such as parole or medical data.

In our view, the CMIS project should be viewed as a high priority for the department because the administration and the Legislature need this information system for their decisionmaking purposes.

Background. Currently, the majority of an offender's prison record is maintained in a paper file known as the Central File (C-File). The C-File is normally stored at the institution where the offender is incarcerated. When a prisoner is transferred from one institution to another, the inmate's C-File has to be processed and transferred through as many as four different sections within the prison, requiring a significant amount of time. These files are critical for making management decisions such as offender releases or transfers, disciplinary activities, or job assignment. Any error in these types of decisions could place both staff and inmates in physical danger. Because there is only one C-File for an inmate, problems begin to occur when more than one staff member needs the file or when the file is missing.

Although the CDC currently has an automated data system for tracking offender information, this system is outdated and cannot be expanded to meet the growing inmate population. The current system is also inefficient since it is unable to record and track the type of information necessary for the department to carry out its responsibilities.

New Information System is a Step Forward. In 1992-93, the Legislature appropriated \$2.4 million from the General Fund and 16 positions to begin identifying the department's information system needs. These positions also began to develop the initial design for a comprehensive information computer system. In 1993-94, the Legislature appropriated an additional \$11.4 million from the General Fund for the second year of funding. This level of funding allowed the department to continue to identify its information needs, purchase computer equipment and software, and select a contractor to actually begin developing and implementing the information system, and train CDC staff to take over the operation. However, due to some delays in the project, the department will not expend approximately \$5.2 million of the funds in the current year.

Specifically, during the current year, the department developed and implemented a new review process for developing the Request For Proposal (RFP) document which potential contractors will use to determine how they will bid for the CMIS contract. As a result of this new process, the project has been delayed by several months. Our review indicates, however, that this new review process will ensure that the CDC receives the best type of data information system available.

Consultant Costs Uncertain. The 1994-95 budget proposes to contract with a consultant to complete the development and implementation of the CMIS project so that it is fully operational and meets the project's objectives. The department originally estimated the total cost for such a consultant to be about \$6.2 million. However, the CDC has received estimates of as low as \$3 million and as high as \$30 million for this work. Although the department's latest estimate of this cost is now \$7.6 million, the department advises that the final cost could be higher.

Analyst's Recommendation. Given the uncertainties concerning the costs of the consultant services, we withhold recommendation on \$2.1 million from the General Fund pending notification of the awarding of the consulting contract for the development of the CMIS and its total cost. In addition, given the importance of this project for improving the operations of the department and its potential major costs to the state, we believe that the department should consider retaining additional professional assistance in overseeing and managing the CMIS project. The department has advised us that it is considering such an approach.

Attorney Workload Uncertain

We withhold recommendation on \$1.5 million requested from the General Fund for additional attorney workload, pending resolution of the current-year funding situation.

The budget requests \$1.5 million from the General Fund for legal work performed by attorneys in the department. According to the CDC, the additional resources are needed to handle cases that the Department of Justice (DOJ) has returned to the CDC.

Background. The department's legal staff consists of seven attorneys whose primary responsibilities are as in-house counsel to departmental management. Generally, these attorneys do not handle suits filed against the CDC. Rather, the DOJ's Correctional Law Unit primarily handles such cases. The DOJ has approximately 80 attorneys and is requesting an increase of \$3.4 million for the Correctional Law Unit workload.

In the past few years, the DOJ has declined to handle a steadily increasing portion of the CDC's legal workload. The primary types of cases and legal work that the AG has declined to handle are hearings to involuntarily medicate mentally ill inmates, adverse employee actions, discrimination and sexual harassment complaints, and third party discovery matters.

As a result, a portion of this caseload has been returned to the CDC. The CDC has contracted with private law firms for legal assistance in order to prevent defaults and to protect individually named CDC employee defendants from possible liability if judgements were made against them.

As of December 1993, the DOJ had returned over 300 cases to the CDC for the current year. The Department of Finance (DOF) notified the Legislature that it had received a deficiency request from the CDC regarding this workload. The DOF has not yet determined if it will authorize this deficiency for the current year.

Estimate of Cost for Additional Workload. The CDC's estimates that over a two- year period a total of 634 cases will be returned to the department. The budget request of \$1.5 million will allow the CDC to amend its existing contracts with law firms for completion of the work. The department indicates that this would be the fastest and most efficient way to handle the workload. The CDC's request assumes that each case will take on average 25 hours to complete, at a contract rate of \$95 per hour.

Pending Current-Year Deficiency Could Affect Funding Level. Our review indicates that the pending current year deficiency request could affect the funding level needed for 1994-95. This is because the costs of handling some part of the 634 cases will be funded in the current-year deficiency appropriation. After funding has been agreed upon for the current year, the Legislature can reduce the CDC budget year request by that amount.

Analyst's Recommendation. We withhold recommendation on \$1.5 million requested from the General Fund for additional attorney workload, pending resolution of the current-year funding situation.

Issue Will Need to be Addressed with the DOJ. As we indicated, the budget proposes an increase of \$3.4 million for correctional law workload in the DOJ. In our analysis of the DOJ, we recommend a reduction of \$2.6 million because the DOJ did not account for the transfer of cases to the CDC, and because of overbudgeting (see our analysis of the DOJ later in this chapter).

Inappropriate Use of Bonds to Support Prison Operations

We recommend the deletion of \$13.6 million in bond funds requested to pay for recurring maintenance and special repairs at existing prisons because the request represents an inappropriate use of bonds funds. (Reduce Item 5240-001-754 by \$13.6 million.)

The budget includes a request to use \$13.6 million from the 1994 Public Safety Fund (a general obligation bond proposed by the Governor for the November 1994 ballot) to pay for the cost of recurring maintenance and special repairs at existing prisons. In our review of the proposal, we have found the request to be inconsistent with the appropriate use of bond proceeds.

Suggested Criteria for Appropriate Uses 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 extends the life of capital facilities was inappropriate. Bonds should fund projects that continue to provide a benefit for a substantial length of time because these are borrowed funds which the state must pay back over a long period of time. In practical terms, bonds represent a loan or credit which the state must pay back in full, with accrued interest. Thus, the use of \$13.6 million now results in higher payments in the future. The CDC 1994-95 budget includes \$140 million for budget year payments on lease revenue bonds only.

The request to use \$13.6 million of bond funds for ongoing maintenance is inconsistent with the criteria referenced above. The life of many of these projects is only for a couple of years. Ongoing annual maintenance should come from existing operating resources.

Analyst's Recommendation. Because the request to use bond funds for annual operating support costs for institutions is inconsistent with the appropriate uses of bond proceeds, we recommend that the administration resubmit the proposal for legislative consideration with a different funding mechanism, or delay the projects until the state has sufficient funding to operate the prisons.

BOARD OF PRISON TERMS (5440)

The Board of Prison Terms (BPT) is composed of nine members appointed by the Governor and confirmed by the Senate for terms of four years. The board considers parole release for persons sentenced to prison under the Indeterminate Sentence Law or to life imprisonment with the possibility of parole. In addition, the board advises the Governor on applications for clemency.

The budget proposes total expenditures of \$4.5 million for the BPT in 1994-95. This is essentially the same funding level as the current year. This funding level includes a restoration of \$925,000 of General Fund reductions made to the board's budget over the last two years, and also includes an augmentation of one staff attorney position. We discuss these requests below.

Technical Adjustments—Restoration of Previous Reductions and Attorney Position

We recommend technical reductions to the board's budget request of \$130,000. (Reduce Item 5440-001-001 by \$130,000.)

Recent General Fund Reductions to BPT. Until 1992, the BPT was responsible for determining whether, and for how long, a parolee who was incarcerated in prison under the Determinate Sentence Law (DSL), should be returned to prison for violating a condition of parole. Chapter 695, Statutes of 1992 (SB 97, Torres), transferred this responsibility to the Department of Corrections (CDC). As a result, the 1992 Budget Act reduced the BPT's budget by \$6.7 million and 84 positions. In the current year, the Department of Finance (DOF) administratively reduced the BPT's budget by an additional \$608,000 in order to achieve an unallocated reduction authorized by Section 3.90 of the 1993 Budget Act.

Current-Year Deficiency Request. Given these reductions, the board has taken various steps to handle its mandatory workload. For example, under current law, inmates who go before the board for a determination of their parole eligibility have a legal right to an attorney. The funding for these attorneys comes from the BPT's budget. However, as a part of the 1993-94 unallocated budget reduction, the administration reduced this funding by approximately \$320,000, or 44 percent. Given limited funding for attorneys to represent inmates at parole hearings, at one point, the board informed inmates that anyone who would waive his or her right to

an attorney stood a better chance of having their parole hearing sooner. This action was almost immediately challenged by prisoner advocacy groups and is no longer a practice.

The DOF has concluded that the BPT's budget should not have been reduced by the full \$6.7 million when the DSL parole revocation function was transferred to the CDC and estimates that the BPT's budget requires a restoration of \$317,000. In addition, the DOF has determined that the \$608,000 unallocated reduction it made to the BPT will not permit the board to carry out its statutory mandate, and proposes that it be restored. Thus, the DOF authorized a deficiency of \$925,000 in the current year to restore a portion of the previous reductions. The budget proposes to continue this increase in 1994-95.

Restoration Overbudgeted. Our review of the request for restoration of \$925,000 of previous budget reductions indicates that \$825,000 is necessary in order for the board to carry out its statutory duties. However, based on our review of the board's actual and estimated expenditures for staff services and operations, we believe that the request is overbudgeted and should be reduced by \$100,000.

Proposed Attorney Position. The BPT's budget currently includes one staff attorney position to provide board members with legal advice. The budget requests \$85,000 from the General Fund and one staff attorney position for additional legal support for the board. Two staff attorney positions were transferred from the BPT to the CDC in 1992 as part of the change authorized under Chapter 695.

In our review of the attorney workload identified by the board, we could only identify enough legal services workload to justify one staff attorney position, which the board is already authorized. However, there is non legal services workload that would justify an associate-level analyst. Thus, we recommend an associate analyst position in lieu of a staff attorney, for a \$30,000 General Fund savings.

Analyst's Recommendations. In summary, we recommend that the request for restoration of the previous budget reductions be reduced by \$100,000, and an analyst position be approved instead of an attorney position, for a savings of \$30,000, for a total General Fund savings of \$130,000.

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 12 to 24, average age 19). The department operates training and treatment programs that seek to educate, correct, and rehabilitate youthful offenders rather than punish them. The department operates 11 institutions and 6 conservation camps. In addition, the department supervises parolees through 17 offices located throughout the state.

The budget proposes total expenditures of \$412 million for the Youth Authority in 1994-95. This is \$17 million, or 4.3 percent, above current-year expenditures. Expenditures from the General Fund total \$377 million in the budget year, an increase of \$19 million or 5.2 percent, over expenditures in 1993-94. The department's proposed General Fund expenditures include \$39.3 million in Proposition 98 educational funds. Approximately 78 percent of the total amount requested is for operations of the department's institutions and camps. The remaining 22 percent is for parole and community services.

Projected Ward Population Shows Continued Growth

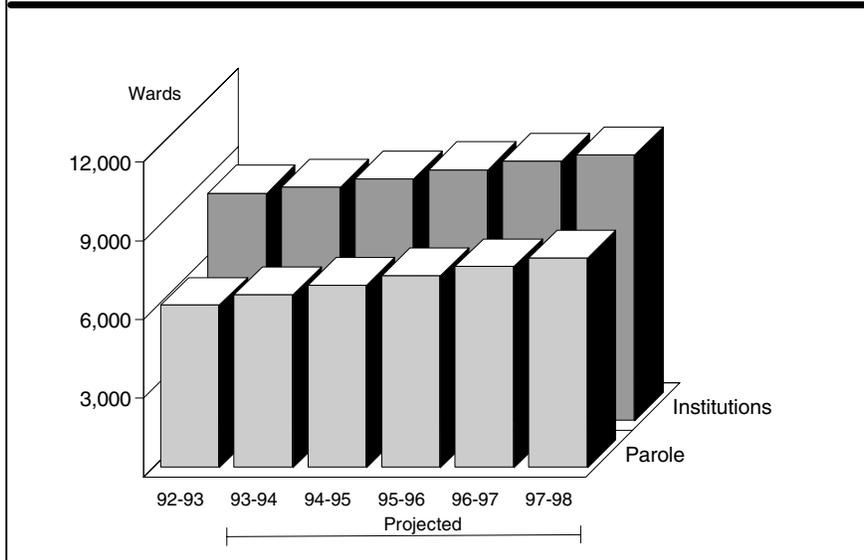
The Youth Authority projects that its institutional population will continue to increase to more than 9,000 wards in the budget year and to more than 10,000 wards at the end of 1997-98. The department projects that institutional overcrowding will increase to 140 percent of capacity by June 30, 1995. Furthermore, Youth Authority parole populations are also expected to increase to 6,950 parolees in the budget year and to almost 8,000 parolees by 1997-98. There are several reasons for the increase, including the state's increasing total juvenile population and increasing admissions to the Youth Authority for violent offenses.

The Youth Authority's fall 1993 ward population projections (which form the basis for the 1994-95 Governor's Budget and 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 3.2 percent over the next five years (through 1997-98), reaching just over 10,000 incarcerated wards on June 30, 1998.

The Youth Authority also projects commensurate increases in the number of parolees it supervises. The Youth Authority projects that the parolee population will grow at an average annual rate of 4.7 percent through 1997-98. Figure 19 shows the Youth Authority's institutional and parolee populations from 1992-93 through 1997-98.

Figure 19

**Youth Authority Population Continues to Increase
1992-93 Through 1997-98**



Who Is in the Youth Authority? There are several ways that an individual can be committed to the Youth Authority, including:

- **Juvenile Court Admissions.** The largest number of commitments to the Youth Authority are made by juvenile courts. About 78 percent of all admissions in 1992-93 were from the juvenile courts.
- **Superior Court Commitments.** A small number (about 7.4 percent) of commitments are made by superior courts, when juveniles are tried and convicted as adults.
- **Corrections Inmates.** Another large segment of the Youth Authority population is comprised of inmates from the California Department of Corrections (CDC), referred to as "M cases," because the letter M is used as part of the ward's Youth Authority identification number. These are individuals under the age of 21

committed to the CDC after a felony conviction in superior court, but are ordered by the court to be transferred to the Youth Authority to serve all or part of their incarceration time.

- **Parole Violators.** These are parolees who violate a condition of parole or commit a new offense and are returned to the Youth Authority.

Growth of the Statewide Juvenile Population Drives Youth Authority Growth. The growth in California's juvenile population is a prime reason for the projected growth of Youth Authority population. The department projects that the ward population will increase at the same rate as the increase in the state's overall juvenile population. Specifically, the department bases its estimates for the budget year through 1997-98, on the admission rate—105.7 admissions for every 100,000 state population, aged 12-17 years—remaining constant. Admission rates have fluctuated in previous years, in part because of changes in the number of juvenile court admissions from Los Angeles County, but also because rates of admissions for some offenses have declined, such as drug offenses, while others have increased, such as violent offenses.

