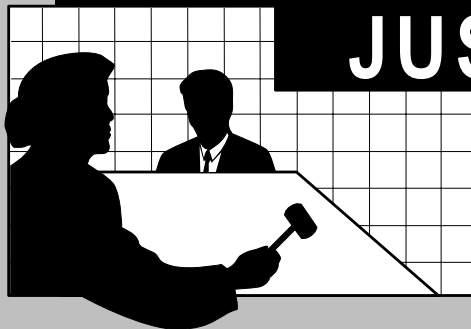


JUDICIARY & CRIMINAL JUSTICE



2000-01 Analysis

MAJOR ISSUES

Judiciary and Criminal Justice



Comprehensive Approach Needed to Link Mentally Ill Offenders to Community Care

- An increasing number of offenders are being released from jails and prisons to an inadequate patchwork of supervision, treatment services, and assistance. This approach is costly to taxpayers and public safety because many of these offenders soon commit new crimes and return to jail or prison.
- We discuss several initiatives in the Governor's budget aimed at keeping the mentally ill out of the criminal justice system and suggest that the Legislature consider a more comprehensive approach for addressing these problems (see page D-13).



Major Shifts in Prison Inmate Population Growth

- The Department of Corrections is projecting that the state's inmate population will grow much more slowly over the next five years than it did in the 1990s.
- Recent prison population data suggest, however, that the growth rate is even slower than the new projections and would indicate that a stabilization in the prison population may now be occurring (see page D-34.)



Hearings for Inmates With Life Terms: Process Without Possibility of Parole

- An unwritten administration policy that effectively ensures that no prison inmate with a life sentence is released on parole has significant legal, policy, and fiscal ramifications on the state criminal justice system.

- We recommend that the Youth and Adult Correctional Agency and the Board of Prison Terms clarify the scope, intent, and reasons for the administration's policy during budget hearings (see page D-56.)



Additional Steps and Clarification Needed in State's Take Over of Support for Trial Courts

- Legislation enacted in 1997 shifted primary financial responsibility for support of the state's trial courts from counties to the state. This resulted in a major new financial responsibility for the state's General Fund, exceeding \$1 billion in 2000-01.
- As implementation of the new funding structure has proceeded, a number of issues have surfaced that will require clarification in additional legislation or changes to budgeting practices, such as distribution of court-related fees, budgeting for locally negotiated salary increases, and management of trial court employees (see page D-82.)



Major New Law Enforcement Grant Program Not Justified

- The budget requests \$100 million for a major new program to assist local law enforcement agencies with technology and school safety equipment. We find that the program is not justified and recommend that funding be deleted. We note that the proposal lacks important details, contains no evidence of the level of demand for equipment funds, and duplicates an existing program (see page D-107.)

TABLE OF CONTENTS

Judiciary and Criminal Justice

Overview	D-7
Spending by Major Program	D-8
Major Budget Changes	D-8
Crosscutting Issues	D-13
Linking Mentally Ill Offenders To Community Care	D-13
Legislative Oversight	D-27
Departmental Issues	D-29
Department of Corrections (5240)	D-29
Board of Prison Terms (5440)	D-56
Department of the Youth Authority (5460)	D-63
Office of the Inspector General (0552)	D-71
Commission on Correctional Peace Officers’ Standards and Training (5480)	D-75
Trial Court Funding (0450)	D-80

Judicial (0250) D-93

Department of Justice (0820) D-98

Office of Criminal Justice Planning (8100) D-107

Findings and Recommendations D-113

OVERVIEW

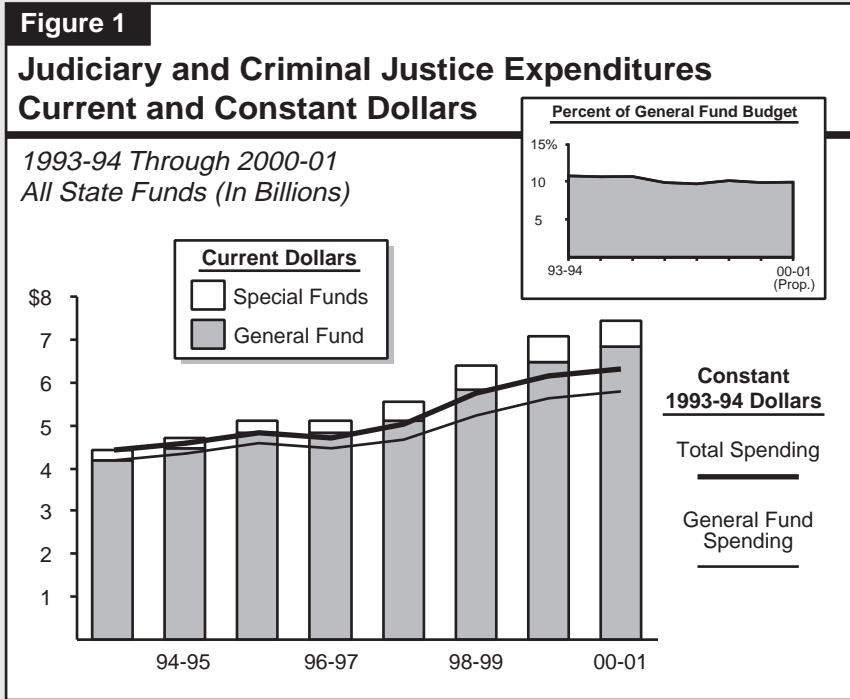
Judiciary and Criminal Justice

T*otal expenditures for judiciary and criminal justice programs are proposed to increase modestly in the budget year. The principal reasons for the increase are (1) proposed new and expanded state and local law enforcement and judicial programs and (2) increases in workload and caseload-driven programs. The number of state prison inmates and parolees is projected to increase in the budget year, but at a substantially slower rate than in recent years. The proposed increase in judiciary and criminal justice expenditures is partially offset by federal fund reimbursements for incarceration and supervision of undocumented immigrants which the budget assumes will remain flat in the budget year.*

The budget proposes total expenditures of \$7.5 billion for judiciary and criminal justice programs in 2000-01. This is an increase of \$387 million, or 5.5 percent, above estimated current-year spending. The increase is due primarily to increases in the state's costs for support of the trial courts, the projected increase in the state's prison and parole populations, and new and expanded state and local criminal justice programs.

The budget proposes General Fund expenditures of \$6.8 billion for judiciary and criminal justice programs, an increase of \$334 million, or 5.2 percent, above estimated General Fund expenditures in the current year.

Figure 1 (see next page) shows expenditures from all state funds for judiciary and criminal justice programs since 1993-94. Expenditures for 1994-95 through 2000-01 have been reduced to reflect federal funds the state received or is expected to receive to offset the costs of incarceration and parole of undocumented felons. As Figure 1 shows, total expenditures for judiciary and criminal justice programs have increased by \$3 billion since 1993-94, representing an average annual increase of 7.7 percent.



SPENDING BY MAJOR PROGRAM

Figure 2 shows expenditures for the major judiciary and criminal justice programs in 1998-99, 1999-00, and as proposed for 2000-01. As the figure shows, the California Department of Corrections (CDC) accounts for the largest share of total spending in the criminal justice area.

MAJOR BUDGET CHANGES

Figure 3 (see page 10) presents the major budget changes resulting in a net increase of \$387 million in total state spending for judiciary and criminal justice programs. Generally, the major changes can be categorized as follows:

The Budget Proposes to Provide Full Funding for Workload Increases, and Assumes Little Growth in Some Caseload-Driven Programs. The budget includes funding for projected growth in workload in court and state law enforcement programs and caseload growth in the prison inmate, ward, and parole populations. However, it assumes that the state's

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

1998-99 Through 2000-01
(Dollars in Millions)

	Actual 1998-99	Estimated 1999-00	Proposed 2000-01	Change From 1999-00	
				Amount	Percent
Department of Corrections					
General Fund	\$3,966.1	\$4,168.5	\$4,318.4	\$149.9	3.6%
Special funds	41.8	46.7	47.0	0.4	0.7
Reimbursements and federal funds	53.9	101.2	79.1	-22.1	-21.8
Totals	\$4,061.7	\$4,316.4	\$4,444.5	\$128.2	3.0%
Department of the Youth Authority					
General Fund	\$310.8	\$336.5	\$329.6	-\$6.9	-2.1%
Bond funds and special funds	4.1	4.0	0.8	-3.2	-80.3
Reimbursements and federal funds	64.2	75.6	80.6	5.0	6.6
Totals	\$379.1	\$416.2	\$411.0	-\$5.2	-1.2%
Federal offset for undocumented felons	\$179.3	\$177.7	\$177.7	—	—
Trial Court Funding					
General Fund	\$699.2	\$949.1	\$1,050.0	\$100.9	10.6%
Special funds	403.4	438.0	474.7	36.7	8.4
County contribution	554.5	457.6	459.4	1.8	0.4
Totals	\$1,657.1	\$1,844.7	\$1,984.1	\$139.4	7.6%
Judicial					
General Fund	\$207.7	\$254.1	\$279.9	\$25.8	10.2%
Other funds and reimbursements	45.7	53.6	54.0	0.4	0.8
Totals	\$253.3	\$307.6	\$333.9	\$26.3	8.5%
Department of Justice					
General Fund	\$256.5	\$273.5	\$277.2	\$3.7	1.3%
Special funds	72.4	97.1	103.8	6.7	6.9
Federal funds	30.3	43.3	37.5	-5.9	-13.5
Reimbursements	100.1	110.3	113.9	3.6	3.3
Totals	\$459.3	\$524.2	\$532.4	\$8.1	1.5%

Figure 3

Judiciary and Criminal Justice Proposed Major Changes for 2000-01 All State Funds

Department of Corrections	Requested: \$4.4 billion
	Increase: \$128 million (+3.0%)

- + \$85.4 million for employee compensation adjustments
 - + \$85.4 million for various program changes
 - + \$9.2 million for inmate and parole caseload adjustments
-
- \$16.3 million for retirement contribution adjustments

Trial Court Funding	Requested: \$2 billion
	Increase: \$139 million (+7.6%)

- + \$22 million one-time funding for case processing in the trial courts
- + \$20 million for negotiated salary increases for trial court employees
- + \$16.8 million for one day/one trial jury service and increased juror compensation
- + \$13.2 million for a 5 percent salary increase for judicial officers
- + \$10 million for court services for families and children

Department of Justice	Requested: \$532 million
	Increase: \$8.1 million (+1.5%)

- + \$6 million for False Claims Act litigation
- + \$5.1 million to address DNA workload
- + \$3.8 million for enforcement of the settlement between the states and the tobacco companies

prison inmate population will increase by only 1.4 percent and the state's Youth Authority ward population will actually decrease by a slight amount in the budget year. In addition, the budget proposes several program augmentations, such as additional drug treatment for prison inmates and parolees, which could slow growth in the populations even more. (We discuss the inmate population trends in our analysis of CDC later in this chapter.)