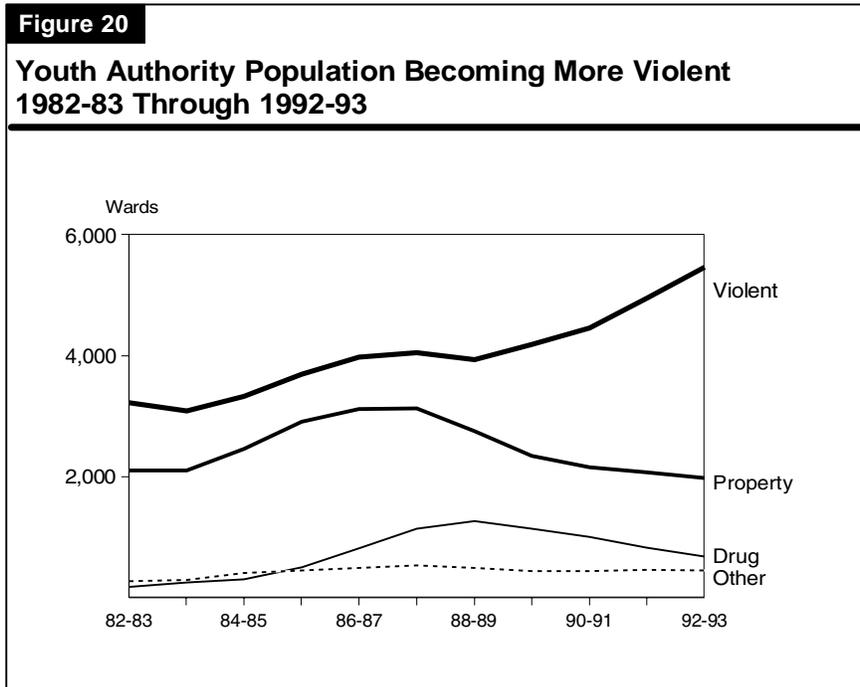
Increases in the Number of Violent Offenders Have Increased Average Length of Stay. The length of stay in a Youth Authority institution is based on the commitment offense. Juvenile court commitments are “indeterminate,” that is they are not based on a set term, but rather are determined by the policies of the Youthful Offender Parole Board (YOPB) and vary based on the program needs of the ward. In contrast, the length of stay for the “M cases” is based on “determinate,” or fixed terms imposed by the court and adjusted by sentence-reduction credits.

Regardless of the type of commitment, the number of wards incarcerated in the Youth Authority for serious offenses continues to increase. The number of violent offenders housed in the Youth Authority has risen from 60 percent of the total population as of June 30, 1992, to 64 percent on June 30, 1993. Wards committed to the Youth Authority because of violent offenses serve longer periods of incarceration than offenders committed because of property or drug offenses. As a result, the average length of stay for all wards has increased to 21.5 months for the current year, compared to 21.1 in 1992-93.

The Youth Authority's Parole Population Will Also Increase. The same factors that will cause the institution population to increase will also cause the parole population to increase. In addition, the growth in the number of wards committed for serious offenses will also increase the length of time a ward is supervised on parole. The Youth Authority projects that the length of stay on parole will increase from an average of 17 months in 1992-93 to almost 20 months by 1997-98.

Characteristics of the Youth Authority Wards. The Youth Authority's population has changed in the past decade in several ways, including:

- **Type of Commitment Offense.** In 1993, six out of every ten wards housed in department institutions were committed for a violent offense, such as homicide, robbery, and assault. Since 1983, the actual number of wards committed for violent offenses has increased almost 70 percent. In contrast, the number of wards incarcerated for property offenses, such as burglary and auto theft, has decreased from four out of every ten wards in 1983 to just two of ten in 1993. The number of wards incarcerated for drug offenses have also declined from a high of 15 percent of the institution population in 1989, to 7.9 percent in 1993. Figure 20 shows the population of the Youth Authority by type of offense for 1982-83 through 1992-93.
 - **Gender and Age.** Since 1983, the Youth Authority population has become more male and older. In 1983, females made up 4.4 percent of the institutional population, but declined to just over 3 percent in 1993. In addition, the average age of wards has increased from 18.7 years in 1983 to 19.1 years in 1993.
 - **Ethnicity.** Since 1983, the percentage of the institutional population made up of blacks and whites has declined, while the percentage of Hispanics and Asians has grown. The white population has decreased from 28 percent of the population in 1983 to 15 percent in 1993. The Hispanic population grew from 32 percent in 1983 to 44 percent in 1993.
 - **Admission Status.** In 1983, over 20 percent of all admissions to the Youth Authority were wards being returned as a result of a parole violation or a new juvenile offense. In 1993, just 14 percent of admissions were wards being returned to the institution. Furthermore, the number of admissions from the juvenile court has increased from 67 percent in 1983, to 78 percent in 1993.
 - **County of Commitment.** One characteristic that has remained basically unchanged is where wards come from. In 1983, the split between southern and northern California was 36 percent versus 64 percent, respectively; in 1993, the split was 39 percent versus 61 percent. Los Angeles County has always been the largest source of wards, accounting for 49 percent of the commitments in 1983, and decreasing slightly to 45 percent in 1993.
-



Ward and Parolee Population Projections Will Be Updated in May

We withhold recommendation on \$2 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 \$2 million from the General Fund to accommodate ward and parolee population changes in the budget year. The amount includes \$1.9 million (\$1.5 million from the General Fund and \$440,000 from Proposition 98) for ward population increases and \$39,000 for parolee population increases. Figure 21 shows the department's ward and parolee population.

Ward and Parolee Population. As the figure shows, the ward population is projected to reach 9,209 at the end of the budget year, an increase of 312 wards, or 3.4 percent, over the current-year estimate. The parole population is projected to increase to 6,950 by June 30, 1995, an increase of 422 parolees, or 5.7 percent, more than June 30, 1994.

Figure 21

**Department of the Youth Authority
Institutions and Parolee Population
1993-93 Through 1994-95^a**

| | Actual 1992-93 | Estimated 1993-94 | Proposed 1994-95 | Percent Change Between 1993-94 and 1994-95 |
|--|-------------------|----------------------|---------------------|--|
| Institutions Population | 8,673 | 8,897 | 9,209 | 4.3% |
| Youth Authority Wards | (7,312) | (7,457) | (7,699) | 3.2 |
| Correction's inmates housed in Youth Authority ("M cases") | (1,361) | (1,440) | (1,510) | 4.9 |
| Overcrowding^b | 129.6% | 132.9% | 137.6% | 5.7 |
| Parolee Population | 6,181 | 6,578 | 6,950 | 5.7 |
| Youth Authority Wards | (5,203) | (5,628) | (6,010) | 6.8 |
| Correction's parolees supervised by Youth Authority ("M cases") | (978) | (950) | (940) | -1.1 |

^a Figures are for the last day of the fiscal year shown.
^b Based on institution design capacity of 6,692 wards.

Action on the Ward and Parolee 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 revised projections could affect the department's request for funding.

For example, the actual ward population in early January was slightly below the department's institution population projections for that time. If this trend continues, the budget may be adjusted downward. On the other hand, other factors, such as the Governor's proposal to transfer full funding responsibility for county probationers placed in foster care homes to counties, which we discuss later in this *Analysis*, might result in some counties increasing the number of offenders they send to the Youth Authority.

Consequently, we withhold recommendation on \$2 million requested to support ward and parolee population changes, pending receipt and analysis of the revised budget proposal.

Proposed Restructuring of Foster Care Could Lead To More Youth Authority Placements

We recommend that the Youth Authority report during budget hearings on the potential impact of the Governor's proposed restructuring of foster care funding responsibilities, on the Youth Authority's ward and parole populations.

Background. Placement of juvenile offenders in a foster care or group home setting is one of the placement options available to county probation departments. There are currently 5,500 probationers placed in foster care. Of these placements, 85 percent are in group homes, which cost an average of \$3,100 per month, and the remaining 15 percent are in family foster care homes, which cost an average of \$1,200 per month. Under the current funding structure, the state pays 40 percent of the costs of the foster care placement for nonfederally eligible foster care cases (no Aid to Families with Dependent Children (AFDC) eligibility) and the county pays 60 percent. For AFDC placements, the ratio is 20 percent state-funded, 30 percent county-funded, and 50 percent federally-funded.

The Governor's Restructuring Proposal. The Governor is proposing to restructure the programmatic and fiscal relationship between the state and counties for several programs, including foster care. Specifically, the Governor proposes to turn over full financial and program responsibility for foster family homes and group homes to the counties. The state would establish the Community Services Fund, which would fund various health and social services programs including foster care. Revenues for this fund would come from a share of Vehicle License Fees. Counties would have flexibility in how they use the revenues from this new fund. (For a more detailed discussion of the restructuring proposal, please see our companion document *The 1994-95 Budget: Perspectives and Issues*.)

Counties Could Have A Fiscal Incentive to Shift Probationers to the Youth Authority. Under the Governor's proposal, the counties would assume the state's share of cost for foster care placements, but counties would not be required to maintain juveniles in these placements. Counties could decide to transfer these probationers to the Youth Authority, and such a transfer would have a double benefit for the county. First, a county would avoid the costs of the foster care placement because the costs to the counties for Youth Authority placement (\$300 annually) is much cheaper than foster care placement (annual average county share of \$4,300 to \$22,000 depending on placement and AFDC eligibility). Second, the county's share of the Community Services Fund would not decrease if the probationer is transferred to the Youth Authority, because the county share is not based on it maintaining a certain "caseload" of foster care placements.

A Transfer Could Have Significant Cost Impact On the State. Our review indicates that the current restructuring proposal could result in a significant increase in commitments and costs to the Youth Authority. A shift of only 1 percent of the probation foster care placements (55 placements) could result in an additional net \$1.2 million in General Fund costs to the state.

The Governor's Budget does not account for any increase in the ward and parole populations as a result of the restructuring proposal. The costs would be commensurately higher if a larger number of foster care probationers are sent to the Youth Authority.

Analyst's Recommendation. Because the Governor's proposal could have a significant impact on the Youth Authority's institutional population, we recommend that the department report during budget hearings on the possible effects of wards placed in probation foster care being transferred to the Youth Authority.

How Does the Youth Authority Rehabilitate Wards?

We recommend that the Legislature adopt supplemental report language directing the Youth Authority to report on systems and measures it will use to determine the effectiveness of its rehabilitation programs.

The department, in addition to incapacitating wards in secure facilities to keep society safe, operates a variety of programs and services in its institutions whose goals are to treat, train, and generally "rehabilitate" youthful offenders. In this section, we briefly summarize the department's rehabilitation programs and indicate what is known about their success.

Over 85 percent of all wards are enrolled in either academic or vocational education programs. In addition, 24 percent of all wards participate in one of the Youth Authority's specialized programs. Figure 22 shows the enrollment in the department's programs.

Academic Education Programs. The average ward entering the Youth Authority is 19 years old, but scores at the sixth-grade education level on standardized tests. Thus, the average ward is six grade levels below where he or she should be, given his or her age. The Youth Authority's school programs have average class sizes of 15, in contrast to the state-wide average of about 30 students per class. Academic education

Figure 22**Department of the Youth Authority
Rehabilitative Programs**

| Program | Approximate Enrollment | Waiting List | Program Description |
|---|-------------------------------|---------------------|--|
| Academic education | 6,000 | — | General elementary and high school studies, leading to diploma or GED. |
| Special education | 1,270 | — | Assessment and identification, classes for the learning disabled, and students with limited or no English. |
| Vocational education | 3,300 | — | Vocational training in 30 skills, some wards are enrolled in both academic and vocational programs. |
| Intensive treatment programs | 179 | 81 | Treatment of wards needing psychiatric services. |
| Special counseling programs | 233 | 680 | Treatment for wards who are assaultive, suicidal, or sex offenders. |
| Substance abuse treatment programs | 1,788 ^a | 3,600 | 6 to 8 month formal alcohol and drug treatment programs. |
| Drug treatment program (for parole violators) | 120 ^b | — | 90 day program for parolees who fail drug testing, but don't warrant return to an institution. |
| Sex offender treatment "Continuum of Care" | 140 ^c | 252 | 20 month institutional program followed by intensive parole for high-risk sex offenders. |
| LEAD "Boot Camp" | 150 | — | 4 month "military-style" shock incarceration program for nonviolent offenders, followed by intensive parole supervision. |

^a 1,450 current, 388 additional planned.
^b 90 current, 30 additional planned.
^c 80 current, 60 additional planned.

is provided at each institution and all of the camps. Academic programs receive Proposition 98 funding based on enrollment, in the same manner as school districts. According to the department, the average ward makes up two grade levels during his or her stay in the department's academic programs. In 1993, 811 wards received high school diplomas and 391 wards passed the GED. In addition, 21 wards received Associate of Arts degrees and one ward completed a bachelor's degree while incarcerated. As part of the academic education program,

the Youth Authority provides special education programs for identification and assessment, for the learning disabled, and programs for limited and non-English speaking students.

Vocational Education. Classes and training are available to wards in over 30 vocational fields, ranging from janitorial training to certified computer repair. In addition to providing job skills to wards, many services necessary to run the institutions are provided as part of the vocational education programs, such as landscape maintenance and food service. The Youth Authority does not, however, track wards who complete the vocational programs and are paroled, to determine whether the wards obtain employment in the field in which they were trained.

Intensive Treatment Programs (ITPs). The wards placed in the Youth Authority's ITPs are severely emotionally disturbed, developmentally disabled, psychotic, mentally disordered (such as wards who are schizophrenics), or have severe physical handicaps (such as wards with organic brain deficits). Treatment staff include psychiatrists, psychologists, social workers, and nurses. The ITPs have staff who directly prescribe and administer medication to wards.

Some wards will spend their entire period of incarceration in an ITP. These wards are generally seriously mentally disordered or have organic deficits that preclude their placement in "regular" housing units. Staff advise us that there are limited community placement options for these wards when they are released from the Youth Authority. Other wards are "stabilized" and then returned to regular housing units within the Youth Authority. The Youth Authority has no specific measure for the success of the ITP besides the number of wards that are placed back in regular living units.

Specialized Counseling Programs (SCPs). Wards placed in SCPs have less severe psychological problems than wards in ITPs. These wards tend to have severe "acting-out" behaviors, which are usually violent or aggressive. Wards receive behavior management training and other counseling. The SCPs also house wards who are suicidal or sex offenders. Suicidal wards receive psychiatric treatment and are put on "suicide watch." Sex offenders in SCPs receive treatment, but not the same specialized program provided in the sex offender program, which we discuss below. Success for the SCPs is measured most directly by returns of SCP wards to the general population.

Substance Abuse Programs. When the department conducted its *Treatment Needs Assessment* in 1992, the Youth Authority determined that 60 percent of all male wards and 55 percent of all female wards have a serious substance abuse problem. To treat these wards, the department has 20 substance abuse treatment programs (at least one at each institu-

tion and campsites). Further, the department plans to redirect funds to convert the Karl Holton School in Stockton to a drug and alcohol abuse treatment center in the current year.

Generally, wards identified as needing a formal substance abuse program are transferred to a formal program near the end of their confinement. The Youth Authority tracks ward behavior for 24 months after parole, and has determined that 53 percent of parolees either commit a new offense or violate their parole conditions, 12 percent violate their parole as a result of substance abuse.

If a parolee fails a drug test, the field parole agent can return the ward to an institution to complete his or her confinement time or place the ward in a substance abuse program for a 90-day stay. The 90-day program is voluntary and consists of intensive drug education combined with physical labor/community service projects. About 60 percent of wards who complete the program do not have another drug-related parole violation.

Sex Offender Programs. The department currently operates one 20-month sex offender treatment program in southern California; it is proposing to redirect resources to establish a similar program in northern California. In addition, the Youth Authority is expanding its parole services for sex offenders in the budget year.

The Youth Authority has only limited data on the success of its sex offender program, but these data show that wards who complete the program are more successful on parole, than wards that did not complete the program (13 percent of wards that complete the program violate a condition of parole, while 38 percent who did not complete the program violate parole). The expansion of the sex offender program includes funding for research positions to track performance of program "graduates."

"Boot Camp" Program. The LEAD (leadership, esteem, ability, and discipline) program is a short-term (four months), military-style, "shock incarceration" program, followed by six months of intensive parole supervision. Selected first-time, nonviolent offenders volunteer for the program, which is more intensive than regular incarceration, but results in an early release from the Youth Authority upon successful completion. Wards are placed either in northern or southern California. The program, in its second year, is still being evaluated.

Other Rehabilitative Programs. The Youth Authority also provides a series of other programs for the rehabilitation of wards. For example, the department has:

- **Victim Awareness Classes.** These classes, conducted by department staff with volunteers from organizations such as, Mothers of Murdered Children, use a variety of methods to make wards understand the consequences of criminal activity.
- **Life Skills Training.** These classes teach wards basic skills, such as how to apply for a job, rent an apartment, or obtain a driver's license.
- **"Young Men As Fathers."** This program teaches parenting skills to wards who have children. In addition, the program seeks to make wards aware of their responsibilities as fathers and how to avoid abusive behavior towards their children.
- **Conservation Camps.** The wards in the department's conservation camps are trained to fight fires, and also perform other types of community service, such as clearing brush and building hiking trails.
- **Electronically Enhanced Parole Release Program.** This is an early release program for certain, less serious offenders. Wards selected for the program are released 60 days early from department institutions to parole. The wards are placed on an "intensive supervision" caseload, one parole agent for 15 parolees, and wear an electronic "anklet" that can determine whether a parolee is in his or her home. Over 600 parolees have completed the program, with only 2.3 percent violating parole and returning to an institution. The department plans to expand the program from 4 to 17 of its parole offices in 1994-95.

How Successful are the Youth Authority's Rehabilitation Programs?

Measuring the success of rehabilitation programs is difficult. Three measures are currently available: (1) program completion—whether wards successfully complete a program, for example pass the GED examination, (2) success on parole—whether a ward who has completed the department's programs does not commit a new crime, and (3) "bed savings,"—whether the department realizes savings because a ward can be released early. However, the Youth Authority does not do a comprehensive evaluation of its programs or how they affect wards once they leave the institutions, as we discuss below.

Program Completion. The department measures program completion, especially in its education programs. However, the department does not determine if the successful completion of programs leads to a successful parole. Developing information on which programs, or mix of programs, lead to successful parole would help the department define where best to concentrate its resources. The Youth Authority is starting to develop this information for some of its specialized programs, such as its sex offender

and substance abuse programs, but has not extended these research efforts to all of its programs, especially the education programs. For example, the Youth Authority has little or no information on which of its vocational programs actually contribute to wards obtaining jobs in the community.

Parole Success. The Youth Authority tracks wards through their first two years of parole. A parole is considered successful if the parolee commits no violations of the conditions of parole and no new criminal offenses. A 1994 report on wards paroled in 1991 shows that almost 47 percent successfully complete the first two years of parole. Of the 53 percent who did not complete parole, 37 percent violated conditions of their parole and 63 percent committed a new crime (the majority of these individuals are sent to CDC prison or county jail). The Youth Authority compiles this information based on a number of factors, including ward commitment offense, admission, gender, ethnicity, et cetera. As noted above, the department does not, however, use data on the types of programs the parolees have completed to develop information on whether the programs contributed to a successful completion of parole.

Bed Savings. The Youth Authority also measures some programs based on the program's "bed savings," which is a measure of how a program reduces demands on institutional beds. Because the Youth Authority believes that overcrowding in the institutional population degrades the effectiveness of its various programs, the department has developed programs that prepare wards for early release to the community. The difference between the amount of time the ward would have been incarcerated versus the amount of time in the program results in a bed savings. The LEAD (boot camp) and the Electronically Enhanced Parole Release programs are two examples of these types of programs. For the budget year, the department projects that the electronic monitoring program will result in a total of 179 bed savings. The savings will be redirected to other programs.

The Department Needs to Evaluate Rehabilitation Programs More Thoroughly. The department needs to develop systems for evaluating the effectiveness of *all* of its programs. The Youth Authority should expand its systems for tracking those who complete the department's various programs, to determine if certain programs, or combinations of programs, seem to lead to the most successful outcomes. By measuring which programs yield the best results, the department can concentrate its limited resources in these programs.

Therefore, we recommend the adoption of supplemental report language requiring the department to report to the Legislature on the

systems required to evaluate the effectiveness of its rehabilitation programs. Specifically, we recommend the following language:

The department shall report to the Legislature by December 1, 1994, on the systems required to evaluate the effectiveness of its rehabilitation programs and what measures it will use to determine the effectiveness of individual programs and/or combinations of programs on parole outcomes.

Transfer "M Cases" Back to CDC

We recommend the enactment of legislation to transfer custody of "M cases" (state prisoners serving their sentences in the Youth Authority) who are age 18 or older, back to the CDC, because incarceration of these inmates in the Youth Authority is inconsistent with the department's mission. Furthermore, transferring these inmates would result in net annual General Fund savings of \$10 million once fully implemented because CDC's institutional and parole costs are less than the Youth Authority's.

Background. Defendants who are age 18 and older are considered adults and if convicted can be sentenced to the CDC. Current law allows the court to order a convicted defendant who committed his or her offense before the age of 21, to be transferred from the CDC and placed in the Youth Authority. As a consequence, these adult offenders are housed with juvenile offenders. These CDC inmates who are placed in the Youth Authority are referred to as "M cases" because the letter "M" is used in their identification number.

Under current law, the decision to place an "M case" in the Youth Authority must be based on two criteria: (1) the offender would materially benefit from the department's rehabilitative and educational programs, and (2) the department has adequate facilities to house these offenders.

Who Are "M Cases?" "M cases" are generally older than juvenile wards. The average age of "M cases" is 20.2 years versus 18.7 years for juvenile court wards. In 1993, only 73 "M cases" were under the age of 18. Over 80 percent of "M cases" were incarcerated for committing violent offenses, while 60 percent of juvenile court wards were incarcerated for violent offenses. Almost 22 percent of "M cases" have been convicted of murder or manslaughter and 22 percent have been convicted of attempted murder or aggravated assault.

If an "M case" causes behavioral problems or decides not to participate in department programs, the inmate is transferred to the CDC. Over 44 percent of all new "M case" admissions are transferred to the CDC within their first 11 months at the Youth Authority.

As of January 1994, there were 1,412 "M cases" incarcerated in the Youth Authority and the number is projected to increase to 1,510 in the budget year. This represents about 16 percent of the total institution population. In addition, the department supervises 950 "M cases" on parole.

"M Cases" Should Be Incarcerated in the CDC. Our analysis indicates that "M cases" who are 18 years or older, should be transferred back to the CDC. As we discuss below, such a transfer would help facilitate the department's mission, reduce overcrowding, result in General Fund savings, and eliminate the need for new construction.

Placement of "M Cases" in Youth Authority Is Inconsistent with the Department's Mission. The Youth Authority's mission is to protect society from the consequences of juvenile criminal activity by providing a broad range of services to educate, train, and treat juvenile offenders. To this end, almost all of the Youth Authority's juvenile wards are enrolled in education programs and one in four wards is in one of the Youth Authority's specialized rehabilitative programs.

In contrast, only one in ten "M cases" is placed in a specialized program. In large part, this is because "M cases" do not meet the placement requirements for specialized programs and because there is limited space in them. In addition, because "M cases" are generally older they are less likely to be enrolled in education programs. Consequently, it appears that "M cases" are less likely to "materially benefit" from the department's rehabilitative and education programs, as is required by law.

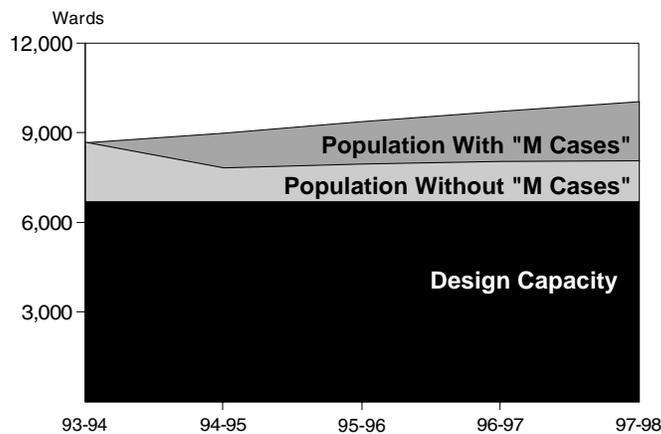
"M Cases" Contribute Significantly to Youth Authority Overcrowding. The department projects that its institutions will be operating at 140 percent of capacity by the end of the budget year and will be 154 percent of capacity by the end of 1997-98. The department is requesting bond funds to add 950 new beds in the budget year. The department is justifying its request for new facilities because of overcrowding. According to the department, it will not be able to ensure the delivery of programs that both contribute to the rehabilitation of wards and allow wards to have shorter lengths of stay if overcrowding grows beyond 130 percent. We concur that overcrowding detracts from the Youth Authority's mission because wards have less access to the programs that could rehabilitate them.

Our review indicates that the overcrowding situation has been made worse by the large number of "M cases" incarcerated in the Youth Authority. Since "M cases" account for 16 percent of the Youth Authority population, it is this group that pushes overcrowding over 130 percent. Figure 23 shows the Youth Authority's projected institutional population

versus design capacity through 1997-98 and compares it to our projection of the population without "M cases." As the figure shows, removing "M cases" from the population will reduce the overcrowding problem significantly. Specifically, transferring "M cases" and restricting acceptance of new "M cases" (age 18 and older) would reduce the Youth Authority's institutional overcrowding from 138 percent to 117 percent in the budget year and from 154 percent to 120 percent by 1997-98. It is important to note that reducing the overcrowding would improve the delivery of rehabilitative services to wards.

Figure 23

Youth Authority Overcrowding Would Decline Without "M Cases" 1993-94 Through 1997-98



Transfer of "M Cases" to the CDC Would Result in Annual General Fund Savings. Transferring the "M cases" to the CDC would result in significant annual General Fund savings because it costs the state more to house an offender in the Youth Authority (\$17,000 marginal cost) than in the CDC (\$11,700 marginal costs). Similarly, the CDC's parole costs (\$2,000 annually) are less than the Youth Authority's (\$4,400 annually). We estimate that once fully implemented, transferring "M cases" to the CDC would result in annual net General Fund savings of at least \$8 million to the institutional program and about \$2 million to the parole program.

Transfer of "M Cases" Would Eliminate the Need for New Youth Authority Facilities. In addition to the annual savings, the state would not need to embark on a new building program for the Youth Authority. Even if the CDC was required to construct new prison beds to house the additional inmates, there would be savings because the costs of constructing a new prison are less than the cost of constructing new Youth Authority facilities.

Transfer of "M Cases" Would Have Minimal Impact on CDC. Although the CDC is currently overcrowded, transfer of the "M Case" population would increase overcrowding by less than 1 percent. In addition, although the CDC does not maintain the same level of rehabilitative programs as the Youth Authority, academic and vocation education and work programs are available. Thus, to the extent that an inmate *desires* to participate in a rehabilitative program in the CDC, he can likely do so.

Finally, there should be little problem in mixing the "M case" population with the CDC population. There are currently about 1,900 inmates in the CDC who are under the age of 20—the average age of a Youth Authority "M case." In addition, it would be possible to segregate "M cases" from other prison inmates by incarcerating "M cases" in a single prison, or by incarcerating them in selected housing units of several prisons.

Analyst's Recommendation. Our analysis indicates that incarceration of "M cases" (age 18 and older) in the Youth Authority is inconsistent with the mission of the department. In addition, we find that "M case" inmates are generally older, more violent, less likely to participate in Youth Authority programs, and are a major contributor to the department's overcrowding problems. For these reasons, we believe that the law should be changed to return these offenders to the custody of the CDC. Such a transfer would improve the department's treatment program for the remaining wards, save money, reduce overcrowding, and significantly reduce the need for construction of additional Youth Authority facilities.

New Institution Construction Staff Not Needed Because of Transfer of "M Cases"

We recommend the deletion of \$293,000 in bond funds requested to pay for new construction management staff because new Youth Authority construction would not be necessary if the Legislature transfers responsibility for the incarceration of "M cases" to the CDC. (Reduce Item 5460-001-746 by \$293,000.)

The budget requests \$293,000 and five positions for the department to develop and manage construction of new beds at Youth Authority facilities. The funds would come from a new Public Safety Bond Fund. This fund would be supported by general obligation bonds that the Governor proposes be submitted to the voters in 1994.

New Construction Projects Proposed. In order to accommodate the projected increase in the Youth Authority's institution population, the department's "Population Management and Facilities Master Plan" proposed to add 1,550 beds. The Governor's Budget supports funding for preliminary plans and working drawings for 950 of these beds. This funding involves six separate projects at existing institutions.

New Construction Premature. As noted above, the Youth Authority's population, and consequent overcrowding, could be reduced by 14 percent, if "M cases" were transferred back to the CDC. The transfer and the subsequent limiting of new "M cases" commitments would keep the Youth Authority's overcrowding within the department's own estimates of reasonable overcrowding, at least until 1997-98.

Analyst's Recommendation. Consistent with our earlier recommendation that legislation be enacted transferring custody of "M cases" back to the CDC, we recommend deletion of the five proposed positions, for a bond fund savings of \$293,000.