The budget does not propose to construct any new state-operated prisons, but assumes continued work on the new Delano facility authorized last year.

The Budget Proposes Several Program Initiatives. The budget proposes a number of new and expanded criminal justice programs. The largest is \$100 million for a new one-time grant program in the Office of Criminal Justice Planning to provide funds to local law enforcement agencies for technology and equipment (\$75 million) and school safety, juvenile crime, and anti-gang efforts (\$25 million). In addition, the budget proposes to add \$21 million to the existing \$100 million Citizens Option for Public Safety (COPS) program which provides funds on a per capita basis to local governments for criminal justice programs.

The budget also proposes augmentations for new and expanded programs in the courts (including \$16.8 million for jury service programs and \$10 million for court services for families and children) and CDC (including \$29.8 million for drug treatment for inmates and parolees and \$14.4 million for additional parole supervision programs).

The Budget Assumes that Federal Fund Reimbursements for Incarceration and Parole of Undocumented Immigrant Offenders Will Remain Flat. The budget assumes that the state will receive \$178 million in federal funds in each 1999-00 and 2000-01 to offset the state's costs to incarcerate and supervise undocumented immigrants in CDC and the Department of the Youth Authority. This amount is almost identical to the amount the state received in 1998-99. These federal funds are counted as offsets to state expenditures and are not shown in the budgets of CDC and the Youth Authority, or in the budget bill. The administration also assumes that Congress will reauthorize the federal program that provides the funds, which will expire at the end of the current federal fiscal year.

CROSSCUTTING ISSUES

Judiciary and Criminal Justice

LINKING MENTALLY ILL OFFENDERS TO COMMUNITY CARE

The care and treatment of adult mentally ill offenders in the community has, all too often, been a “missing link” in California’s criminal justice and mental health systems. The state’s prisons now hold far more mentally ill offenders than its state mental hospitals. Additionally, an increasing number of inmates with severe mental disorders are being released to the community to an inadequate patchwork of supervision, treatment services, and assistance. This approach has been costly to taxpayers and public safety, because many of these offenders soon commit new crimes and return to jail or prison. In this analysis, we discuss several initiatives in the Governor’s budget plan aimed at keeping the mentally ill out of the criminal justice system. Finally, we suggest that the Legislature consider a more comprehensive approach for addressing these complex problems.

BACKGROUND

As many as one in five Californians may have a diagnosable mental illness, according to one statistical study, and as many as one in 15 may have what is termed a serious mental disorder such as schizophrenia, bipolar disorder, or major depression. Some have additional complicating problems such as substance abuse addiction or need financial support, housing, and other forms of assistance.

More than 500,000 Californians annually receive services in the state's publicly funded mental health system. The state Department of Mental Health (DMH) operates 4,600 licensed beds located in its four hospitals, Atascadero, Metropolitan, Napa, and Patton.

Jail and Prison Populations Increasing. In increasing numbers and at a growing public cost, adults who are seriously mentally ill are receiving their treatment in state prisons and county jails. The number of mentally ill offenders at state prisons and jails now far eclipse the number of offenders held in state mental hospitals.

According to the state Board of Corrections, more than 10,400 persons who are diagnosed as seriously mentally ill are booked annually into county jails across the state, usually for a short length of stay. At any given time in 1998, the board indicated that more than 2,500 persons being held in jail were mental ill—a 118 percent increase over the number held in 1996.

The numbers of seriously mentally ill offenders receiving treatment in state prison have escalated dramatically over the last decade or more. A 1988 study found that less than 800 inmates identified as having psychiatric problems were receiving any significant level of treatment on the grounds of facilities operated by the California Department of Corrections (CDC). The 2000-01 budget plan allocates \$139 million for providing more than 21,000 inmates with one of several levels of treatment services. The number of CDC inmates receiving such treatment has grown primarily because of court rulings requiring that the state to do a better job of identifying mentally ill offenders and a better job of providing services to those it has identified as needing treatment.

Inadequate Services in Communities for Offenders. The vast majority of mentally ill offenders are being held and punished for crimes resulting in determinate sentences—meaning that sooner or later they will be released from prison or jail to the community. Relatively few of the offenders are receiving a commitment to a state mental hospital, as allowed by state law for offenders meeting certain statutory criteria, at the end of their prison terms. Many mentally ill offenders are being released from prison or jail to a patchwork of supervision, treatment services, and assistance. For many, the provision of clinically effective and cost-effective community mental health services has been the missing link in the state's criminal justice and mental health treatment systems.

Parole Outpatient Clinics (POCs). At any given time, about 12,000 of the offenders released from prison with a documented history of psychiatric problems are on state parole caseloads. The CDC operates a state-wide system of POCs that currently provides assistance to about 9,000 of these parolees. It is unclear why all 12,000 parolees with past psychiatric

problems are not part of the POC caseload. It is clear, however, that the POCs are plagued by a number of problems.

Many of the 9,000 offenders who are on the POC caseload do not have a diagnosed serious mental disorder, having been assigned to POCs because of statutory requirements or internal CDC rules unrelated to any clinically based criteria. For example, CDC refers all parolees required to register as sex offenders to POCs, even though CDC may have determined they pose a low risk of reoffending and do not have a serious mental disorder. Meanwhile, the funding and staffing for POCs has not kept up over time with caseload growth. The predictable result of having POC caseloads clogged with parolees who are not seriously mentally ill, and limited treatment resources for POCs, is that seriously mentally disordered parolees receive infrequent and inadequate mental health services from clinicians struggling to handle caseloads of 160 to 1 or more.

The special needs of these offenders are rarely addressed. Few parolees who need it receive specialized assistance for substance abuse problems, despite evidence that as many as 70 percent of mentally ill offenders have a “dual diagnosis,” meaning they also have a substance abuse problem. Resources are also limited to help those parolees who are homeless, and efforts are rarely made in advance of their release to the community to help them obtain federal Social Security Income, Social Security Disability Insurance, or federal veterans’ benefits for which they may be eligible due to their illness, prior military service, or prior work history.

Conditional Release Program (CONREP). Some offenders released from state mental hospitals are receiving intensive supervision and mental health treatment in the community under CONREP. In some areas of the state, these services are provided by private providers, but in a number of locations they are provided by counties under contract with the DMH. Evaluations suggest that CONREP, while a relatively expensive program, has been clinically effective and has reduced criminal behavior by program participants.

However, only about 700 patients at any given time are on CONREP caseloads, and the vast numbers of offenders being released from county jails do not receive the intense level of supervision and treatment that CONREP offers. According to mental health experts, with some notable exceptions, homeless and mentally ill offenders are “falling through the cracks” in county mental health systems. One county mental health director estimated that less than half of the persons needing treatment in that county were receiving it. In many cases, initial treatment assistance is provided but, due to inadequate aftercare, offenders cease taking pre-

scribed medications and soon relapse into severe mental health problems and erratic behavior.

Moreover, the CONREP model of close state-county coordination is often lacking for offenders released from state prisons to parole. State parole authorities complain that county mental health providers are often reluctant to provide mental health treatment services for parolees. Some county officials contend that parolees should be primarily a state responsibility and voice concern about the disruptions to local programs that parolees sometimes cause. The result is a serious gap in the provision of mental health services for parolees, especially offenders potentially posing the greatest public safety threat to the community given their past prison commitments.

The High Cost for Recidivism of Mentally Ill Offenders. Law enforcement authorities indicate that mentally ill offenders take up a disproportionate share of criminal justice resources. They are typically arrested and taken to jails, released due to their relatively minor crimes, then repeatedly brought back into the criminal justice system after being arrested for new offenses. A February 1999 California Research Bureau report noted that, within one month, 14 offenders in Sonoma County committed 96 misdemeanors and nonviolent felonies before being diagnosed in jail as mentally ill.

The DMH has cited data suggesting that involvement with the criminal justice system is much lower when mentally ill individuals are participating in treatment programs. For example, a 1997 statistical survey of mental health clients receiving treatment found that 98 percent had not been arrested in the prior six months.

The pattern is similar for mentally ill offenders under state parole supervision, who often continue to get into trouble, in some cases even before their first visit to POC clinicians. About 600 offenders each year are returned to state custody because they failed to show up for treatment at a POC or because of erratic behavior that deemed them a danger to themselves or others. No current CDC data are available on the overall recidivism rate for mentally ill parolees, but an informal 1991 survey conducted by CDC reportedly found that 94 percent of offenders receiving treatment in prison, then paroled to the POC program of community aftercare, had returned to prison within two years.

Not all of the crimes committed are nonviolent felonies and misdemeanors. The CDC data indicate that about 43 percent of the mentally ill offenders in its Enhanced Outpatient Program (EOP) are incarcerated for a violent crime. The most frequent offenses, in order, were robbery, assault with a deadly weapon, assault and battery, second-degree murder,

and first-degree murder. Mentally ill offenders are more likely to be in prison for a violent offense than the inmate population as a whole.

In addition to the costs inflicted upon crime victims by this violence, the costs of housing 21,000 offenders with mental health problems in state prisons and 2,500 offenders in county jails probably exceeds \$500 million annually. That sum does not include the additional and growing costs of their treatment while incarcerated or the significant costs to local law enforcement agencies and the courts to deal with mentally ill offenders caught in a revolving door of the criminal justice system.

THE GOVERNOR’S BUDGET PROPOSALS

The 2000-01 spending plan provides almost \$28 million in additional funding and related staffing, as summarized below, for new and expanded state and county programs to keep adult mentally ill offenders out of the criminal justice system, as shown in Figure 1. We discuss the proposals in more detail below along with our recommendations for legislative action during the budget hearing process.

Figure 1		
Governor's Proposed Augmentations for Keeping Mentally Ill Offenders Out of Prison		
<i>(Dollars in Millions)</i>		
Proposal	Funding	Staffing (Personnel-Years)
Department of Corrections		
Improved mental health services for parolees released from state prisons	\$6.0	62.7
Closer parole agent supervision of mentally ill parolees	1.9	23.7
Department of Mental Health		
Continue and expand demonstration projects for homeless mentally ill and mentally ill offenders	20.0 ^a	4.7
^a One-time appropriation.		