Counties Should Be Given Financial Incentives to Deal With Less Serious Offenders

We recommend the enactment of legislation to increase the amounts counties pay for placement of offenders in the Youth Authority, because the current arrangement provides disincentives to counties to develop their own treatment and juvenile delinquency prevention programs. We recommend that such legislation establish a sliding scale so that counties pay more for the placement of less serious offenders in the Youth Authority.

Placement Options For Juvenile Offenders. Counties make the decision whether to send a youthful offender to the Youth Authority or keep the offender within the county. The juvenile court, upon the recommendation of the county probation department, has several options for youthful offenders, including:

- ***In-Home Placement.*** The probation department can place an offender on probation in the home. In such a case the county probation department is responsible for the costs of supervising the offender.
- ***Foster Care or Group Home Placement.*** The juvenile court can order placement of an offender to either a foster home or group home. Again, the probation department supervises the offender and the county pays a significant portion of the placement costs and all of the supervision costs.
- ***Juvenile Hall.*** Generally, juvenile hall placements are for short-term periods of incarceration. The juvenile hall stay is usually followed by in-home or foster care placements. The 42 counties that have juvenile halls are responsible for funding the costs of incarceration and subsequent supervision, generally the responsibility of the probation department.
- ***County Ranches and Camps.*** Like juvenile halls, the ranches and camps in 23 counties are used to incarcerate offenders (for 4 to 8 months), and are paid for by the county.
- ***Youth Authority.*** The county probation department can recommend that an offender be sent to the Youth Authority. Once the offender is accepted by the department, essentially all of the costs of incarceration (averaging 21 months) and subsequent community supervision (parole) are funded by the state.

County Costs for Youth Authority Placement. Counties pay only \$25 per month (or \$300 per year) for each ward to defray the costs of Youth Authority placement. This is equivalent to less than 1 percent of the state's costs. The current charge has not been changed since 1961, and makes no differentiation between types of commitment. The budget assumes that the state will receive \$1.9 million in 1994-95 from counties to defray the costs of Youth Authority placements.

Some Counties Send a Disproportionate Share of Less Serious Offenders to the Youth Authority. When a ward is sent to the Youth Authority, the YOPB assigns each ward a category number of 1 to 7 based on the type of commitment offense. Wards placed in category 1 have committed the most serious offenses, such as first degree murder, and wards in category 7 the least serious, such as petty theft. Generally, wards

in categories 1 through 4 are considered the most serious offenders, while categories 5 through 7 are less serious. Less serious offenders might be placed in the Youth Authority because they have escaped from county facilities.

We reviewed the current placements in the Youth Authority, analyzing the number of commitments by county and level of commitment. Our review showed that 24 counties send primarily serious offenders to the Youth Authority (more than 60 percent of their total commitments are wards in categories 1 to 4). Alameda and Santa Cruz Counties, for example, have sent over 80 percent of their placements in the serious categories. Los Angeles County, which is responsible for 45 percent of the Youth Authority's total population, has over 73 percent of its commitments in the serious category. Each of these counties have ranches and camps that they use to incarcerate and treat youthful offenders (Los Angeles County houses over 2,000 offenders in county camps). Thus, it appears that in these counties, youthful offenders are sent to the state only as a last resort.

In contrast, 20 counties' total commitments to the Youth Authority consist of 50 percent or more of less serious offenders (offenders in categories 5, 6, and 7). For example, 65 percent of Shasta County's commitments, 22 of 34 wards, are for less serious offenders. Most of these counties do not have ranch or camp programs of their own and rely on state resources to incarcerate and treat juvenile offenders.

Counterproductive Fiscal Incentives. As we noted last year in our "Making Government Make Sense" proposal, when county decision-makers select the least costly option for the county it may be more expensive for the state overall. For example, when a county sends a less serious offender to the Youth Authority, the county might save the costs of a ranch or camp placement (average six month stay) and a further 18 months of probation supervision. But the state costs for a Youth Authority commitment are much higher. First, the costs of a ward's average length of stay (18 months for a category 5 ward and 12 months for categories 6 and 7) combined with the average parole costs (for 17 months), results in total state costs that are three to four times greater than county costs. Secondly, by placing a less serious offender in the Youth Authority, less program space is available for treatment of wards committed for more serious offenses.

We believe that the current arrangements in which counties pay for less than one percent of the costs of placing an offender in the Youth Authority results in counterproductive fiscal incentives because counties have little incentive to develop (1) county juvenile treatment programs, such as camps and ranches, and (2) more importantly, prevention and treatment programs to reduce the delinquency in the first place.

Analyst's Recommendation. Based on the above, we recommend the enactment of legislation requiring that counties pay for a higher portion of the costs of placement in the Youth Authority. We suggest that such legislation be based on a sliding scale so that counties pay a higher portion of the costs of less serious offenders (categories 5 through 7), and a lower portion of the costs of more serious offenders (categories 1 through 4). We believe that such an arrangement provides incentives for counties to develop treatment alternatives and prevention and early intervention programs at the local level. In addition, such a change would result in an increase in funds to offset the state's costs of operating the Youth Authority.

Special Education Proposal Needs Legislation For Implementation

We recommend that the Youth Authority report to the Legislature during budget hearings on the status of (1) legislation to permit the department to use Proposition 98 funds for special education purposes and (2) the judgement 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 take certain steps to identify (referral and assessment), plan for, and place wards in special education programs. In 1989, the Youth Law Center (YLC), a nonprofit organization in San Francisco, sued the department (*Nick O. v. Terhune*) for noncompliance in the special education program, paralleling the findings of the federal and state agencies.

The lawsuit against the department, in addition to the reports of the state and federal government reviews, noted that the primary areas of department noncompliance are: (1) failure to process in a timely manner wards who are referred for special education; (2) failure to complete the appropriate assessments within time frames prescribed by law; and, (3) failure to provide services in accordance with the ward's Individualized Education Plan (IEP).

In 1990, the Youth Authority entered into a "stipulated judgement" to resolve the lawsuit in which the department agreed to provide the federally required services. The Youth Authority agreed to compliance monitoring by the YLC, through 1994, and specified that failure of the department to achieve compliance would be grounds for extending the order and for additional relief.

Funding to Bring Departments Into Compliance. In order to bring the Youth Authority into compliance, significant additional resources have been approved. Specifically, the 1991 Budget Act included \$1.8 million; the 1992 Budget Act included \$2.1 million; and, the 1993 Budget Act included \$2.2 million for this purpose. For 1994-95, the Youth Authority is requesting an additional \$2 million (Proposition 98 funds) for special education assessment and testing.

New Funds Would Be Used for Identifying and Assessing Wards. The Youth Authority has completed a pilot project to identify and assess all wards entering the Youth Authority through the Northern and Southern Reception Center/Clinics. The pilot project was established to determine the number of wards who should be tested and evaluated to determine whether they need special education services. The department implemented its pilot project to address the findings of the lawsuit.

Results of the Pilot Project. During the six month project, the Youth Authority determined that approximately 55 percent to 60 percent of all incoming new commitments need either an initial comprehensive assessment or an evaluation of previously identified needs. Prior to the pilot project, the department estimated that only 18 percent of new commitments needed assessments.

Both types of assessments require a multi-disciplinary team consisting of school psychologists and resource, language, speech, and hearing specialists. Because of the diversity of the ward population, many assessments are performed in languages other than English. During the project, the department found that the assessments are more complex and time consuming than originally anticipated. The project utilized existing special education staff and part-time personnel. However, according to the Youth Authority, using existing staff resulted in the reduction of mandated instructional services to special education wards.

1994-95 Proposal Requires Statutory Change. The Youth Authority proposes to add an additional 36 positions, primarily at the two reception centers and the Ventura School, to meet the revised assessment and evaluation workloads. As justification for the request, the department cites the complexity of the testing, the number of tests, the types of specialized staff needed for assessments, and the negative impact on existing special education caseloads. The budget requests \$2 million in Proposition 98 funds to support these positions.

While it appears that on a workload basis this request is justified, the department must obtain legislation in order to use Proposition 98 funds for this type of initiative. This is because Proposition 98 funds for noneducational agencies are restricted to "direct instructional services staff" and cannot be used for non-instructional purposes. Consequently,

using Proposition 98 funds for staff whose sole duties will entail assessment and evaluation services and do not include direct instructional services is prohibited. The Youth Authority avoided this problem before by using staff who provided both instructional and assessment services.

The department advises that it plans to seek legislation so that it may use Proposition 98 funds as requested. If legislation is not enacted, however, the department will have to identify an alternative funding source, such as the General Fund, to support the new staff.

New Lawsuit Monitoring Report Due in March. The YLC staff who are monitoring the Youth Authority's compliance with the provisions of the *Nick O. v. Terhune* stipulated judgement, plan to review the department's progress in implementing new special education programs in February, and report on the progress in March.

Analyst's Recommendation. Given the department's continuing efforts to comply with the federal and state requirements, and the uncertainty regarding the ability of the department to use Proposition 98 funds as proposed, we recommend that the department report at budget hearings on the status of (1) the legislation to permit the department to use Proposition 98 funds for this purpose, and (2) the judgment against the department.

TRIAL COURT FUNDING (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 \$1 billion for support of the Trial Court Funding Program and assumes that all 58 counties will participate in 1994-95. The amount requested is \$400 million, or 65 percent, above estimated expenditures in the current year. This significant increase is due to the Governor's proposal to provide additional funds to support trial courts as part of his state and county restructuring proposal (we discuss the proposal in more detail below). The program is supported by appropriations of \$876 million from the General Fund and \$142 million from the Trial Court Trust Fund.

OVERVIEW OF TRIAL COURT FUNDING

There are two components of the program: (1) Trial Court Funding (Item 0450) and (2) Contributions to Judges' Retirement Fund (Item 0390). The Trial Court Funding component contains three elements: (1) Salaries for Superior Court Judges (listed in previous budgets under Item 0420), (2) Assigned Judges Program (until last year a part of both Items 0250 and 0450), and (3) "Functional Budget Funding" (a new program under Item 0450 that budgets funds for court operations by function and takes the place of block grant funding).

Figure 24 shows proposed expenditures for support of the trial courts in the past, current, and budget years. We discuss Contributions to the Judges' Retirement Fund (Item 0390) in detail in the State Administration chapter of this *Analysis*. We discuss the remaining elements below.

As Figure 24 shows, the budget proposes total expenditures of \$969 million for support of Trial Court Funding. This is \$388 million, or 67 percent, above estimated current-year expenditures.

Figure 24**State Costs
Trial Court Funding Program
1992-93 Through 1994-95****(Dollars in Millions)**

| | Actual 1992-93 | Estimated 1993-94 | Proposed 1994-95 |
|--|-------------------|----------------------|---------------------|
| Trial Court Funding (Item 0450) | \$602.3 | \$581.0 | \$969.4 |
| Salaries of superior court judges ^a | 73.9 | 75.8 | 77.7 |
| Assigned Judges Program | — | (10.0) | (10.0) |
| Trial Court Trust Fund ^d | (119.2) | (141.5) | — |
| Trial court funding block grants ^b | (483.1) | (353.8) | — |
| Functional Budget Funding | — | — | (881.7) |
| Judges' Retirement Fund^c | 54.5 | 36.1 | 48.0 |
| Total | \$730.7 | \$617.2 | \$1,017.4 |

^a Previously listed under Item 0420 in the Governor's Budget.^b Included in functional budget funding beginning in 1994-95.^c Listed separately under Governor's Budget Item 0390.

Salaries for Superior Court Judges. The state funds roughly 90 percent of each superior court judges' \$104,262 salary, plus the full cost of health benefits. The balance of the salaries is paid by counties. The budget proposes expenditures of \$77.6 million for superior court judges salaries. This amount is \$1.9 million, or 2.5 percent, above estimated current-year expenditures, and reflects full-year funding for the judges' salary increase that became effective on January 1, 1994.

Assigned Judges Program. The state 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. Prior to 1993-94, the Assigned Judges Program was supported by General Fund expenditures from the Judicial budget and State Block Grants for Trial Court Funding. Legislative action taken in the 1993 Budget Act combined both expenditures within Item 0450. The budget proposes to maintain expenditures for the Assigned Judges Program at the current-year level of \$10 million.

Functional Budgeting. Chapter 90 directed the Judicial Council to report to the Legislature on the most efficient and cost-effective means by which to incorporate state trial court expenditures into the annual Budget Act. In its report, the Judicial Council recommended that trial court expenditures be incorporated into the Governor's Budget based on major

functions of court operations. Chapter 158, Statutes of 1993 (AB 392, Isenberg), authorized the Judicial Council to appoint a Trial Court Budget Commission (TCBC) to allocate trial court funding monies among the various courts. The budget proposes to include funding for trial court operations based on the functional budgeting format recommended by the Judicial Council. We discuss the new format in greater detail below.

STATE-COUNTY RESTRUCTURING PROPOSAL

Governor Proposes Major Restructuring Initiative

The Governor's state-county restructuring proposal as it relates to trial courts has merit. However, the Legislature should consider how the various components of the restructuring proposal are linked, and be aware of a number of cost containment and incentive issues.

The budget proposes a major shift of program responsibilities and funding from the state to the counties. About \$3.2 billion in existing state costs for health and welfare programs would be shifted to counties, in exchange for higher allocations of local property tax revenues, an additional shift of state sales taxes, and greater state support for trial courts. These changes are intended to increase the financial incentives of counties to make program investments and operating decisions in ways that improve program performance. The budget proposes that the restructuring be fiscally neutral.

With respect to the Trial Court Funding Program, the budget proposes that the state pay 65 percent of the costs of local courts, an increase of \$400 million, or 65 percent, in state funding. In addition, the budget proposes that counties and cities retain fine, fee, and forfeiture revenues that they currently remit to the state (we discuss this issue in more detail below).

The Governor's Budget indicates that the state should assume the major share of funding for trial courts because of the compelling statewide interest in promoting the uniform application of justice, and because trial court operations are governed by state statutes and regulations.

State Funding for Trial Courts Makes Programmatic Sense. We concur with the administration that the state should assume financial responsibility for the trial courts, as we proposed last year in "Making Government Make Sense." In our view, the state should assume responsibility for truly statewide functions, in order to ensure adequate service levels. Ensuring and improving citizens' access to justice through the courts is such a statewide function.

In addition, we concur with the administration that trial court operations are governed primarily by state law and regulations; judges

are appointed by the Governor, and supervised and disciplined by the Judicial Council; and judges' salaries are set by the Legislature. We also note, however, that there is a strong linkage between the workload of the courts and the activities of local government officials, particularly in the area of criminal caseloads (criminal cases are brought to the courts by local law enforcement officials).