Department of Corrections: Improved Care and Supervision of Mentally Ill Parolees

The Governor's \$6 million proposal to enhance services for mentally ill parolees is a good investment of state resources that offers the promise of reduced reincarceration rates for these offenders. However, we recommend modifications to address several weaknesses in its approach, including the redirection of some resources from services for low-risk offenders to enhanced services for those who pose a greater risk to public safety, and the establishment of separate treatment programs for high-risk sex offenders. We further recommend approval of the \$1.9 million augmentation to provide closer parole supervision for seriously mentally disordered parolees.

Several Components to Parole Programs. As we discuss in our analysis of the CDC budget later in this chapter, the Governor exercised authority provided him by statute to shift \$6 million allocated in the 1999-00 Budget Act for unrelated inmate and parole programs to establish two new programs to improve services for about 8,700 mentally ill parolees. The 2000-01 spending plan proposes to continue the implementation of these two programs.

Part of the funding—about \$2.6 million in the budget year—would be spent for a new Transitional Case Management Program to provide services for about 1,500 severely mentally ill offenders annually who at the time of their release were housed in so-called EOPs within state prisons. This program thus targets offenders who will continue to require relatively intensive treatment services and support upon their release to the community.

The CDC would use the same approach the state has employed successfully in helping to transition inmates who have the AIDS disease, or who have tested HIV-positive for the AIDS virus, back into the community. The CDC studies have indicated that providing offenders intensive, short-term assistance in making the transition back into the community, through contracting with outside providers, has reduced the return-to-custody rate of the targeted offenders. Parolees in the new mental health program would receive assistance for up to 90 days from a team including a psychologist, a psychiatric social worker, a benefits counselor, and a clerical staffer to assist with benefits applications paperwork.

The Governor's budget includes a proposed \$1.9 million augmentation to hire additional parole agents. The staffing increase would allow parole agents supervising this group of mentally ill parolees to have lower parole supervision caseloads. This means the agents would have more frequent contact with the parolees and more time to assist them with intensive prerelease planning and post-release services.

An additional \$3.4 million would be spent to expand staffing at the existing network of POCs to provide improved services for about 7,200 severely mentally ill offenders annually who at the time of release were receiving treatment while in prison under the Correctional Clinical Case Management System (CCCMS). In effect, this program targets offenders whose mental health conditions were stabilized while in prison but who will continue to need less intensive treatment services and support upon their release to the community. The CDC proposes that these services be provided within the structure of its existing POC system, with most of the additional staffing proposed in the budget plan housed at POCs. Clinician staffing would be at levels allowing caseloads of 100 parolees to 1 staffer instead of the more than 160 to 1 caseloads now common at POCs. These treatment services would be provided on an ongoing basis during their period of parole.

Both of the new programs provide for planning efforts before an offender is released from prison, including the submission of applications on behalf of the parolee for federal benefits programs that could help support the offender in the community. Both also provide for arranging for long-term assistance to parolees by county social workers before they leave the care of the transitional assistance program vendors or the POCs. These elements increase the likelihood that the two new programs will enable mentally ill parolees to stabilize in the community and avoid problems that could result in their return to state prison.

The CDC Plans Have Some Weaknesses. Our analysis of the two new treatment programs indicates that there are some weaknesses that could make them less effective than intended:

- ***Substance Abuse Treatment Lacking.*** We are concerned that neither of the two new programs appropriately integrates substance abuse treatment for the high proportion of mentally ill parolees requiring such assistance. The CDC indicates that it intends to refer dual-diagnosis parolees to separate programs providing such services, but it is not clear that there are sufficient program slots for them or that mixing mentally ill parolees with offenders who are not mentally ill will be effective.
- ***County Aftercare Uncertain.*** The new Transitional Case Management Program generally will provide services to mentally ill parolees for up to 90 days, at which time their continued long-term treatment is to be provided with the assistance of county social workers. Given the past resistance of some counties to providing such assistance to parolees, we are concerned that some of these parolees will not receive adequate, continuing care in the community following their 90 days of participation in the program.

The CDC could establish its own aftercare system based on a program tested in Wisconsin. Such an approach would provide relatively low-cost community support services, including money management, dispensing of medications, and housing referrals, to parolees whose mental condition has stabilized and no longer require intensive and expensive treatment services.

- ***High-Risk Sex Offenders Need Separate Treatment.*** The CDC plan assumes that sex offenders released on parole would receive treatment services within the POCs. The CDC has not yet determined how and if it would be able to provide relapse prevention group counseling for such offenders separately from other mentally ill parolees. Academic research suggests that treatment of sex offenders is much more likely to be effective and prevent their relapse into reoffending if separate and specialized programs for them are implemented. In our *1990-00 Analysis*, we recommended enactment of a “containment” program for high-risk sex offenders that included separate relapse prevention programs for such offenders. Many elements of our proposal are contained in pending legislation, AB 1300 (Rod Pacheco).
- ***Caseload Growth Not Addressed.*** The number of offenders released from prison, and who were in EOP or CCCMS, is likely to increase significantly in future years. The prison budget is automatically adjusted annually each time its treatment caseload increases because of inmate population growth. However, there is no corresponding process to automatically adjust some parole treatment programs, including these, for future caseload growth. That means within a year or two the more intensive treatment services proposed in the transitional case management programs and in the POCs could suffer from the very same problems that plague the POCs now—too many parolees needing treatment and insufficient resources to provide that treatment effectively.

Analyst’s Recommendation. We recommend approval of the \$6 million in funding and staffing for the two new programs proposed by the Governor. In addition, we recommend the adoption of supplemental report language directing the CDC to target its services in order to free up resources to improve its programs for mentally ill parolees. The proposed language follows:

It is the intent of the Legislature that:

Except as otherwise required by statute, the California Department of Corrections (CDC) shall immediately cease the practice of referring to Parole Outpatient Clinics (POCs) sex offenders who do not have a diagnosed serious mental disorder, who do not exhibit signs of serious

mental illness, and who are not deemed to pose a high risk to the public of committing violent sex crimes.

Contingent upon the enactment of legislation establishing relapse prevention programs for parolees who pose a high risk to the public of committing violent sex crimes, and the provision of the necessary additional funding for any such programs, high-risk sex offenders who have a diagnosed serious mental disorder shall be removed from POC caseloads and instead placed in such programs.

The funding saved by removing the parolees cited above from POC caseloads shall be redirected toward the following purposes: (1) establishing integrated substance abuse treatment services for mentally ill parolees with a dual diagnosis; (2) establishing a pilot program based upon the Wisconsin Community Support Program model for money management, dispensing of medications, housing referrals, and other assistance to mentally ill parolees completing the Transitional Case Management Program whose mental condition has been stabilized and do not need further intensive treatment at that time; and (3) improving clinician-patient ratios for the remaining treatment caseload. The CDC shall provide a preliminary report to the Legislature by December 1, 2001, regarding its implementation of the funding shift and the effectiveness to date of the pilot program.

The CDC shall report to the Legislature by December 1, 2000, regarding a methodology for automatically adjusting the funding and staffing for mental health programs for parolees in keeping with future changes in the population of mentally ill parolees requiring such services.

We further recommend approval of the \$1.9 million augmentation to provide closer parole supervision for seriously mentally disordered parolees.

Department of Mental Health: Expansion of Mentally Ill Homeless Program

We withhold recommendation on the \$20 million proposed for the continuation and expansion of pilot programs to assist the homeless mentally ill, pending review of the statutorily required report (due May 1, 2000) on the effectiveness of the three existing projects. We further recommend that, if the Legislature does approve funding to expand the pilot projects to other counties, at least one of them be targeted primarily at providing assistance to parolees.

Legislation Initiated Projects. The DMH's current-year budget includes a one-time appropriation of \$10 million from the General Fund for local assistance grants for demonstration projects targeting severely mentally ill adults who are homeless, recently released from jail or prison, or at risk of being homeless or incarcerated in the absence of mental health

treatment. These grants are authorized by Chapter 617, Statutes of 1999 (AB 34, Steinberg).

The department formed an advisory committee to develop criteria for the award of grants and specific performance measures for evaluation purposes and, in November 1999, awarded \$9.5 million for one-year demonstration projects in Los Angeles, Sacramento, and Stanislaus Counties. The remaining \$500,000 is being used to administer and evaluate the projects. The department is to submit a report to the Legislature by May 1, 2000, on the effectiveness of the projects in reducing homelessness, substance abuse, and involvement by the participants with local law enforcement.

The 2000-01 budget proposes \$20 million from the General Fund for the continuation of the three projects and expansion of the demonstration projects in three to six additional counties. Because the evaluation report due to the Legislature by May 1, 2000 should contain information helpful to the Legislature in evaluating this proposal, we withhold recommendation on this request.

Parolees Should Be High Priority. As noted in our analysis above, we are aware that county mental health departments are often reluctant to provide services to seriously mentally ill parolees. While Chapter 617 specifically includes parolees within its authorized target populations, only one of the pilot counties—Los Angeles—includes parolees as a target group.

Since parolees, as a group, tend to have a high risk of repeated incarceration, it is particularly important to overcome barriers to serving this population and develop effective strategies for their treatment and stabilization in the communities from which they come. Approval of another round of pilot projects would provide an opportunity to examine whether counties could effectively provide services to state parolees.

Related Pilot Projects. In addition to the Chapter 617 pilot projects administered by DMH, the Board of Corrections is administering a separate set of 15 grants amounting to more than \$50 million under the Mentally Ill Offender Crime Reduction Grant Program authorized by Chapter 501, Statutes of 1998 (SB 1485, Rosenthal).

The stated purpose of the Board of Corrections grants is to support locally developed strategies for curbing recidivism among mentally ill offenders—an effort that clearly overlaps with the goal of the DMH grant program of reducing involvement of homeless mentally ill persons with the criminal justice system. Notably, all three counties that were awarded DMH grants—Los Angeles, Sacramento, and Stanislaus Counties—also have received grants from the board.

Given the overlapping target populations of the DMH and the board, we believe it is important that these two grant programs be carefully coordinated. The involved state agencies should ensure, for example, that counties receiving both types of grants can measure their effectiveness separately. The two state agencies should also establish common outcome measures that would allow comparisons between the projects operating in separate jurisdictions.