All of the Components of the Restructuring Proposal Need to be Considered Together. It will be important for the Legislature to consider how the various components of the Governor's restructuring proposal interact and the extent to which they further the goal of improving state and county operations (for a full discussion of the restructuring proposal, please see our companion document, *The 1994-95 Budget: Perspectives and Issues*). Although we find merit in the proposal as it relates to state support of the trial courts, we point out a number of concerns regarding trial court governance, cost containment, and incentives, later in this analysis and conclude that the Legislature should direct the Judicial Council to improve expenditure reporting, develop performance measures, and distribute funds to courts based on a system of incentives.

Budget Proposes to Fund 65 Percent of Trial Court Costs, But Falls Short

Although the Governor's Budget indicates the budget supports 65 percent of trial court costs, recent data from the Judicial Council indicate that the Governor's proposed expenditures will support approximately 58 percent of trial court costs. If the Legislature wishes to fund the program at the 65 percent level, the budget would have to be augmented by up to \$108 million.

As indicated above, the Governor's Budget proposes total expenditures of \$1 billion for support of trial court operations, including General Fund contributions for the Judges' Retirement Fund. The budget projects that this level of appropriation would support 65 percent of the total statewide operating costs for trial courts, as expressed in Chapter 90.

However, the Governor's Budget also notes that the figures displayed for the Trial Court Funding Program are based on *preliminary* estimates. Subsequent budget information submitted by the Judicial Council, projects that total baseline budget expenditures submitted by trial courts for 1994-95 totalled more than \$1.7 billion, or roughly \$165 million more than the amount assumed by the budget.

Our review indicates that the Judicial Council's projected costs are essentially correct, although we have some concerns with the estimates as we discuss later in this write-up. Using the Judicial Council's data, we estimate that the Governor's proposed level of expenditures will support only about 58 percent of the statewide costs for trial court operations in

the budget year. The Governor's proposal would have to be augmented by up to \$108 million to reach the 65 percent funding level.

Budget Proposes to Leave Fines, Fees, and Forfeiture Revenues at Local Level

Trial court fines, fees, and forfeiture revenue collections continue to be below projections. However, permitting local governments to retain these revenues will provide a strong incentive for them to increase collections significantly.

Chapter 90 and Ch 189/91 (AB 544, Isenberg) reduced the city and county share of nonparking fines by transferring 50 percent of the cities' share and 75 percent of the counties' share to the state General Fund. In addition, the Legislature also increased several fines, fees, and forfeitures to provide revenues to the General Fund to offset appropriations for support of trial court operations. These revenues amounted to \$347 million in 1992-93, and are estimated to total approximately \$317 million in the current year and \$348 million in the budget year.

The budget proposes to allow local governments to retain these revenues for support of local programs and services, starting in 1994-95. Based on estimates from the DOF, this action will provide \$296 million for counties and \$52.3 million for cities.

We believe that permitting local governments to retain these revenues is likely to increase the amount of revenues collected. This is because local governments will have a greater incentive to collect the revenues. As a result, we believe that it is quite likely that the revenue collections will exceed current estimates.

Trial Court Trust Fund Revenues Continue to Fall Short of Projections

Trial Court Trust Fund revenues continue to fall significantly below projections. To the extent that revenues fall below projected levels, the state will fund less than 58 percent of total statewide trial court costs.

The Trial Court Trust Fund was established pursuant to Ch 696/92 (AB 1344, Isenberg) and allows the state to retain certain trial court civil fees to support a portion of the costs of trial court operations. The Governor's Budget proposes to expend \$142 million from the Trial Court Trust Fund in support of trial court operations in both the current and budget years. Unlike fines, fees, and forfeiture revenues, trust fund revenues (such as filing fees and court reporter fees) are derived from services provided to the public by the trial courts. As a result, there is a direct connection between the cost for the service and the revenues remitted to the state for support of trial court operations.

Revenues remitted to the fund have not met projected amounts, which reflects a general pattern of overestimating revenues. In 1992-93 \$119 million was remitted to the trust fund versus the estimate of \$140 million. The 1993 Budget Act projects that \$175 million will be remitted to the Trial Court Trust Fund in the current year. However, as of January 1, 1994, revenues remitted to the trust fund are roughly 44 percent below projected full-year collection levels and are projected to be 25 percent below *actual* remittances for 1992-93. Although revenues remitted to the trust fund are expended only for support of trial courts, any shortfall to the trust fund will result in the state funding even less than 58 percent of total statewide trial court costs.

Future Costs for Trial Court Operations Likely to Increase

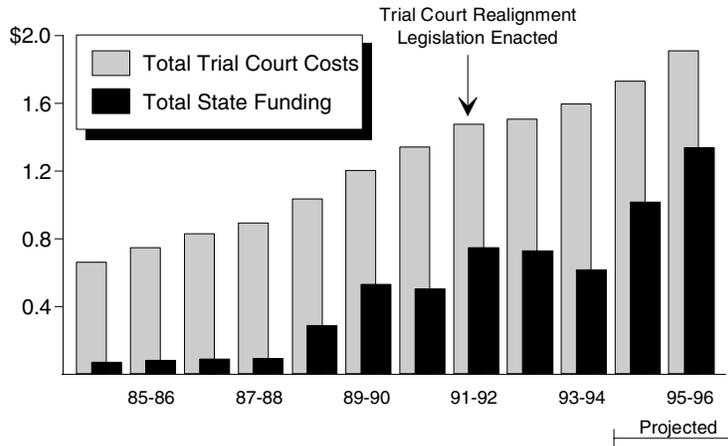
Expenditures for trial court operations are projected to increase 8.4 percent in the budget year. Absent additional cost constraints, annual expenditures for trial court operations are likely to continue to increase significantly in future years.

Trial Court Costs Increased Significantly in the Past. Figure 25 shows the total costs of the trial courts and the state funding for these operations since 1984-85. As the figure shows, both trial court costs and state funding for these costs have increased significantly over this period. State support for trial court operations would increase from \$72 million, or 11 percent of total statewide costs in 1984-85, to a projected \$1.3 billion, or 70 percent of total costs, in 1995-96, assuming implementation of legislative intent expressed in Chapter 90.

Figure 25

**Statewide Trial Court Costs Increasing
1984-85 Through 1995-96**

(In Billions)



Trial court costs increased at an average annual rate of about 13 percent from 1984-85 through 1990-91, when trial court costs were largely funded by the counties. During the first three years of trial court realignment (1991-92 through 1993-94), trial court costs increased an average of 4 percent per year. Expenditure data provided by the TCBC indicate that costs are projected to increase 8.4 percent between the current and budget years.

Our review indicates that the growth rate in trial court costs was substantially reduced during the past three years largely because of legislation requiring trial courts to implement operating efficiencies and cost saving measures. In addition, Ch 90/91 requires trial courts to develop plans that will achieve a statewide reduction in trial court operating costs of 3 percent in 1992-93, 2 percent in 1993-94, and 2 percent in 1994-95. However, even with these constraints in place, trial court costs increased 5.8 percent in 1993-94 and are projected, based on data provided by the Judicial Council, to increase 8.4 percent in 1994-95. Absent any additional constraints, we believe that the Legislature can expect these cost increases to continue in future, especially if new judgeships are created.

Potential Future Pressure on the General Fund. The budget proposes to increase state funding for trial court operations, with the county share of costs declining. Because the counties will continue to make decisions which, in part, will drive the costs of this program, there could be additional pressure on the General Fund in the budget year and beyond. Later in this write-up we outline several steps that the Legislature can take to contain future cost increases of the trial courts.

State's Control Over Court Costs is Currently Limited

Although the state funds a significant portion of trial court costs, its budgetary control over expenditures is limited. The Legislature needs to assess whether the current budgeting process provides sufficient review and control of trial court expenditures.

Under the current trial court funding arrangement, trial court budgets are developed at the local level and then submitted to the TCBC for adoption and inclusion into a statewide trial court budget for approval by the Judicial Council. The council then submits the request to the Department of Finance for inclusion in the Governor's Budget.

The expenditure requests contained within the submitted budgets are affected by a number of factors, a number of which are currently outside the direct control of the state. For example, the budget proposes expenditures of \$219 million for court interpreters and court security. Most of these expenditures are for salaries and benefits for bailiffs and court interpreters. However, the state does not participate in salary negotiations with either bargaining unit. As a result, there is limited incentive for the county to hold down costs in these areas in future years as the state assumes a larger portion of trial court costs.

State control over expenditures was less of a funding issue when counties supported the majority of trial court costs. During 1991-92, 1992-93, and 1993-94, state appropriations for trial court operations supported approximately 51 percent, 48 percent, and 39 percent, respectively, of total statewide trial court costs. However, the budget proposes to fund a higher share of the total statewide costs for trial court operations in 1994-95, and the administration may propose to support an even higher level in 1995-96. As a result, the state has a direct interest in controlling the costs for trial court operations.

In our view, the Legislature needs to assess the current budgeting process and determine if it allows sufficient review and control of expenditures. We offer three recommendations later in this analysis that are designed to control or reduce costs.

Some Progress in Implementing Trial Court Efficiencies

Although many courts have implemented various efficiencies and cost savings measures, wide disparities still exist among the counties. We recommend the enactment of legislation to provide for additional court efficiencies.

As we indicated above, the rate of growth for trial court operating costs was significantly reduced by legislatively directed efficiencies and cost saving measures contained in the trial court funding realignment legislation. Our review of trial court operations indicates that a significant number of trial courts have taken steps to implement efficiencies, such as:

- Allowing superior, municipal, and justice court judges to hear matters regardless of trial court jurisdiction.
- Allowing centralization of administrative tasks for trial courts and cross-training of support staff for all courts.
- Coordinating trial court calendars so that scheduling of all prosecutors, defense attorneys, judges, and court personnel eliminates conflicts and ensures appearances.
- Establishing single jury selection systems for all trial courts within a judicial district.
- Allowing the use of electronic recording devices for verbatim reporting and video arraignment of defendants without transporting them to court.

Other Efficiency Options Should be Adopted. Although many efforts have been made, our review indicates that a wide disparity still exists among trial courts in their efforts to coordinate operations and implement efficiencies. We believe that the Legislature should enact legislation directing trial courts to implement other efficiencies to reduce operational costs in the future. The options could include the following:

- Change statutorily-established verbatim reporting costs for court reporters in order to capture savings from advances in computer technology and eliminate court reporter ownership of verbatim transcripts after the first certified copy.
- Authorize the Chief Justice of the California Supreme Court to assign a judge within a county to any court within the same county in order to address workload needs.
- Authorize courts to order probationers to pay a fee for processing court ordered payments.

- Allow trial courts to use electronic recording technology in all cases, except serious felony and death penalty cases.

To the extent that trial courts implement additional efficiencies, the growth in trial court costs will be reduced.

A NEW APPROACH TO TRIAL COURT BUDGETING

Overview

Currently, the state provides funding for trial court operations, with the exception of superior court judges salaries and health care benefits, through block grant subventions to participating counties. Typically, the subventions are deposited into the counties' general funds to support trial court operations. With minor limitations, counties have wide discretion in the use of block grant funds to support trial court operations.

The Governor's Budget proposes to fund trial court operations using a functional budgeting approach recommended by the Judicial Council. Functional budgeting groups various tasks involved in trial court operations into relatively discreet functional categories. The functions are essentially the same used to determine which trial court costs are allowable under the current block grant program. Each trial court's functional expenditure data is combined with all participating trial courts to produce a statewide aggregate function cost.

Figure 26 shows total expenditures (state and county) for court operations by the eleven functional budgeting categories for 1992-93 through 1994-95. The budget projects total *state and county* expenditures at \$1.5 billion for 1994-95. (As we indicated earlier, more recent information from the Judicial Council shows that these expenditures are more likely to be around \$1.7 billion.) This amount reflects a *net* \$42.6 million decrease in state-county expenditures from current-year estimated costs. This consists of an increase of \$10.7 million, or 6.3 percent, for judicial officers and a decrease of \$53.3 million, or 46 percent, for indirect costs. (All other costs are projected to remain unchanged.) The increase for judicial officers reflects full-year funding for salary increases effective January 1, 1994, and half-year salary increases effective January 1, 1995. According to the Governor's Budget, the decrease in expenditures for "Indirect Costs" reflects changes in the criteria for estimating these costs.

Figure 26

**Total Trial Court Expenditures
Functional Budgeting Categories
1992-93 Through 1994-95**

(In Thousands)

| | Actual 1992-93 | Estimated 1993-94 | Proposed 1994-95 |
|---------------------------------|--------------------|----------------------|---------------------|
| Judicial officers | \$167,709 | \$169,747 | \$180,450 |
| Jury fees and mileage | 20,912 | 19,280 | 19,280 |
| Verbatim reporting | 123,195 | 124,889 | 124,889 |
| Interpreters | 31,867 | 32,071 | 32,071 |
| Collection enhancements | 10,923 | 24,157 | 24,157 |
| Dispute resolution program | 20,078 | 24,106 | 24,106 |
| Court appointed counsel | 35,100 | 35,778 | 35,778 |
| Court security | 167,905 | 187,307 | 187,307 |
| Data processing | 96,406 | 119,585 | 119,585 |
| Staff and other operating costs | 684,959 | 696,180 | 696,180 |
| Indirect costs | 94,840 | 116,720 | 63,391 |
| Total | \$1,453,894 | \$1,549,820 | \$1,507,194 |

Judicial Council Should Refine Expenditure Reporting

There are a number of problems with the data in the expenditure plan submitted by the Judicial Council. We recommend that the Legislature adopt supplemental report language directing the Judicial Council to work with the State Controller's Office to refine the procedures and guidelines for reporting trial court expenditures.

Problems with Cost Estimates. In its report to the Judicial Council, the TCBC acknowledged significant problems with expenditure information collected from trial courts. The problems primarily are the result of inadequate cost accounting systems at the local level, inconsistent application of State Controller's cost reporting guidelines, and substantive differences in cost accounting practices between the various counties and the state. As a result, the Judicial Council is unable to state that the expenditures listed in Figure 26 accurately reflect projected statewide expenditures for each function.

Lack of Expenditure Detail for Staff and Other Operating Expenses. The Governor's Budget proposes expenditures of \$696 million for staff and other operating expenses (also known as "Function 10"). This amount represents 68 percent of total expenditures for the Trial Court Funding Program. Information provided by the Judicial Council indicates that this category covers such costs as salaries and benefits of judicial support staff not listed in other functions, judicial officer benefits (excluding

retirement), and *all other* costs not listed in other functions that are allowable for state support.

In our view, this category is too broad in its description and content to provide meaningful information to the Legislature. The lack of fiscal detail for such a large portion of the Trial Court Funding component does not allow the Legislature to adequately review and evaluate the various expenditures contained within that line item. As a result, the Legislature is unable to adequately assess the funding and policy priorities of the judicial branch.

Improvement Needed in Cost Data. The problems outlined above make it very difficult for the Legislature to have an accurate picture of how state funds will be used to support the trial courts. For this reason, we recommend that the Legislature adopt supplemental report language directing the Judicial Council to work with the State Controller's Office to refine the procedures and guidelines for reporting trial court expenditures. Specifically, we recommend the following language:

The Judicial Council shall work with the State Controller's Office (SCO) to further refine expenditure reporting and standardization of accounting guidelines for trial courts. The council shall report to the Legislature by October 1, 1994, on improvements to expenditures and accounting resulting from work with the SCO.

Distribution of Trial Court Funding Should Be Based on Incentives

The Governor's Budget does not contain an allocation formula for trial court expenditures. We recommend adoption of Budget Bill language directing the Trial Court Budgeting Commission and the Judicial Council to implement an allocation formula which includes incentives for trial courts to implement efficiencies and cost saving measures.

The Judicial Council submitted a formula for distributing state funds to local trial courts when it submitted its original 1994-95 expenditure request to the Director of Finance. The Governor's Budget does not contain a distribution formula. Thus, it is uncertain how the funds will be distributed to the various trial courts. Under current law, the TCBC will allocate the funds, subject to approval of the Judicial Council.

Incentives Needed. As we indicated earlier, a wide disparity exists among individual courts with regard to implementation of efficiency and cost savings measures. In our view, the best way to achieve implementation of efficiencies is to establish a system of incentives to reward courts that implement efficiencies, and create disincentives for trial courts that have not adopted efficiencies. Such a system of incentives could be implemented through the TCBC and Judicial Council's distribution of appropriations from the Functional Budget Funding. For

example, the Council could provide additional funds so that courts could establish automated accounting and fine collection systems. Conversely, the Legislature could direct the Judicial Council to withhold expenditures for the Assigned Judges Program in courts that do not coordinate judicial calendars or cross assign judges, or reduce jury fee payments for trial courts that do not have coordinated jury selection procedures.

We believe that creating such incentives is also consistent with the administration's stated intention with regard to its overall state-county restructuring plan.

Analyst's Recommendation. In order to ensure that efficiencies and cost reduction measures are fully implemented by the trial courts, we recommend that the Legislature amend Provision 1 of Item 0450-101-001 as follows:

The amount appropriated in Schedule (a) shall be allocated and reallocated by the Trial Court Budget Commission, and by the Judicial Council. *The commission and council shall implement allocation criteria that includes incentives for courts to implement optional court efficiency measures enacted since 1991. The council shall advise the Legislature by October 1, 1994, on how it has incorporated the incentives for efficiencies into its allocation criteria.*

Proposal Lacks Statewide Performance Measures

We recommend that the Legislature adopt supplemental report language directing the Judicial Council to develop performance measures to be used in the development of the 1995-96 Trial Court Funding budget.

Chapter 90 requires trial courts to implement certain efficiencies and cost saving measures in order to reduce the growth in trial court operating costs. As we indicated earlier, a wide variation exists among trial courts in the implementation of efficiencies and cost saving measures.

Performance Measures Needed. The Governor's Budget does not contain performance measures by which to compare similar categorical expenditures from different trial courts within the same county, or among counties statewide. Use of performance measures would improve the budget process and would allow the Legislature to assess trial court *outputs* (such as public satisfaction, length of time required to resolve a matter, or length of time to file civil papers) instead of *inputs* (such as number of criminal or civil filings) and to make comparisons among the courts.

We believe that the Legislature needs performance measures that allow it to adequately assess expenditure requests and the effectiveness of efficiencies on trial court operations. Therefore, we recommend that the Legislature direct the Judicial Council to develop performance measures for trial court operations.

Council Should Begin to Prepare for 1995-96. We recognize that it may be too late to refine the expenditure data and develop performance measures for the budget year. However, we believe that the Judicial Council should begin to develop such performance measures for 1995-96. Thus, we recommend that the Legislature adopt the following supplemental report language:

The Judicial Council shall develop specific trial court performance measures for use in developing its 1995-96 budget proposal for the Trial Court Funding Program. The council shall report to the Legislature by November 1, 1994, on the development of these measures.

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 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 (almost all of it from the General Fund) for support of judicial functions in 1994-95. This is an increase of \$15.7 million, or 11 percent, above estimated current-year expenditures. The increase is primarily due to requests for improved computer information systems (\$3 million), increased demand for appointed counsel services (\$2.6 million), lower salary savings level for the Judicial branch (\$2 million), and higher costs for facilities operations (\$1.7 million).

Caseload Growth in Court-Appointed Counsel Program Overbudgeted

We recommend a General Fund reduction of \$5 million for the Appointed Counsel Program because the requested amount is overbudgeted. (Reduce Item 0250-001-001 by \$5 million.)

The budget requests \$37.1 million from the General Fund for the Appointed Counsel Program for the courts of appeal in 1994-95. This is an increase of \$2.5 million, or 7.3 percent, above estimated current-year expenditures for the program. The Appointed Counsel Program uses private attorneys working under the supervision of non-profit organizations to provide appellate defense services for indigent persons.

The proposed increase is driven primarily by the projected increase in caseload requiring the appointment of private attorneys in the budget year. The Judicial Council estimates that the caseload will increase from

8,984 private appointments in the current year to 9,454 in the budget year, an increase of 5.2 percent. The council does not anticipate an increase in the per-appointment cost in the budget year.

Program Has Been Overbudgeted Since 1990-91. Data provided by the Judicial Council indicate that caseload expenditures have fallen below projected levels annually for the past three years—roughly \$3 million each year. 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 8,984 counsel appointments based upon an expected rate of increase of 8.7 percent over 1992-93. However, more recent projections show that counsel appointments are expected to total only 8,379, an increase of 1.4 percent from 1992-93. Finally, based on revised estimates by Judicial Council, private counsel appointments will increase only 1 percent from 1991-92 to 1993-94. Given this recent experience, we are unaware of any reasons to believe that the need for appointed counsel will increase by 5.2 percent between the current year and the budget year as projected by the council.

Analyst's Recommendation. Based on the above, we believe that the need for appointed counsel will be significantly less than the amount budgeted for the current year. As a result, we believe that the proposed increase should be denied and that the base expenditures should be reduced to reflect actual experience in the program. Thus, we recommend a total General Fund reduction of \$5 million.

Additional Central Support Staff Not Justified

We recommend a General Fund reduction of \$1.1 million and 17.5 positions for the courts of appeal because the workload can be handled by reallocating existing staff resources. (Reduce Item 0250-001-001 by \$1.1 million.)

The budget proposes an increase of \$1.1 from the General Fund and 17.5 additional positions to handle workload within the courts of appeal. Specifically, the proposal requests 8 central staff attorney positions, 3 secretarial positions, and 6.5 court clerk positions.

Additional Staff Needed to Avert Backlog. The budget indicates that the central staff attorney positions and court clerk positions are necessary to avert a substantial backlog of cases from developing in the appellate courts. The Judicial Council states that workload in the Second and Fourth appellate districts has reached levels that cannot be handled by existing judicial staff. Data provided by the Judicial Council show that written opinions by staff attorneys have increased an average of 4.7 percent per year since 1988-89.

Wide Disparities Exist in Workload. Our review of data provided by the Judicial Council shows that current workload problems are

significantly influenced by disparities in staffing allocations among the various appellate court districts and among appellate court divisions within the same district. For example, in the Second appellate district staff attorneys handle, on average, *over twice* as many filings per year as staff attorneys in the Sixth district. In addition, staff attorneys in the Second district, Division 6 (Ventura) handle 24 percent more filings per year than staff attorneys in the Los Angeles divisions of the Second district. The same workload disparities exist for clerks of the appellate courts.

Reallocation of Existing Resources Can Address Workload Disparity. Our review of the data indicates that the workload problem initially can be handled by a *reallocation* of existing resources instead of *increasing* staff levels. Reallocation of existing resources among the appellate courts would significantly reduce the workload of the most severely affected courts while marginally increasing the workload of the average appellate court staff attorney. For example, if staff attorney resources are evenly distributed among *all* district courts and divisions, the workload of the staff attorneys in the Second and Fourth appellate districts would be significantly reduced.

New Workload Standards Being Developed. The Judicial Council indicates that it has not revised its workload standards for central staff attorney since 1974 and for court clerk since 1984. As a result, the Judicial Council is unable to assess the impact that computer technology or changes in appellate court procedures has had on existing workload. The Judicial Council indicates that it will provide an updated workload staffing needs assessment as part of its 1994-95 strategic plan which is due to be released November 1994.

Analyst's Recommendation. Based on the above, we recommend that the Legislature direct the Judicial Council to reallocate existing resources to initially address workload within the appellate courts and deny the request for 17.5 positions, for a General Fund savings of \$1.1 million.

Information Systems Expenditures Overbudgeted

We recommend a General Fund reduction of \$470,843 for the replacement of computers and financial management systems for the Judicial Council because the requested amount will not be fully expended in the budget year. (Reduce Item 0250-001-001 by \$470,843.)

The budget proposes an increase of \$941,686 for upgrading information systems and software within the Judicial Council. Specifically, the proposal requests funding to complete the transition from the obsolete Wang computer systems currently used for financial management, to more efficient local area network systems (LANs) and personal computers.

Lack of Technical Support for Wang Computers. In 1992, Wang Laboratories, Inc., filed for bankruptcy and protection under federal law in order to restructure its operations. In 1993, the Wang corporation indicated that as a result of its reorganization it will abandon its personal computer operations. As a result, the Judicial Council does not have adequate technical support for its Wang computers. In order to mitigate transition costs and extend the useful life of the Wang computers, the Judicial Council has salvaged parts from existing Wang computers in order to maintain critical management systems. To date, the Judicial Council has changed most of its financial and management systems from Wang computers systems to LANs and personal computers. The amount requested will allow completion of the transition. Our review indicates that the transition from Wang computer systems to LANs and personal computers is needed and that continuing to maintain two computer systems is both costly and inefficient.

Transition Costs Should Be Spread Over Two Years. The budget proposes a General Fund increase of \$941,686 to fully fund the replacement of computer software and hardware (\$236,436) and upgrade Judicial Council financial management systems that support appellate court operations (\$705,250). Information from the Judicial Council indicates that the transition will begin by the end of the current year and will take roughly 24 months to complete. Although the computer systems will be implemented over a two-year period, the budget proposes to fund the full costs of the system in the budget year. However, the Judicial Council is unable to provide a timeline of expected expenditures over the two-year period. As a result, we see no reason that the costs should not be divided between 1994-95 and 1995-96.

Analyst's Recommendation. Based on the above information, we believe that full funding for the Judicial Council's computer transition and management systems upgrade is not needed in the budget year. Rather, we believe that funding should be spread across two years. Therefore, we recommend a General Fund reduction of \$470,843.

Trial Court Budget Fiscal Staff Should Be Funded From Trial Court Funding Program

We recommend a General Fund reduction of \$279,000 and an increase in reimbursement authority of \$279,000 for support of trial court budget and fiscal staff positions because the positions should be supported by the Trial Court Funding Program. (Reduce Item 0250-001-001 by \$279,000 and increase reimbursements by the same amount.)

Chapter 696, Statutes of 1992 (AB 1344, Isenberg), expresses the Legislature's intent to change the method of appropriation for trial court funding from a block grant payment system to a system of line-item expenditures within the annual Budget Act. Chapter 158, Statutes of 1993 (AB 392, Isenberg), authorizes the Judicial Council to appoint a Trial Court Budget Commission (TCBC), which has the authority to allocate and reallocate trial court funds to participating counties. Based on recommendations by the Judicial Council, the Governor's Budget proposes trial court expenditures for 1994-95 based on funding of specified functions ("functional" budgeting). (Please see the discussion of Trial Court Funding in Item 0450 earlier in this *Analysis*.)

The budget proposes an increase of \$279,000 from the General Fund to cover the costs of four fiscal and program staff positions within the Judicial Council to review trial court budgets, make policy recommendations, and assist the TCBC in the preparation of the Trial Court budget. We believe that the positions are warranted on a workload basis. However, we believe that these positions should be funded from the Trial Court Funding Program under Item 0450 because expenditures for these positions represent a cost of the program. Thus, we recommend that the positions remain within the Judiciary's budget and that their costs be reimbursed from the Trial Court Funding Item (0450). Therefore, we recommend a General Fund reduction of \$279,000 and an increase in reimbursement authority of \$279,000.

Trial Court Judges' Training Programs Should Be Funded Through Trial Court Funding Program

We recommend a reduction of \$229,000 in reimbursements and a General Fund reduction of \$404,000 because funding for trial court judges educational programs should be provided through the Trial Court Funding Program. (Reduce reimbursements by \$229,000, and reduce Item 0250-001-001 by \$175,000, and reduce Item 5180-001-001 by \$229,000.)

The budget proposes total expenditures of \$524,000 for training trial court judges, commissioners, referees, and trial court personnel. Specifically, the budget requests \$349,000 in reimbursements to provide

federal-standards training for juvenile court judges and court personnel, and \$175,000 from the General Fund to provide scholarships to judges unable to pay the full costs of attending judicial educational programs.

Juvenile Court Judge Training. The budget requests \$349,127 in reimbursements to support 5 positions to provide training to Juvenile Court Judges. The Judicial Council indicates that the training for juvenile court judges and court personnel is intended to improve judicial out-of-home placements for at-risk children within the Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program in order to maintain state compliance with federal foster care standards. The reimbursements to fund these activities would come from federal funds (\$120,000) and state General Fund monies (\$229,000) in the budget of the Department of Social Services (DSS)—the state agency responsible for administering the AFDC-FC Program.

Educational Scholarships for Judges. The budget requests \$175,000 from the General Fund to provide 175 educational scholarships for judges to attend judicial education programs. The Judicial Council indicates that providing educational scholarships for trial court judges will increase judicial participation in mandatory and non-mandatory educational programs provided by the Center for Judicial Education and Research (CJER).

Trial Court Program Provides Funding for Educational Programs. Funds provided by the state under the Trial Court Funding Program (please see Item 0450) support judicial operations, including training and education for trial court judges. Although the Judicial Council is unable to provide detailed fiscal information regarding appropriation amounts for judicial training, the Governor's Budget proposes total expenditures of \$696 million for staff and other operating expenses of the Trial Court Funding Program budget. This includes expenditures for books and periodicals, memberships, and travel costs.

We believe that it is important to provide judicial officers and court personnel with training regarding foster care and, increase judicial participation in CJER educational programs. However, we believe that judicial education programs for trial court judges is a *trial court* cost and, therefore, should be *entirely* supported from trial court funding appropriations under Item 0450, including the requirement for state matching funds for foster care training arranged through the DSS. It is not appropriate to have trial court judges educational programs paid from appropriations to the Judicial Council when the Trial Court Funding Program provides specifically for such expenditures. In addition, by placing the expenditures for trial court judges and court personnel education programs within the Trial Court Funding Program, the TCBC can fund educational programs based on funding priorities for trial court operations. To the extent that the commission determines that the foster

care training is a priority, funds in the Item 0450 could be used as the state match. Therefore, we recommend a General Fund reduction of \$175,000 in the Judicial Council budget, denial of the increase in the General Fund portion of the reimbursement authority (\$229,000), and a corresponding General Fund reduction in the DSS budget.