Analyst's Recommendations. We withhold recommendation on the proposed \$20 million augmentation to continue and to expand the DMH pilot projects to assist the homeless mentally ill until the Legislature has had an opportunity to review an evaluation of the existing pilots which is due May 1, 2000.

Should the Legislature approve the funding for this expansion subsequent to receipt of the evaluation report, we recommend the adoption of budget bill language requiring DMH to award at least one of the new pilots for a program targeted primarily to parolees. This approach would permit a comparison of the effectiveness of providing treatment and services for parolees within the entirely state-run program discussed earlier in this analysis versus through contracting with counties for these purposes.

If this recommendation is adopted, we suggest the following language be included in Item 4440-001-0001:

Provision X. In awarding grants to expand the mentally ill homeless pilot projects, at least one grant shall be targeted to primarily serve offenders under state parole supervision.

Given the apparent barriers to county mental health services faced by severely mentally ill parolees, we further recommend that the DMH report to the Legislature regarding the extent of this problem. Accordingly, we recommend the adoption of the following supplemental report language:

It is the intent of the Legislature that the Department of Mental Health conduct a survey of an appropriate sample of county mental health providers and report to the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature by December 1, 2000, regarding: (1) the degree to which parolees who are referred for treatment to county mental health providers fail to receive such assistance, and (2) the department's recommendations, if any, to improve access of persons under state parole supervision, particularly those parolees who are seriously mentally disordered, to county mental health services.

We further recommend that DMH and the Board of Corrections jointly report at budget hearings on the extent to which the Chapter 617 homeless mentally ill programs and the Chapter 501 Mentally Ill Offender Crime

Reduction grants are being coordinated to ensure that counties receiving both types of grants can measure their effectiveness separately and that common outcome measures are being established to allow comparisons between the projects operating in separate jurisdictions.

Next Steps: Developing a Comprehensive Strategy

We recommend that the Legislature consider a more comprehensive approach for addressing the complex problems involving mentally ill offenders and the criminal justice system. We discuss several key issues the Legislature may wish to consider.

A Broader Approach Needed. The Legislature and the administration have begun taking some significant steps toward implementation of strategies to divert more mentally ill offenders from the criminal courts, jails, and prisons and into appropriate treatment programs. While we agree that the development of these additional programs and services is warranted, we recommend that the appropriate budget and policy committees take a more comprehensive approach in thinking about how to address these complex problems.

We believe several key issues warrant further study and careful legislative consideration.

Treatment or Punishment? One of the first questions that must be addressed is whether the criminal justice system should focus more on punishment or more on providing treatment to mentally ill offenders.

The criminal courts can resolve cases involving proven wrongdoing by mentally ill offenders with guilty verdicts that send them to prison, and not guilty by reason of insanity verdicts or incompetent-to-stand-trial rulings that send them instead to mental hospitals. Local courts and prosecutors vary significantly in their use and acceptance of these options. The Legislature might wish to consider the establishment of a guilty-but-seriously-mentally-disordered verdict that separates the issues of the criminality and the mental competence of a defendant.

How these issues are resolved has important fiscal implications. For example, it could determine whether the state will need to invest more or less money in the future for expanding state mental hospitals, state prisons, or both.

State or Local Responsibility? The budget proposals discussed above simultaneously set in motion experimental programs at both the state and local level aimed at stemming criminal behavior by mentally ill offenders. As new programs are evaluated for their effectiveness, the Legislature should also consider whether the operation of the programs proven to be most effective should ultimately be a state or a local responsibility.

For example, the Legislature may wish to consider whether, in the long run, the state should create and operate a separate system of mental health treatment and aftercare for its parolees, or whether such operations should instead be consolidated with county mental health systems, the state's front-line providers of mental health care. Another option would be to modify parolee programs to operate along the lines of CONREP for offenders released from state mental hospitals. The CONREP is run by the state primarily through contracts with individual counties.

Targeting Public Resources. As it develops its strategy for addressing these issues, the Legislature may also wish to consider its priorities for intervention.

Research shows that programs such as substance abuse treatment aimed at curbing the criminal behavior of offenders are usually most cost-effective when they are targeted at an offender population that poses the highest risk of reoffending. However, it may also make strategic sense for the state to target less risky offenders who could be easily stabilized in the community with federally funded benefits and with relatively low-cost programs, such as community support programs. The results of the new state and local programs for assisting mentally ill offenders should be examined not just to see what programs work best, but for whom they work best.

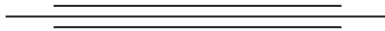
The Legislature may also wish to reexamine the way it has targeted its existing programs for mentally ill offenders. One example is the Mentally Disordered Offender (MDO) program, which permits the state to transfer inmates nearing release on parole to state mental hospitals. State law permits an MDO commitment to occur if a seriously mentally ill offender's most recent crime involved force, violence, or injury to another. However, the MDO law does not allow such a state hospitalization to occur where the most recent criminal conviction was nonviolent but the offender has a prior record of violence. The Legislature may wish to reconsider what clinical and public safety criteria should apply to this and other state programs for mentally ill offenders.

Mandatory Treatment. As it examines the idea of expanding treatment services for mentally ill persons who are at risk of becoming involved with the criminal justice system, the Legislature may also wish to consider the extent to which it wishes to compel such persons not only to participate in treatment but also to take prescribed medications that could stabilize their mental condition in the community.

For example, the Legislature may wish to examine an ongoing experimental program in San Bernardino County through which a special "mental health court"—similar to existing drug courts—is diverting non-violent mentally ill offenders from jail or prison through court orders

mandating that they (1) take prescribed medications, (2) submit to close supervision by probation officers, and (3) live in board and care homes providing an appropriate and stable environment. The Legislature may also want to review whether appropriate, parallel mechanisms are available for mentally ill parolees subject to revocations by actions of the CDC parole division and Board of Prison Terms for parole violations.

Summary. For the reasons discussed above, we recommend that the Legislature undertake a more comprehensive approach toward addressing what is now a missing link of community care for mentally ill offenders. Development and funding of appropriate programs to fill that gap are important. We believe these new programs will have a greater clinical effect and that state money will be spent more cost-effectively if the other key issues we have outlined here are also addressed in a comprehensive fashion.



LEGISLATIVE OVERSIGHT

Departments Fail to Comply With Reporting Requirements

Boards and departments within the Youth and Adult Correctional Agency (YACA) did not comply with legislative directive to provide the Legislature with various reports required by statutory or supplemental report language. The resulting lack of information hinders the Legislature's oversight of state programs. We recommend that the Legislature withhold action on the budget of YACA pending the submittal of overdue reports by the agency and its constituent boards and departments.

Through supplemental reports to the budget act and the enactment of various statutes, the Legislature has directed boards and departments within the Youth and Adult Correctional Agency (YACA) to report on a number of their programs and activities. The Legislature's purpose in requesting these reports was to exercise legislative oversight by holding the departments accountable for their use of funds and staff in achieving statutory objectives and goals.

However, many of these required reports are now overdue—in one case by almost three years. Figure 1 (see next page) lists the departments, overdue reports, and their due dates. The lack of information hinders the Legislature's ability to evaluate the departments' budget needs, assess their performance, hold the departments accountable for their performance, and develop new policy initiatives.

Analyst Recommendation. It is important that the Legislature have a means of obtaining information it deems necessary to make policy and budget decisions. In view of the failure of the boards and departments to provide a number of legislatively required reports, we recommend the Legislature withhold action on the budget of YACA until the reports due from the agencies and their constituent departments and boards are submitted to the Legislature.

Figure 1**Youth and Adult Correctional Agency
Boards' and Departments' Overdue Reports**

		Due Date
Board of Prison Terms		
<ul style="list-style-type: none"> • Electronic monitoring. Chapter 867, Statutes of 1995 (AB 1804, Goldsmith). 		January 1, 2000
California Department of Corrections		
<ul style="list-style-type: none"> • Participation in federal programs. <i>Supplemental Report of the 1998 Budget Act.</i> 		December 1, 1998
<ul style="list-style-type: none"> • Inmate classification pilot project. <i>Supplemental Report of the 1998 Budget Act.</i> 		December 1, 1999
<ul style="list-style-type: none"> • Parole classification study. <i>1996-97 Budget Act.</i> 		March 1, 1998
<ul style="list-style-type: none"> • Parole staffing study. <i>Supplemental Report of the 1996 Budget Act.</i> 		March 1, 1997 and March 1, 1998
<ul style="list-style-type: none"> • Computer-assisted inmate literacy project. Chapter 317, Statutes of 1995 (SB 775, Costa). 		December 1, 1998
<ul style="list-style-type: none"> • Parolee participation in domestic violence programs. Chapter 983, Statutes of 1996 (AB 2353, Alpert). 		February 1, 1998 and July 1, 1999
<ul style="list-style-type: none"> • Incidents at state prisons. Chapter 591, Statutes of 1997 (AB 995, Rod Pacheco). 		January 1, 2000
<ul style="list-style-type: none"> • Substance abuse treatment program. Chapter 585, Statutes of 1993 (AB 10, Costa). 		January 1, 2000
Commission on Correctional Peace Officers' Standards and Training		
<ul style="list-style-type: none"> • Training standards for correctional officer academies. 		September 1, 1999
Youthful Offender Parole Board		
<ul style="list-style-type: none"> • Ward parole consideration dates. <i>Supplemental Report of the 1999 Budget Act.</i> 		January 1, 2000

DEPARTMENTAL ISSUES

Judiciary and Criminal Justice

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.

The department now operates 33 institutions, including a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse treatment facility for incarcerated felons. The CDC system also includes 12 reception centers to process newly committed prisoners; 16 community correctional facilities; 38 fire and conservation camps; the Richard A. McGee Correctional Training Center; 34 community reentry, restitution, and drug treatment programs; 136 parole offices; and 4 outpatient psychiatric services clinics.

BUDGET PROPOSAL

The budget proposes total expenditures of \$4.4 billion for CDC in 2000-01. This is \$128 million, or 3 percent, above the revised estimate for current-year expenditures. The primary causes of this increase are the growth in the inmate population, increases in staff compensation, and the expansion of parole, substance abuse treatment, and medical services programs. Thus, the budget includes \$235 million for augmentations to employee compensation and \$106 million for new CDC programs. It also

includes \$58 million to reflect the additional full-year cost of staff and new programs added during the current year, with most of that sum for custody staff needed to activate additional prison beds. These additional costs are partly offset by a \$159 million drop in state retirement contributions due to changes in the way assets in the state retirement system are valued. Also, there is a \$21 million reduction in the funding needed for prison staffing.