Records Storage and Library Cost Adjustments Should Be Funded From Facilities Operations Expenditure Surplus

We recommend a General Fund reduction of \$296,464 for records storage and library support because expenditures can be absorbed from within existing facilities operations expenditures. (Reduce Item 0250-001-001 by \$296,464.)

The budget requests \$296,464 from the General Fund for records storage space (\$193,000) and library cost adjustments (\$103,464), for the Supreme Court, courts of appeal, and the Judicial Council. As regards the funding request for storage, the Judicial Council indicates that California Rules of Court require that the clerks of court retain permanent records of the courts and a register of appeals and original proceedings. The Judicial Council also advises that library facilities are essential to appellate courts and support costs typically increase faster than standard rates of inflation. In addition, in order to more accurately calculate facilities operations costs, the Judicial Council indicates that as of 1991-92, it is calculating facility operations based on a zero-based budgeting standard.

Our review indicates that the council's actual expenditures for facilities operations has fallen below budgeted amounts several times in recent years. For example, in 1992-93 actual expenditures for facilities operations were \$340,462 *below* the Governor's proposal.

Analyst's Recommendation. Based on the above factors, we believe that the current budgeting process used by the Judicial Council provides sufficient margin to accommodate increases in expenditures for records storage and library support. Thus, we recommend the Legislature deny these requests for a General Fund savings of \$296,464.

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 \$317 million for support of the DOJ in the budget year. This amount is \$14.5 million, or 4.8 percent, more than estimated current-year expenditures. The requested amount includes \$176 million from the General Fund, \$51.2 million from special funds, \$17.3 million from federal funds, and \$72.5 million from reimbursements. The budget proposes funding increases for all programs, with the most significant increases for the Criminal Law Section (\$10.1 million, or 20 percent) and for the Civil Law Section (\$2.8 million, or 5.9 percent). We discuss these requests later in this analysis.

Appellate Attorney Request Is Overbudgeted

We recommend that the Legislature adopt supplemental report language directing the DOJ to develop and implement a better workload management reporting system for the Criminal Law Section. We further recommend a General Fund reduction of \$1.9 million for the Appeals, Writs, and Trials unit because the request is not justified on a workload basis. (Reduce Item 0820-001-001 by \$1.9 million.)

The budget requests \$40.5 million for support of the Appeals, Writs, and Trials unit of the Criminal Law Section, and includes an increase of \$5 million from the General Fund. This increase will provide support for 34 attorneys, 3 legal analysts, and 24 legal stenographers. The proposal indicates that the request primarily addresses workload increases for non-death-penalty casework, which comprises 65 percent of the unit's total workload.

Management Reports Do Not Accurately Reflect Workload. Workload statistics for deputy attorneys general are compiled through a number of management reporting systems, such as Automated Case Information System (ACIS) and the Legal Time Reporting System (LTRS). These reports compile such statistics as the total number of cases received by the DOJ, the number of attorney and paralegal hours devoted to a specific case, and the total number of hours each attorney works during the year.

Our review found that these reporting systems are not an accurate reflection of work performed by attorneys in the Criminal Law Section. In general, we found significant differences between the caseload data and the data that records actual time spent on criminal appeals. As a result, it is extremely difficult to estimate current workload or projected future workload based on the management reports provided by the DOJ.

Thus, we recommend that the Legislature adopt supplemental report language directing the DOJ to develop and implement a better management reporting system that more accurately reflects workload statistics for the Criminal Law Section. Specifically, we recommend the following language:

The Department of Justice shall develop and implement management reporting systems that will accurately reflect workload statistics for the Criminal Law Section for preparation of the 1995-96 budget. The department shall work with the State Controller's Office, the Department of Finance, and the Legislative Analyst's Office in developing the systems. The department shall report to the Legislature by December 1, 1994 on the improvements it proposes to make in its workload management reporting system.

Actual Workload Has Fallen Below Projections for the Last Two Years. Because management reports do not accurately reflect attorney workload within the section, we reviewed past and current workload in order to evaluate the department's request for additional staff and \$5 million. Data provided by the DOJ indicate that actual non-death-penalty caseloads for the Appeals, Writs, and Trials unit increased an average of 6 percent annually since 1987-88. In addition, between 1987-88 and 1991-92, actual workload exceeded projections by an average of about 13 percent per year. Data indicate that since 1992-93, however, the rate of growth for non-death-penalty workload has significantly declined and appears to have leveled off (actual cases received by the unit in 1992-93 fell *below* projections by 5.8 percent). The department did not take this more recent trend into account when developing its budget request.

Based on this more recent experience, we believe that a more reasonable increase to meet the casework requirements would be \$3.1 million, an increase of 9.1 percent above current-year expenditures. Thus, we recommend a General Fund reduction of \$1.9 million.

Correctional Law Attorney Positions Not Justified

We recommend a General Fund reduction of \$2.4 million for the Correctional Law unit because the request is not justified on a workload basis. (Reduce Item 0820-001-001 by \$2.4 million.)

The budget requests a total of \$9.2 million for support of the Correctional Law Unit within the Criminal Law Section for 1994-95. This amount includes an increase of \$3.4 million from the General Fund to support 40 positions, including 17 attorneys. The proposal indicates that the increase is primarily the result of increases in civil law suits filed by inmates in state prison.

DOJ Reports Indicate a Lesser Need for New Attorneys. As we indicated earlier, the DOJ uses a variety of management reports to assess workload within its various units. Our review indicates that the workload in the correctional law unit has exceeded available staffing during the last two years. For example, in 1991-92, attorneys in that unit worked 6,380 hours in excess of the unit's General Fund budgeted allocation and in 1992-93 they worked 8,584 hours above their General Fund allocation. Based on this information and adjusting for a backlog of cases, we estimate that the Correctional Law unit needs roughly seven new attorneys to address existing and projected workload. We also note that the Correctional Law unit has identified almost 500 cases which will be handled by attorneys within the California Department of Corrections (CDC) in the current year and CDC is requesting funding to handle additional cases in the budget year. This transfer of cases is not accounted for in the DOJ's request. Therefore, based on historical experience, accounting for both backlogged cases within the unit and cases returned to the CDC, we recommend an increase of \$1 million for attorneys and support staff. This would result in a General Fund savings of \$2.4 million.

Issue Will Need to Be Addressed with the CDC. The budget also requests \$1.5 million in the CDC budget for additional legal services to handle correctional law cases. In that item, we withhold recommendation on the request, pending receipt of additional information. (Please see our analysis of the CDC earlier in this chapter.)

Legislature Should Monitor New Program

We recommend that the Legislature adopt supplemental report language directing the DOJ to report on the success of the new Violence and Weapon Suppression Program.

The budget requests \$3.8 million from the General Fund and 33 new positions for a new Violence and Weapon Suppression Program within the Bureau of Narcotic Enforcement (BNE). This is a new law enforcement program which will target violent parolees and probationers suspected

of criminal activity involving the illegal possession of firearms. The program would use the investigative operations of the DOJ, state parole agents, probation officers, and state and local police agencies to conduct investigations of persons with a history of violence and suspected of using or trafficking in illegal firearms. Currently, the DOJ operates a violence and weapons suppression pilot program with other law enforcement agencies in the Los Angeles county area and is compiling arrest, weapons, and parole/probation violation information. This budget proposal significantly expands the pilot program.

We do not question the goals of the department's new program. In fact, we have urged the Legislature to develop crime-fighting strategies that target *violent offenders*. Because these investigations target offenders *other than narcotics-related offenders*, we believe that this proposal represents a significant change in the role of the BNE. In addition, we believe that the Legislature should monitor this new program to determine whether it is successful at reducing the number of violent offenders who are trafficking in illegal firearms. For these reasons, we recommend that the Legislature adopt supplemental report language directing the DOJ to report on the results of the new program. Data should be available to monitor the program, since the department is already compiling data as part of its pilot project.

Specifically, we recommend the following supplemental report language:

The Department of Justice shall report to the Legislature by December 1, 1994, on the Violence and Weapon Suppression Program. The report shall contain information on the program's ability to meet its objectives, including information on numbers and types of arrestees charged with new crimes and number of arrestees returned to state prison for parole violations.

DNA Program Should Assess Future Growth in Cases Before Expanding

The DOJ proposal to increase staff in the DNA laboratory will not significantly reduce the DNA analysis backlog. As a result, the DOJ should explore other arrangements for helping to reduce DNA backlog, including the use of other law enforcement DNA laboratories.

The budget proposes an increase of \$2 million and 14 positions for support of the deoxyribonucleic acid (DNA) laboratory within the DOJ. The proposal indicates that additional funding is required to address current DNA analysis workload and the serious backlog of DNA samples that are awaiting analysis. The DNA identification, also known as "genetic fingerprinting," can use specimens left at a crime scene to

identify an offender by disclosing a variety of information, such as hair color, eye color, gender, and race.

DNA Laboratory Workload. The DNA laboratory is 1 of 12 criminalistic laboratories within the DOJ. Its purpose is to analyze the DNA composition of crime scene evidence and DNA samples collected from serious offenders (for example, persons convicted of homicide, robbery, and kidnapping) and sexual offenders, prior to their release from state prison. The laboratory's highest priority is the DNA analysis of samples from sexual offenders. The DOJ projects that it will receive 12,000 DNA samples in the budget year of which approximately 25 percent will be from sexual offenders. Based on data provided by the DOJ, the increase in expenditures will allow technicians to analyze all new sexual offender DNA samples and 3,175 of the 20,400 backlogged sexual offender DNA samples. Workload projections for the DNA laboratory indicate that technicians will not be able to address new and backlogged DNA samples for other serious offenders until 1995-96.

Other Public DNA Laboratories Exist. The DOJ indicates that there are seven other DNA laboratories connected with various local law enforcement agencies throughout the state. In addition, four more local law enforcement DNA laboratories are scheduled to come into operation by early 1994. All of these laboratories are connected to large law enforcement agencies, such as the Los Angeles, San Diego, San Francisco, and Oakland police departments, and the Los Angeles, Orange, San Bernardino, and Contra Costa County sheriff's departments. As a result, we believe that the number of samples submitted to the DOJ will likely decrease as these departments increase their own expertise and laboratory analysis of DNA samples.

Conclusions. We believe the proposal has merit. However, because it does not significantly reduce the backlog, we believe that the DOJ should pursue other courses of action to address the analysis of new and backlogged DNA samples. For example, the DOJ could return some DNA samples that originated from law enforcement agencies that have, or soon will have, DNA laboratory facilities, or contract with law enforcement agencies to analyze some of the backlogged DNA samples which come from law enforcement agencies that do not have DNA laboratories.

State-Provided Vehicles for Administratively Assigned Agents Unjustified

We recommend a General Fund reduction of \$91,000 for state-provided vehicles for administrative sworn personnel because the vehicles are used more for commuting to and from the home and office than for official state business. (Reduce Item 0820-001-001 by \$91,000.)

The DOJ provides vehicles at state expense to most sworn personnel within the Division of Law Enforcement, including sworn personnel assigned to administrative duties. Administrative personnel are allowed to use the vehicles to travel to and from their homes and offices. The DOJ indicates that sworn personnel must have the use of a state vehicle since they must be able to travel to locations other than the office in order to aid an investigation or offer assistance in the event of an emergency. The DOJ provides each driver of a state vehicle with a state credit card for gas purchases and pays for the vehicle's maintenance at no cost to the driver.

State Provided Vehicles Are Used More for Commuting Than Official Business. The DOJ provided vehicle log information for 17 sworn personnel who have administrative assignments and no direct supervisory responsibility for department investigations or DOJ field agents. Our review of these logs indicates that 67 percent of the *total* miles driven by these personnel are for commuting to and from the home and office. In addition, based on a 20-month survey of vehicle logs, only 5 of the 17 individuals indicated that 50 percent or more of the vehicle's use was for other than home to office commuting. For example, one individual logged a total 50,611 miles of which 49,000 miles were logged for commuting to and from the home and office. The vehicle log for another state vehicle showed that 90 percent of its use was for commuting. Reimbursing this individual to use her personal vehicle for state business (at the state rate of 24 cents per mile) would have resulted in an average cost to the department of only \$10 per month.

Vehicles Are Not Used for Emergencies. The DOJ indicates that administrative sworn personnel are required, if needed, to respond to *emergency situations* throughout the state. However, our review of the vehicle logs since late 1989 shows that there were no vehicle log entries showing responses to emergency situations. We note that this time period included the Loma Prieta earthquake, the Oakland firestorm, and the civil unrest in Los Angeles.

Analyst's Recommendation. Our analysis indicates that if state vehicles were provided to only those drivers that log more than 50 percent of total miles driven for official state business the result would be a General Fund savings of \$91,000 annually. Therefore, we recommend that the Legislature direct the DOJ to provide state vehicles to only those administratively assigned sworn personnel that can demonstrate that

more than 50 percent of the vehicle's use will be for official state business, and recommend a corresponding General Fund reduction of \$91,000.

Arson Investigation Services to Private Insurance Companies Uncertain

We recommend that the Legislature deny the request for increased reimbursement authority and five positions requested for arson investigation services for private insurance companies, because the proposal will create an ongoing financial obligation for which the state may not be reimbursed. (Reduce reimbursements by \$700,000.)

The budget requests an increase of \$700,000 in reimbursements and five positions to provide arson investigation services to private insurance companies in California. The reimbursements come from the insurance companies themselves. Currently, the DOJ is providing this service to private insurance companies through a pilot program within the Bureau of Forensic Services. The pilot program, which has not been specifically approved by the Legislature, pays 25 criminalists on an overtime basis to provide this service.

Our concerns regarding this proposal fall into two areas: (1) concerns as to whether the DOJ is the appropriate entity to conduct arson investigations and (2) concerns as to whether the proposal creates an ongoing financial obligation for which the state may not be reimbursed.

Proposal Raises Basic Policy Questions. At a time when the Legislature has been concerned about the size of government generally, we question whether the state should embark on a new program in the DOJ to assist private business when other entities, not to mention the companies themselves, may be more appropriate to provide the services. For example, a primary mission of the State Fire Marshal is to conduct arson investigations. Many local fire departments have the capability to provide such services.

Workload Uncertain. The DOJ indicates that the number of arson investigation cases will be determined by the insurance companies. In addition, existing contracts between the DOJ and the insurance companies allow the insurance companies to cancel the contract at any time and for any reason. The DOJ estimates that it will receive 700 arson investigation cases in the budget year as a result of five contracts. However, none of the existing contracts stipulate a minimum number of cases that the insurance companies will submit. As a result, although the DOJ estimates that it will handle 700 cases in the budget year, we believe the number of investigations is highly uncertain.