Under the budget plan, the CDC workforce would grow by about 350 personnel-years, or less than 1 percent, above the projected 1999-00 staffing level. This projected 2000-01 growth in the CDC workforce compares with anticipated growth of about 3,500 personnel-years, or 8.5 percent, during 1999-00.

Expenditure Growth Continues to Slow. The 2000-01 budget proposal for CDC represents a significant slowdown in the overall rate of growth of its expenditures. If the budget were adopted as proposed, CDC expenditures would grow by the smallest *dollar* amount since 1983-84, except for 1992-93—a year when the state faced an unusually large revenue shortfall and CDC spending actually decreased slightly. The CDC expenditures have not otherwise grown this slowly on a *percentage* basis since 1967-68, when they went up 3 percent. As discussed below, the proposed slowdown in correctional spending is associated with a slowdown in the growth in the inmate population and related growth in CDC staffing.

However, even as overall CDC expenditure growth is slowing, the average cost of providing supervision for each of those inmates is increasing significantly. After holding stable for many years, the average cost of holding an offender in the CDC prison system (excluding capital outlay costs) would grow to \$23,136, an increase of about 7.6 percent over 1998-99. The average cost of supervising a parolee would grow even faster under the budget plan—about 11 percent over two years—to \$2,505 per offender under active supervision.

General Fund Expenditures. Proposed General Fund expenditures for the budget year total almost \$4.3 billion, an increase of about \$150 million, or 3.6 percent, above the revised estimate for current-year General Fund expenditures.

The General Fund contribution to the proposed budget would grow more than the CDC budget overall. One major reason is a decline in the availability of bond funds to partly offset CDC costs. In prior years, bond funds that were no longer needed for completed prison construction projects were used to offset the ongoing payments provided in the budget to pay off lease-payment bonds. For 2000-01, bond reimbursements are budgeted at about \$29 million, a decline of about \$17 million, or 36 percent, below the amount of such reimbursements included in the 1999-00

Budget Act. Because the state has nearly exhausted these surplus bond funds, larger General Fund appropriations to CDC are now required to pay off these bonds.

Federal Fund Expenditures. The Governor's budget assumes that the state will receive about \$178 million from the federal government during 2000-01 as partial reimbursement of CDC's cost (estimated to be \$551 million in the budget year) of incarcerating inmates in prison and supervising felons on parole who are illegally in the United States and have committed crimes in California. That is the same level of funding that the state is estimated to receive in the current year. The federal funds are not included in CDC's budget display, but instead are scheduled as "offsets" to total state General Fund expenditures for CDC and the Department of the Youth Authority.

OVERVIEW OF THE INMATE POPULATION

Who Is in Prison?

Figures 1 through 5 illustrate the characteristics of the state's prison population, which was 162,064 as of June 30, 1999. About 93 percent of the population is male. The charts show:

- About 57 percent of inmates are incarcerated for nonviolent offenses (Figure 1, see page 32).
- About 66 percent of all inmates were committed to prison from Southern California, with about 35 percent from Los Angeles County alone and 8 percent from San Diego County. The San Francisco Bay Area is the source of about 13 percent of prison commitments (Figure 2, see page 32).
- More than 51 percent of all inmates are between 20 and 34 years of age, with the number of inmates falling dramatically starting at age 40 (Figure 3, see page 33).
- The prison population is divided relatively evenly among whites, blacks, and Hispanics (Figure 4, see page 33).
- About 58 percent of the inmates are new admissions from the courts, 24 percent are offenders returned by the courts for a new offense while on parole status, and 18 percent are parolees returned to prison by administrative actions for violation of their conditions of parole (Figure 5, see page 34).

Figure 1

Prison Population by Type of Offense

June 30, 1999

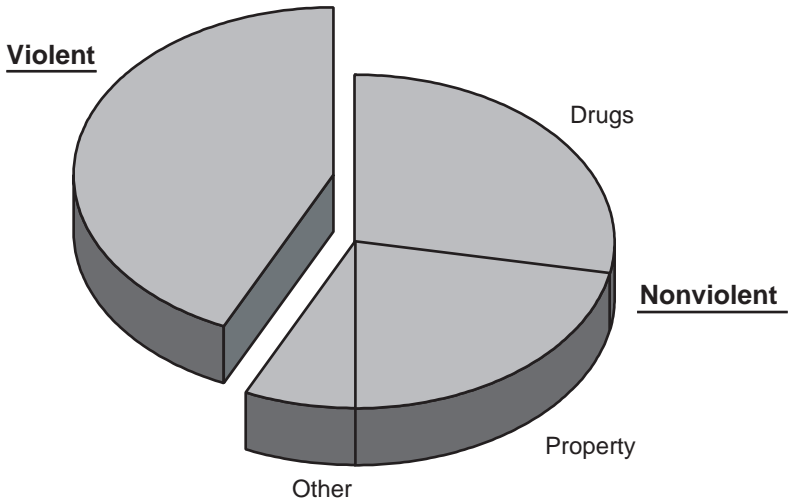


Figure 2

Prison Population by Area of Commitment

June 30, 1999

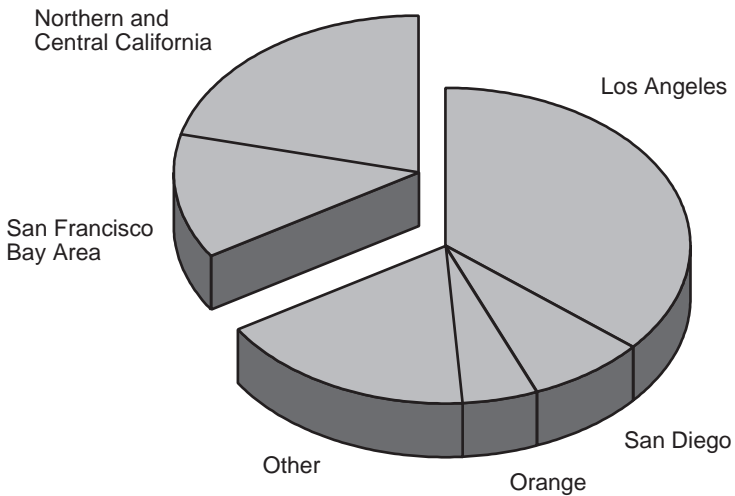


Figure 3

Prison Population by Age Group

June 30, 1999

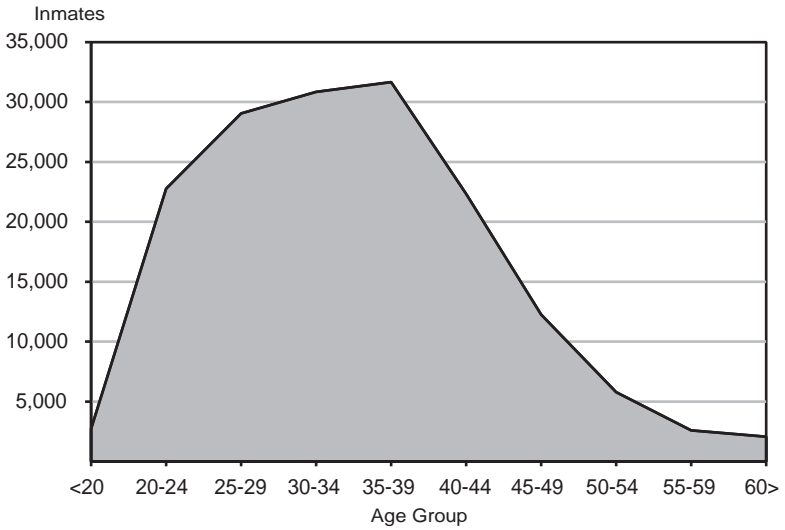
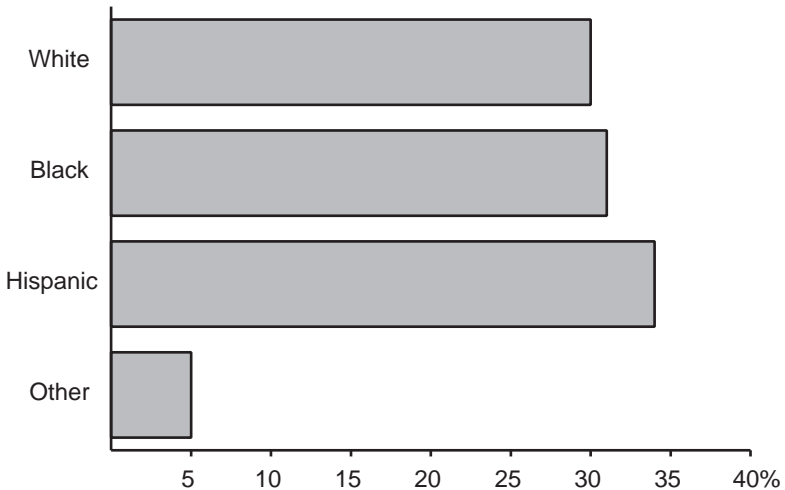
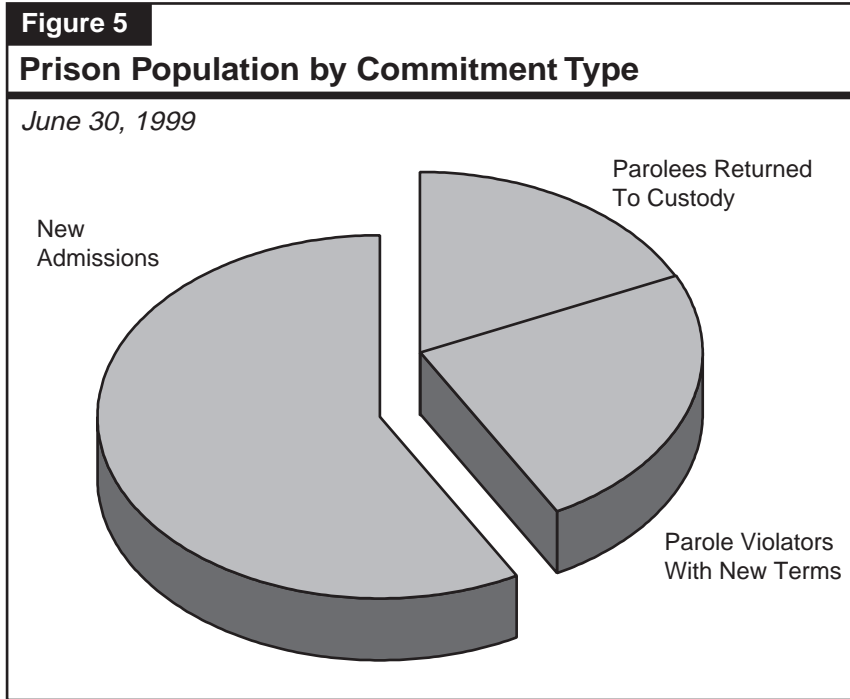


Figure 4

Prison Population by Ethnicity

June 30, 1999



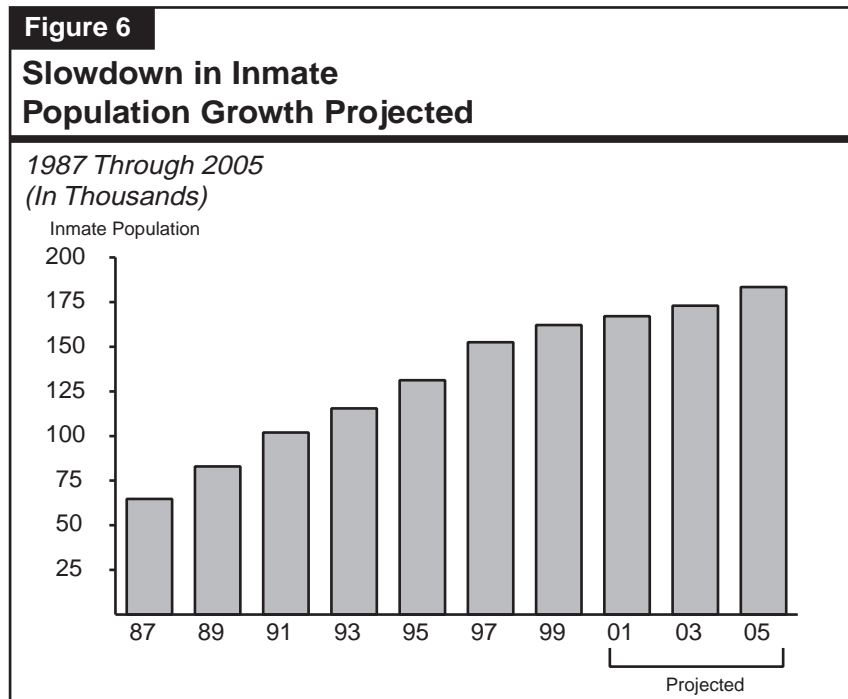


INMATE AND PAROLE POPULATION MANAGEMENT ISSUES

Major Shift in Projections of Inmate Population Growth

The Department of Corrections (CDC) is now projecting slower growth in the prison population than the state experienced through much of the 1990s. The CDC projections suggest that the number of inmates will exceed 183,000 by June 2005. Recent prison population data suggest, however, that the growth rate is even slower than the new projections would indicate and that a stabilization in the prison population, if only a temporary one, may now be occurring.

Inmate Population Growth. As of June 30, 1999, the CDC housed 162,064 inmates in prisons, fire and conservation camps, and community correctional facilities. Based on the fall 1999 population forecast prepared by the CDC, the inmate count would reach about 165,090 by June 30, 2000, and increase further to 167,133 by June 30, 2001. These figures represent an annual population increase of 1.9 percent in the current year and 1.2 percent in the budget year. As can be seen in Figure 6, this projected trend, if it actually occurs, would be significantly slower than the 6.9 percent average annual inmate population growth the state experienced during the past decade.



The CDC projections assume that the population will increase over the following four years, reaching 183,421 inmates by June 30, 2005. This represents an average annual population increase of about 2.1 percent over the six-year period from 1998-99 through 2004-05.

Parole Population Growth. As of June 30, 1999, the CDC supervised 112,494 persons on parole. The fall 1999 projections assume that the parole population will be 114,291 as of June 30, 2000, and will drop slightly to 114,063 by June 30, 2001. These figures assume a parole population increase of 1.6 percent in the current year and almost no change during the budget year.

The fall 1999 projections also assume that the population will remain fairly stable during the following four years, reaching a total of 114,364 parolees by June 30, 2005.

Change From Prior Projections. The fall 1999 projection of the inmate population has decreased significantly from the prior CDC forecast (spring 1999), which was the basis for the 1999-00 *Budget Act*. The new fall 1999 forecast for June 30, 2000, is about 2,200 inmates lower than the spring forecast. As can be seen in Figure 7 (see page 36), the differences between the spring 1999 and fall 1999 inmate projections generally widen

with time over the projection period. By 2004-05, the difference is almost 15,000 inmates, or the equivalent of about three prisons filled to overcrowding levels.

Figure 7			
Total Inmate Population Recent CDC Projections			
June 30 Population^a	Projection as of:		
	Spring 1999	Fall 1999	Difference
2000	167,294	165,090	-2,204
2003	184,973	173,008	-11,965
2005	198,017	183,421	-14,596
^a For selected years.			

As regards the parole population, the fall 1999 projection also reflects a significant decrease relative to the prior, spring 1999 CDC forecast. The new fall 1999 forecast for June 30, 2000 is about 3,800 parolees fewer than the spring forecast. As can be seen in Figure 8, the differences between the spring 1999 and fall 1999 parole projections also widen with time over the projection period until the differential exceeds 14,000 parolees as of the end of the 2004-05 fiscal year.

Figure 8			
Total Parole Population Recent CDC Projections			
June 30 Population^a	Projection as of:		
	Spring 1999	Fall 1999	Difference
2000	118,091	114,291	-3,800
2003	125,522	114,032	-11,490
2005	128,737	114,364	-14,373
^a For selected years.			

Why the Forecasts Changed Between Spring and Fall 1999. According to CDC, the lower projections in the inmate and parole populations are based primarily on the downward trend in court-ordered admissions of felons to prison. During a six-month period ending in May 1999, felon admissions fell an average of 5.9 percent statewide. In some of the largest jurisdictions, the change was even more dramatic. For example, Los Angeles County courts sentenced 13 percent fewer felons to state prison. In Orange County, the drop in admissions was 12 percent, while it was 10 percent in Sacramento County.

Of additional significance is the fact that the decline in the number of court admissions statewide is now a sustained trend—one that has occurred three years in a row. The CDC records back to 1971 indicate that the state has never sustained a drop in felon admissions for more than one year in a row. As a result, CDC has adjusted its fall 1999 projections to assume that there will be about 5,800 fewer court admissions during the budget year than the spring 1999 projections did. By 2004-05, the differential is almost 6,800 admissions annually.

The CDC suggested in its fall 1999 projections report that the continuing slide in felon admissions to prison is probably the result of several factors, including a steadily dropping crime rate, continued economic growth and the resulting low unemployment rate, and local crime prevention and prison diversion efforts.

Potential Risks to Accuracy of Projections. As we have indicated in past years, the accuracy of the department's latest projections remain dependent upon a number of other significant factors. Among the factors that could cause population figures to vary from the projections are:

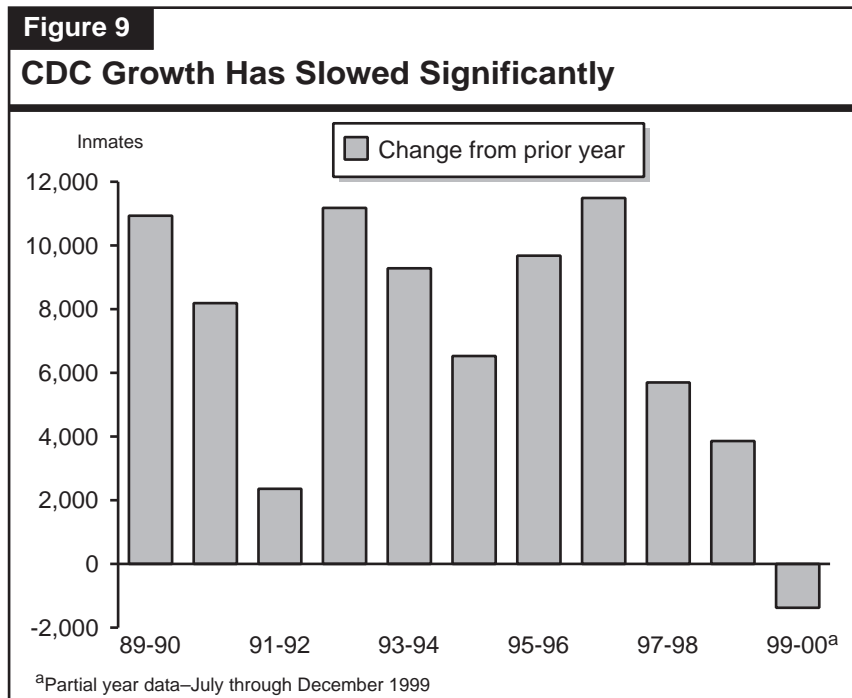
- ***Changes in sentencing laws*** and the criminal justice system adopted by the Legislature and the Governor or through the initiative process.
- ***Changes in the operation of inmate education and work programs*** and prison rules affecting the credits inmates can earn to reduce their time in prison.
- ***Changes in the local criminal justice system*** affecting the number of persons arrested, charged, tried, convicted, and ultimately admitted to prison.
- ***A continued trend of lower crime rates***, especially for violent crimes, that could cause growth in the inmate population to fall below the latest CDC projections.

Significant further changes in any of these areas could easily result in a prison growth rate higher or lower than the one contained in CDC's

projections. Given the significant slowdown in prison inmate growth that has already occurred in the last two years, it is possible now that, at least on a temporary basis, the prison population may be stabilizing.

Current Inmate Count Varies Significantly From Most Recent Projections. The actual CDC inmate count has already varied significantly from CDC's fall 1999 projections. The CDC had *overestimated* the number of inmates who would be incarcerated as of the end of December 1999 by about 2,700. As of that same date, the fall 1999 projections *underestimated* the number of parolees being supervised on parole by almost 3,500.

During the first half of 1999-00, the prison population had been projected to increase by more than 1,500 inmates, but instead it *decreased* by about 1,400. Given the historical pattern of inmate population growth, it is likely that this downward trend will reverse itself in the spring of 2000, when more inmates normally are admitted into the prison system than at other times of the year. Even if there is a turnaround in the trend this spring, however, it still appears unlikely that the fall 1999 projection of a 1999-00 population gain of about 3,000 inmates will be achieved. Actual growth may be less than 1,300 inmates. As can be seen in Figure 9, it has not been unusual in recent years for the CDC system to absorb growth of 11,000 inmates annually.