Costs for Equipment and Facilities Modification Are Significant. The proposal indicates that of the requested amount, \$426,507—more than

half—will be spent for equipment, upgrading, and expanding existing facilities, and personnel training. This amount represents a significant risk to the General Fund because once the equipment is purchased and facilities are expanded the state will have to support the costs of the modifications even if the number of arson investigation cases received is less than projected. We believe that the department should contract for the minimum number of cases that will support facilities expansion costs of this magnitude.

Overtime Costs Are Understated. The remaining costs of the proposal—\$273,493—are for staff. This amount includes \$4,553 in overtime in the budget year. Our analysis of the workload and program implementation data provided by the DOJ indicates that the DOJ will have to expend \$68,900 in overtime payments, or about \$64,000 more than budgeted, thus requiring an even greater level of reimbursements than the amount proposed.

Analyst's Recommendation. We believe that there is a basic policy question regarding whether the DOJ should provide these services. More importantly, our analysis indicates that this program represents a significant risk to the General Fund by creating an ongoing financial obligation for which the state may not be reimbursed. Therefore, we recommend that the Legislature deny this request for increased reimbursement authority and five positions.

Local Agencies Should Have Direct Access to Telecommunication System

We recommend that the Legislature adopt supplemental report language directing the DOJ to provide local law enforcement agencies with direct access to telecommunication services.

In last year's *Analysis of the 1993-94 Budget Bill*, we indicated that a wide disparity exists in the amounts that local law enforcement agencies are charged for access to the California Law Enforcement Telecommunications System (CLETS). In the *Supplemental Report of the 1993 Budget Act* the Legislature directed the DOJ to report to the Legislature on the most efficient and cost effective means by which to provide law enforcement information services to local law enforcement agencies. The report was provided to the Legislature in December 1993.

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 law enforcement and criminal justice agencies. Current state policy allows the county agency to charge other law enforcement agencies for access to the terminal. In addition, the state allows some agencies to bypass the county's terminal and instead tie in directly to the CLETS in Sacramento. In order to do this, the agency needs the county's approval, and the agency must agree to pay the costs for direct access.

Wide Disparity in Local Charges. As we indicated last year, a wide disparity exists in the amounts that local user-agencies are charged by the host agencies for CLETS terminal access. For example, 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. The DOJ does not regulate or review the costs that are charged. In addition, user-agencies are not allowed to readily bypass the county agency; as a result, some county agencies have essentially established a monopoly in providing CLETS services to other local law enforcement agencies. Conversely, costs to local agencies that have *direct access* to CLETS through the DOJ average less than \$1,000 per year.

DOJ Report Misses the Point. The DOJ report indicates that the most efficient and cost effective means by which to provide CLETS services to local law enforcement agencies is to provide a new network of high speed terminal facilities. This change will allow the DOJ to provide CLETS services to the host terminal at a lower cost. However, this does not address the problem of what host agencies charge user-agencies for terminal access and whether agencies should be able to have direct access to CLETS. The department indicates that allowing direct access could result in a fiscal problem for host-agencies if user-agencies were allowed to cancel their contracts. We recognize the need for host-agencies to cover their costs of capital investments. However, once the terms of existing contracts have been satisfied, direct access should be provided to user-agencies that are willing to absorb the costs. Such direct access would generally be less expensive for the user agency than contracting with a host agency.

Benefits to Local Law Enforcement Agencies. We believe that direct access to the CLETS potentially could save user-agencies thousands of dollars annually in operations costs because the state does not charge for this service, while host agencies do. In addition, it would level the playing field for future contract negotiations with the host agency. Finally, direct access to the CLETS could increase the response time for user-agencies to receive information, thus further improving their law enforcement operations generally.

Analyst's Recommendation. For these reasons, we recommend that the Legislature adopt supplemental report language directing the DOJ to provide direct access to the CLETS to local law enforcement agencies who are willing to pay the costs for direct access service, following expiration of their existing contracts with the host-agencies. Specifically, we recommend the following language:

The Department of Justice will provide direct access to any law enforcement agency authorized to receive information from the California Law Enforcement Telecommunications System providing the agency is willing to pay the costs of direct access and maintenance of its telecommunications lines and systems.

LIST OF FINDINGS AND RECOMMENDATIONS

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Crosscutting Issues

California's Probation System

1. **Probation Caseloads and Resources Have Changed In Recent Years.** Probation department staffing and resources have not kept pace with increasing caseloads or competition for resources from other county departments. D-16
 2. **Probation Services Have Declined.** Most probation departments have reduced their services as a result of increasing caseloads and decreasing resources. While probation departments have attempted to maintain services for juvenile offenders, court and community supervision services for adults have been reduced. D-19
 3. **Limited Resources Have Spurred Innovation.** Probation departments have developed pilot projects and special programs designed to maximize limited resources. These include programs for adult probation services, maximizing treatment for juvenile offenders, and delinquency prevention. D-21
 4. **Implications for the Legislature.** The Legislature should consider steps to improve access to statewide probation data, establish a statewide "clearinghouse" for information and ideas, and enact legislation to provide more local funding flexibility to encourage innovation. D-24
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| <i>Budget Proposes to Modify Distribution of Penalty Assessments</i> | |
| 5. Proposed Penalty Assessment Changes Will Result in General Fund Revenue loss of \$34 million in 1994-95. The proposal to modify the formula for distributing penalty assessments among special funds will result in a permanent, ongoing loss to the General Fund. | D-27 |

Department of Corrections (5240)

Inmate and Parole Population Management Issues

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| 6. Continued Growth in Prison Population. Department projects that the prison population will grow at an average annual rate of 6.1 percent, reaching 171,000 inmates by 1998-99. | D-32 |
| 7. Implications of New Inmate Population Projections. Increase in projections will result in small current-year deficiency and increase in level of overcrowding in future. | D-37 |
| 8. Inmate and Parole Population Projections Will Be Updated in May. Withhold recommendation on \$141 million requested to fund inmate and parole population growth in the budget year, pending analysis of the May revision. | D-39 |
| 9. Plan to Lease County Jail Beds Contains Uncertainties. Withhold recommendation on \$20.3 million requested to lease 1,800 jail beds from two counties, pending receipt of final agreements. Further recommend that the department report on alternatives, should the state and counties fail to negotiate satisfactory lease agreements. | D-40 |
| 10. Update on the Alternative Sentencing Program (ASP). Preliminary results of the ASP appear to be weak. We recommend that the Legislature enact legislation to expand the criteria in order to expand the pool of offenders eligible for the program. | D-42 |

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| <i>Inmate Medical Care Issues</i> | |
| 11. Options for Contracting Medical Services Should Be Explored. Recommend that the CDC report during hearings on the possibility of (1) utilizing the services of the California Medical Assistance Commission in contracting for medical services, and (2) contracting out the medical operation of one prison by 1995-96. Further recommend that the Legislature direct the CDC to separate out the medical budget from the Institutions Division by 1994-95. | D-46 |
| 12. Mental Health Care System Under Court Review. Recommend that the department report during hearings on the state's potential fiscal liability of a pending lawsuit, and on the status of the case. | D-47 |
| 13. Significant Future Costs for Mental Health Program. Recommend approval of \$8.1 requested to begin implementation of the first phase of major mental health program in the CDC. Plan includes future phases that will cost at least \$18 million annually. | D-49 |
| 14. Contracted Mental Health Beds are Underutilized. Reduce Item 5240-001-001 by \$570,000. We recommend a General Fund reduction of \$570,000 and the elimination of 10 contracted mental health treatment beds at Napa State Hospital because the beds are underutilized. | D-51 |
| 15. Medical Cost Data Still Unavailable or Inconsistent. New health care cost accounting system is still unable to provide the department with critical health care cost data to better manage all medical resources. | D-53 |
| <i>Administrative Issues</i> | |
| 16. Correctional Management Information System Project Cost Uncertain. Withhold recommendation on \$2.1 million requested to fund the CDC's automated offender information system project pending notification from the department on the final awarding of the contract. Further recommend that the department consider contracting for professional assistance in overseeing and managing this critical project. | D-55 |

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| 17. Attorney Workload Uncertain. Withhold recommendation on \$1.5 million for additional attorney workload, pending resolution of the current-year funding situation. | D-57 |
| 18. Inappropriate Use of Bond Funds. Reduce Item 5240-001-754 by \$13.6 million. Recommend the deletion of \$13.6 million proposed bond fund request because the use is inappropriate. | D-58 |

Board of Prison Terms

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| 19. Technical Adjustments. Reduce Item 5440-001-001 by \$130,000. Recommend General Fund reduction of \$130,000. | D-60 |
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Department of the Youth Authority

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| 20. Ward Population Shows Continued Growth. The department projects that its ward population will grow to more than 9,000 wards in the budget year, or 140 percent of institutional capacity. | D-62 |
| 21. Ward and Parolee Populations Will Be Updated in May. Withhold recommendation on \$2 million, pending analysis of the May revision. | D-66 |
| 22. Restructuring of Foster Care Could Lead to More Youth Authority Placements. Recommend that the Youth Authority report during budget hearings on the impact of the Governor's restructuring of foster care funding responsibilities on the Youth Authority's ward and parolee populations. | D-68 |
| 23. Youth Authority Needs to Evaluate Rehabilitation Programs. Recommend the adoption of supplemental report language directing the department to report on the systems and measures it will use to determine the effectiveness of its rehabilitation program. | D-69 |
| 24. Transfer "M Cases" Back to CDC. Recommend enactment of legislation to transfer custody of "M cases" (state prisoners, age 18 and older, who serve their periods of incarceration in the Youth Authority) back to the CDC, | D-75 |
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| because incarceration of these inmates in the Youth Authority is inconsistent with the department's mission. | |
| 25. New Institution Construction Staff Not Needed Because of Transfer of "M Cases." Reduce Item 5460-001-746 by \$293,000. Recommend the deletion of \$293,000 in bond funds requested to pay for new construction management staff because new Youth Authority construction would not be necessary if the Legislature transfers responsibility for the incarceration of "M cases" to the CDC. | D-79 |
| 26. Counties Should Be Given Financial Incentives to Deal With Less Serious Offenders. Recommend enactment of legislation to increase county payments (on a sliding scale basis) for placement of offenders in the Youth Authority, because the current arrangement provides disincentives to counties to develop treatment and juvenile delinquency prevention programs. | D-79 |
| 27. Special Education Proposal Needs Legislation For Implementation. Recommend that the Youth Authority report during budget hearings on the status of (1) legislation to permit the department to use Proposition 98 funds for special education purposes and (2) the judgement against the department in the <i>Nick O. v. Terhune</i> lawsuit. | D-82 |

Trial Court Funding

State-County Restructuring Issues

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| 28. Budget Proposes Major Increase as Part of Restructuring Plan. Although it has merit, proposal should be considered as part of entire restructuring package. | D-87 |
| 29. Budget Falls Short. Although the Governor indicates that the budget supports 65 percent of total trial court costs, recent data indicate that budget will support only 58 percent. | D-88 |
| 30. Fines, Fees, Forfeiture Revenues. Collections continue to fall below projections. Restructuring proposal should result in more collections, because local governments will have greater incentive to collect revenues. | D-89 |

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| 31. Trial Court Trust Fund. Revenues to this fund continue to fall significantly below projected levels. | D-90 |
| 32. Future Costs of Support of Trial Courts. Absent additional cost constraints, costs are likely to increase significantly in future years. | D-90 |
| 33. State's Cost Control is Limited. Legislature needs to assess whether current budgeting practices provides sufficient review and control of trial court expenditures. | D-92 |
| 34. Trial Court Efficiencies. Many courts have implemented efficiency and cost saving measures. Legislature should consider enacting additional measures. | D-93 |

New Budgeting Format Issues

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| 35. Expenditure Reporting Needs Improvement. Recommend adoption of supplemental report language directing Judicial Council to work with State Controller's Office to refine procedures and guidelines for reporting expenditures. | D-95 |
| 36. Distributing Funds Based on Incentives. Recommend adoption of budget bill language requiring Judicial Council to allocate trial court expenditures based on performance in implementing efficiencies and cost saving measures. | D-96 |
| 37. Performance Measures Needed. Recommend adoption of supplemental report language directing Judicial Council to develop performance measures for use in developing the 1995-96 Budget. | D-97 |

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Judicial

38. **Court-Appointed Counsel Caseload Growth Overbudgeted. Reduce Item 0250-001-001 by \$5 million.** Recommend reduction due to overbudgeting. D-99
39. **Staffing for Courts of Appeal Not Justified. Reduce Item 0250-001-001 by \$1.1 million.** Recommend reduction because reallocation of existing staff can address workload needs. D-100
40. **Information Systems Request Overbudgeted. Reduce Item 0250-001-001 by \$470,843.** Recommend that funding be spread over two years. D-102
41. **Trial Court Staff Should Be Paid from Trial Court Funding Program. Reduce Item 0250-001-001 by \$279,000.** Recommend staff be funded by program because cost is a trial court cost. D-103
42. **Trial Court Judges' Educational Programs Should be Paid by Trial Court Funding Program. Reduce Reimbursements by \$229,000 and Reduce Item 0250-001-001 by \$175,000, and Reduce Item 5180-001-001 by \$229,000.** Recommend reduction because programs are a trial court cost. D-103
43. **Records Storage and Library Costs Not Justified. Reduce Item 0250-001-001 by \$296,464.** Recommend reduction because costs can be absorbed. D-105

Department of Justice (0820)

44. **Appellate Attorney Request Overbudgeted. Reduce Item 0820-001-001 by \$1.9 million.** Recommend reduction because caseload has not met projections. D-106
45. **Correctional Law Attorney Request Is Overbudgeted. Reduce Item 0820-001-001 by \$2.4 million.** Recommend reduction due to overbudgeting. D-108
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| 46. Legislature Should Monitor New Program. Recommend adoption of supplemental report language directing the DOJ to report on the Violence and Weapon Suppression Program. | D-108 |
| 47. DNA Program. Proposal will not address existing backlog and workload projections. Department should explore other arrangements to reduce workload. | D-109 |
| 48. State Provided Vehicles Not Justified. Reduce Item 0820-001-001 by \$91,000. Recommend reduction because vehicles are used more for home-to-work commuting than state business. | D-111 |
| 49. Arson Service Contracts Uncertain. Reduce Reimbursements by \$700,000. Recommend reduction because of caseload uncertainty. | D-112 |
| 50. Local Agencies Should Have Direct Access to Telecommunications System. Recommend adoption of supplemental report language directing DOJ to provide local law enforcement agencies with direct access to the statewide law enforcement telecommunications system. | D-113 |