Several factors appear to have caused the inmate population to drop during the latter part of 1999 instead of growing as had been projected. The CDC data indicate that fewer parole violators than projected are being returned to prison by administrative actions of the Board of Prison Terms, and that they are serving slightly less time in prison than had been expected. Moreover, fewer parolees than anticipated are being returned to state prison by the courts.

A number of factors have probably contributed to this result, including many of the same ones—the improved economy and dropping crime rates—that are behind the drop in felon admissions generally. But it appears probable that one factor keeping more parolees out of prison is the expansion of services for parolees that began in 1998-99, such as drug treatment, casework services, and job placement, to assist these offenders in making their transition back to the community.

The CDC data indicate that the parole “failure rate”—the rate at which parolees come back to prison by actions of the Board of Prison Terms and the courts—was equal to about 67 percent of the parole population during the second half of 1999. While that failure rate is high compared to other states, the data suggest that California’s parole failure rate has dropped for the second year in a row. In effect, California has reversed the prior trend of five straight years of increases in the parole failure rate that peaked at 74 percent in 1997.

The CDC data also show a pronounced difference in the trend for male and for female inmates. During 1999, the number of male inmates increased by 1,253 but the number of women inmates decreased by 265. The reasons for the difference in trends are not yet clear.

Budget Modified to Reflect Trend. The Governor’s January budget proposal for CDC is ordinarily based upon CDC projections released the previous fall. However, that is not the case for the proposed 2000-01 CDC spending plan. In preparing the budget, the Department of Finance (DOF) made fiscal adjustments to account for differences between the fall 1999 projections and actual inmate and parole population counts.

Specifically, DOF reduced caseload funding for the state prisons by the equivalent of 616 inmates for 1999-00 and by 582 inmates for 2000-01. The department increased caseload funding for parolee supervision by the equivalent of 1,493 more parolees for 1999-00 and 3,946 parolees for 2000-01.

Because of these inmate and parole population adjustments, DOF has estimated that about \$4.3 million less would be needed to handle the prison and parole caseload during 1999-00. Similarly, DOF adjustments mean that about \$276,000 less in funding would be provided to handle

the prison and parole caseload during 2000-01 than if the budget plan were based strictly on CDC's population figures.

Caseload Funding Requires Further Adjustment

We recommend that the 2000-01 budget request for inmate and parole population growth be reduced by \$14 million because prison population growth continues to lag below Department of Corrections' (CDC's) projections. In regard to the current year, we believe that CDC caseload expenditures will be \$9.4 million less than budgeted. Further changes to the CDC budget for the current and budget years should be considered following review of the May Revision. (Reduce Item 5240-001-0001 by \$14 million.)

As we indicated earlier, CDC's fall 1999 population projections appear to have overestimated the number of inmates who are being incarcerated and understated the number of parolees under supervision. The Governor's budget, as submitted, adjusts CDC's fall 1999 projections to reflect a slower growth rate. However, based on our review of more recent data not available when the budget plan was drafted, we believe that if current trends hold, the adjustments made by the Governor's budget will be insufficient. Our estimates of the CDC inmate population, which take into account more recent inmate population trends, are shown in Figure 10.

Figure 10

Inmate Population Assumptions^a

	1999-00	2000-01
California Department of Corrections	163,840	165,881
Budget	162,803	165,299
Legislative Analyst's Office	161,713	163,167

^a Average daily population.

Current-Year Effect. Based on the population as of the end of December 1999, we estimate that the average daily population of the prison system in 1999-00 will be about 1,100 inmates below the caseload actually funded in the Governor's budget plan. We further estimate that the average daily parole population will be about 1,500 lower than the caseload actually funded in the Governor's budget plan. We estimate that the net effect of these two changes would be a savings in the current year of

\$9.4 million after taking into account the fiscal adjustments made by the Department of Finance.

Budget-Year Effect. We anticipate that this fiscal trend will carry over into 2000-01. Based on available population counts, we estimate that the average daily prison population in the budget year will be about 2,100 fewer inmates than the number assumed in the proposed budget. We further estimate that the average daily parole population will be about 4,500 higher than assumed in the budget plan. Based on these calculations, we believe that the CDC budget for handling its inmate and parole caseloads is overbudgeted by \$14 million even after taking into account the fiscal adjustments made by DOF. (Our recommendation also takes into account our recommendation for a separate fiscal adjustment regarding the use of leased jail beds in Los Angeles County, a proposal discussed later in this analysis.)

The CDC will issue updated population projections in spring 2000 that form the basis of the May Revision. At that time, we will review whether further adjustments to CDC's funding for inmate and parole caseloads are warranted.

Analyst's Recommendation. In summary, we recommend that the 2000-01 CDC budget be reduced by \$14 million from the General Fund primarily to reflect slower CDC inmate population growth. The current-year budget is also likely to reflect savings of about \$9.4 million due to slower CDC caseload growth. We recommend that the Legislature consider making further CDC caseload adjustments at the time of the May Revision.

Inmate Housing Plan Already Obsolete

We withhold recommendation on the Department of Corrections' (CDC's) plan for housing the projected increase in the prison population because an administration decision to halt the procurement of community correctional facility beds and other factors have rendered the plan obsolete. We anticipate that the CDC will revise the housing plan at the time of the May Revision.

Housing Plan Relied Heavily on Canceled Beds. The Governor's housing plan for accommodating inmate population growth during 2000-01, which was submitted to the Legislature along with the budget for the department, assumed that almost the entire net gain in new capacity would be achieved by activating 2,000 community correctional facility (CCF) beds. These are beds in secure facilities obtained by soliciting bids from outside vendors.

The housing plan additionally provided for the activation of about 700 other prison beds, mostly for female offenders. But any gain in beds in institutions would have been offset by the deactivation of more than 700 beds in overcrowded male institutions.

However, the housing plan is obsolete largely because of significant changes in the Governor's budget that are not reflected in the housing plan:

- The administration announced it has halted bidding for the CCF beds and has included funding in the budget for housing these inmates at existing prison facilities. However, the housing plan does not yet include the activation of these replacement beds.
- Many prison beds scheduled to be activated during 1999-00 will not be needed because the prison population is running well below projections. This could push activation of these beds into the 2000-01 fiscal year, although they are not now reflected in the housing plan.

As has been the practice in the past, CDC will revise its housing plan at the time of the May Revision to take these housing decisions into account as well as updated inmate population growth projections.

Future Impact on Privatization a Concern. Last year, the CDC advocated the procurement of 2,000 CCF beds to accommodate projected future growth in the inmate population and to address concerns about the high level of overcrowding that already exists in its prisons.

In December 1999, however, the CDC canceled the bid solicitation process to procure these 2,000 CCF beds shortly before bids were due, citing as its reason the slowdown in inmate growth. In response to our questions, the CDC has clarified that its decision to cancel the procurement does *not* constitute a policy decision to abandon the procurement of CCF beds as an inmate housing strategy—an approach often referred to as correctional privatization. The department has indicated that it would reassess using such an approach in the future if a high rate of inmate population growth were to resume.

The decision to cancel the CCFs may have some significant consequences, however, such as the potential impact of the action on future state privatization initiatives. Companies and local governments which invested significant amounts of funding to participate in the bidding process may be less willing to do so in the future. If the state again needs to turn to the procurement of beds from private companies or local governments, it could find fewer bidders. Because the procurement was canceled just before the state was to receive the bids, the state did not receive information that might have influenced its final decision.

We would note, however, that the proposed budget includes full funding for 500 new community reentry center beds to be activated near the end of 1999-00, as well as full funding for about 800 additional community correctional facilities on the grounds of existing public and private facilities. Both of these proposals represent continued privatization efforts, which we believe should be a part of a balanced approach to meeting the state's future needs for prison capacity.

Youthful Offender Housing Program. The Governor's budget request includes \$1.2 million and about 21 personnel-years to comply with a longstanding statutory requirement that inmates under the age of 18 be housed separately from adult offenders. The CDC indicates that it now holds about 116 offenders below that age. The CDC plan is to move these offenders to the California Correctional Institution at Tehachapi in Kern County and to relocate the existing high-security adult inmates now in those beds.

Although we are concerned that CDC has not acted until now to comply with the law—the current statute was enacted in 1976—we recommend approval of the request, which includes additional funding for custody and program staff that CDC advises are necessary to ensure separation of this group from adult offenders.

Analyst's Recommendation. Because the existing inmate housing plan is obsolete, it is likely to be revised significantly at the time of the May Revision. Thus, we withhold recommendation on the plan pending receipt of CDC's revised prison inmate population projections and the updated housing plan provided in the May Revision.

INMATE AND PAROLE PROGRAMS

Budget Plan Implements Program Expansions

The Governor has exercised his statutory authority to redirect \$10.5 million provided in the 1999-00 Budget Act toward two programs: (1) in-prison drug treatment and community residential aftercare and (2) new programs for mentally ill parolees. The budget plan for 2000-01 also continues a series of additional inmate and parole programs that were begun or significantly expanded in 1998-99 and 1999-00.

Background. In a 1997 report, *Addressing the State's Long-Term Inmate Population Growth*, and in subsequent reports to the Legislature, we have recommended that the state take a balanced approach toward addressing a significant projected shortfall in future prison capacity and the existing high level of overcrowding of existing prison facilities. In outlining our concept of balance, we advocated building some additional prison

space to hold inmates while also expanding inmate and parole programs and adopting sentencing law changes designed to slow growth in the inmate population.

In recent years, the Legislature and the Governor have pursued such a balanced approach to the prison capacity issue. In 1998, and again last year, the Legislature and Governor reached agreement on legislation authorizing the construction of additional beds for inmates while also authorizing various new programs intended to reduce the need for more prison space by reducing inmate recidivism.

New and Expanded Programs. The 1999-00 Budget Act and subsequent legislation (Chapter 54, Statutes of 1999 [AB 1535, Flores]) included funding for new and expanded programs to provide additional assistance to parolees such as substance abuse treatment, job training and job placement, literacy training, and housing placements. Chapter 54 and Chapter 617, Statutes of 1999 (AB 34, Steinberg) provided the Governor with limited authority to shift CDC funding from these programs to other specified inmate and parole programs selected by the administration.

The Governor exercised that authority to redirect a total of \$4.5 million in funding to expand in-prison treatment programs and community residential aftercare for offenders with substance abuse problems. This was accomplished by (1) reducing a job placement program (Jobs Plus) by \$1.4 million and (2) eliminating \$3.1 million for a pilot program to test new parole supervision methods along with day reporting centers for parolees.

The Governor further exercised his authority to shift \$6 million in the current fiscal year to establish improved programs for mentally ill parolees. This funding shift was accomplished by (1) eliminating \$5 million appropriated for a so-called prerelease program to better prepare inmates ahead of time for their release to the community and (2) eliminating the entire \$1 million appropriated to start a new community punishment program for parole violators. The Governor's actions left intact a separate \$1 million appropriation, initially provided in 1998-99, to expand prerelease programs.

The 2000-01 Budget Plan. The Governor's budget plan would continue a series of inmate and parole programs that were begun or significantly expanded in 1998-99 and 1999-00. These programs are summarized in Figure 11.

In addition to these new inmate and parole programs, Chapter 54 provided \$15.5 million in the current year to reduce parole agent caseloads from about 80 parolees to every one agent to a new ratio of 70 parolees per agent. The cost of carrying through with this initiative in the budget year is \$16.1 million and this funding is provided in the Governor's 2000-01 budget plan.

Figure 11**Augmentations for Inmate and Parole Treatment Programs***(In Millions)*

Program	1999-00	2000-01
In-prison drug treatment and community aftercare expansion	\$40.0	\$69.0
Preventing Parolee Crime program expansion	9.5	9.5
Prerelease programs	1.0	1.0
Offender job placement (Jobs Plus)	1.6	1.6
Offender Employment Consortium	1.0	1.8
Pilot programs for female offenders	10.6	10.6
Work and education program expansion	5.0	5.0
Reentry center expansion (500 beds)	0.7	8.7
Casework services	11.0	11.0
Transitional case management for parolees diagnosed as HIV-positive or having AIDS	0.8	1.5
Mental Health Continuum of Care programs	6.0	6.0
Totals	\$87.0	\$126.0

Additional Steps Warranted to Reform Adult Parole System

The budget plan would provide for a significant expansion of the state's force of parole agents as well as the expansion of programs to assist inmates who have been released from prison in making a crime-free transition back into the community. We recommend that the Legislature approve the proposal to create a Second Strike Task Force, but consider augmentations to improve the effectiveness of this program. We recommend denial of an augmentation of a program to search for offenders who have fled on parole. Finally, we offer other options to reform the adult parole system and break California's cycle of parole failure and reincarceration. (Reduce Item 5240-001-0001 by \$2 million.)

New Proposals Affecting Parole Operations. The Governor's budget plan contains three new proposals that would significantly affect parole operations beginning in 2000-01:

- \$1.9 million for 25 additional parole agents to provide closer supervision of mentally ill parolees and assist in their treatment in the community.
- \$10.4 million to establish a Second Strike Task Force for 142 additional parole agents so that offenders with two or more violent or

serious convictions on their record would receive closer supervision.

- \$2 million for 26 additional parole agents to augment an existing program to apprehend parolees-at-large—offenders who have disappeared by failing to keep in contact with their parole agents.

Our analysis of the proposal for parole agents to supervise mentally ill parolees, as well as other elements of the Governor's 2000-01 budget initiative relating to mentally ill criminals, can be found under "Cross-cutting Issues" earlier in this chapter. We will discuss here the other two proposals, as well as some related recommendations.

Second Strike Task Force. We believe the Governor's proposal to target felons on parole with two or more violent or serious convictions (so-called "strikes") on their record constitutes a reasonable effort to target limited state resources toward high-risk offenders. We agree that the state should take a targeted approach to increasing parole supervision of high-risk offenders instead of a "one-size-fits-all" approach to parole supervision. As of the end of 1999, nearly 3,400 of the 5,900 offenders sentenced to prison under the "Three Strikes and You're Out" law with sentences of at least 25 years to life were parolees at the time of their most recent offense.

We believe, however, there are several options the Legislature may wish to consider to improve this proposal. For example, the Legislature may wish to consider augmenting the funding proposed by the Governor for the task force to also include funding for casework services, job placement, and other parole assistance programs that can be rapidly expanded and then designating the funds primarily for the 9,800 high-risk parolees targeted for tighter parole supervision. The proposed task force would likely prove to be much more successful in improving public safety and holding down state incarceration costs if these parolees received special assistance in making a safe transition back into the community.

The Legislature also may wish to consider augmenting the Governor's budget request to start an early intervention program that would focus primarily on this same target group. Under this concept, these offenders would face rapid and escalating punishment for repeated, minor parole violations. Offenders who began to get into trouble would be swiftly assigned to community work crews or cognitive-skills classes designed to change criminal behavior, or placed under electronic monitoring, to deter more serious conduct that would result in their return to state custody.

The investment of additional resources in these areas would likely prove to be cost-beneficial. Each such offender who fails on parole and returns with a Three Strikes sentence of at least 25 years to life would cost the state at least \$460,000 over the course of their prison term. If members

of this target group failed on parole at the same rate as parolees generally fail, and half were returned to prison with Three Strikes sentences, the state would bear a long-term cost for their reincarceration of more than \$340 million.

Expanded Parolee-at-Large Program. We recommend the denial of this \$2 million budget request because it would significantly expand a program that has failed to achieve its stated goal—reducing the number of parolees-at-large who pose a public safety risk.

Like the existing \$3 million program it would expand, this proposal does not directly target the most dangerous parolees-at-large but instead a secondary, less risky group of parolees. In addition, as of last year, the state was separately providing \$3.2 million to the parole division to target the most high-risk group of parolees-at-large for apprehension.

The stated goal for the \$3 million program, which was initially funded in the 1996-97 *Budget Act*, was a 25 percent reduction in the targeted parolee-at-large population. However, the overall population of parolees-at-large is 14 percent higher than before the new program began. Given the evidence that the program is not meeting its stated goal and the lack of any independent evaluation documenting its effectiveness, we do not believe its expansion is warranted.

We believe an alternative approach more likely to result in a measurable improvement in public safety would be for the CDC to pursue the formation of additional partnerships with local law enforcement agencies for crime prevention projects focusing upon the seizure of firearms from parolees in community crime “hot spots” in order to reduce gun violence. Because the courts have held that parolees are subject to immediate search by parole agents as a condition of their parole without the delay otherwise required to obtain court-issued search warrants, the participation of parole agents in such programs can assist local law enforcement agencies in monitoring chronic offenders and conducting searches for weapons.

Research into experimental efforts in Boston and Kansas City suggests that such strategies discourage offenders from carrying guns and reduce the level of gun violence in the targeted community. The CDC is already participating in a similar effort in central Los Angeles known as the CeaseFire Project and a related “community policing” effort is being planned for the Sacramento area.

The Legislature may wish to direct CDC to consider similar collaborative law enforcement efforts targeting high-crime hot spots in other urban areas of the state. Besides having a direct potential impact on crime

rates by reducing gun violence, we believe this approach would further result in the apprehension of the most violence-prone parolees-at-large.

Other Steps to Improve Parole Operations. The Legislature may wish to consider additional steps to improve public safety and hold down state reincarceration costs through further reform of the adult parole system. These steps could include:

- Establishing a “containment” program for high-risk sex offenders being released to parole that includes prerelease and postrelease relapse prevention treatment programs, closer parole supervision, and longer parole supervision periods for offenders. We detailed this proposal in our *Analysis of the 1999-00 Budget Bill* and many of our recommendations are included in pending legislation, AB 1300 (Rod Pacheco).
- Implementing a new parole classification system that was developed at the Legislature’s request more than a year ago but, at the time this analysis was prepared, remained under internal review within the administration. We have recommended that CDC implement a new system in order to shift parole supervision resources away from parolees who pose little risk to public safety in order that more dangerous felons—not just those with two prior violent and serious offenses—could be placed under tighter supervision.
- Standardizing the decision-making process for parole violators. Parole revocation data indicate that parole units with similar populations of parolees often carry out very different practices when it comes to punishing and reporting parole violators. By auditing parole revocation practices and training its parole supervisors, as it has in the past, CDC could implement more standardized decision-making.

Analyst’s Recommendation. In summary, we recommend that the Legislature approve the \$10.4 million proposed for the Second Strike Task Force, but consider providing augmentations to target these same offenders for additional parole services and an early intervention sanctions program. We further recommend that the Legislature not approve \$2 million requested for expanding unproven parolee-at-large recovery programs. Instead, the Legislature may wish to consider alternative approaches that would likely improve public safety, such as “hot spot” gun seizures and pending legislation to “contain” high-risk sex offenders. The CDC should report at budget hearings on the status of the new parole classification system so that the Legislature can consider what additional steps toward its implementation are warranted at this time. The CDC should also report on what steps it plans to take to standardize the parole revocation decision-making process.

CORRECTIONAL MEDICAL CARE

Department Not Fully Using Managed Care to Hold Down Medical Costs

We recommend that Legislature review at budget hearings the findings of a Bureau of State Audits (BSA) report recommending that the Department of Corrections (CDC) establish and implement managed care practices that could help curb CDC's rapid increase in medical costs.

We recommend (1) approval of several initiatives contained in the Governor's budget plan to remedy problems in medical services identified by the BSA and by the courts and (2) reduction of the medical budget by \$5.3 million for medical services contracting and medical and psychiatric supplies because the requests are based on outdated inmate population estimates. We withhold recommendation on an additional \$7.6 million requested for these purposes pending a status report at budget hearings on CDC's implementation of the BSA recommendations and the projected savings from such efforts in the budget year. (Reduce Item 5240-001-0001 by \$5.3 million.)

The BSA Audit Findings. Eight years ago, CDC created a Health Care Services Division to more efficiently manage the provision of medical care for state prison inmates. In January 2000, however, a BSA report commissioned by the Legislature found that the department does not fully or adequately use many standard managed care practices that could help hold down CDC's medical costs.

In particular, BSA found that the CDC uses only limited methods to contain costs and ensure uniform care and that medical operating costs vary widely among the prisons providing medical care. The BSA also determined that rapidly growing CDC pharmacy costs could be reduced if the department employed more effective contracting methods.

Given the size and rapid growth in the CDC medical operations budget, we believe the BSA findings and recommendations warrant careful review by the Legislature. The CDC's medical expenditures are growing by about \$40 million annually—a total of \$593 million is requested for 2000-01—even though the rate of growth in the inmate population has slowed significantly.

Analyst's Recommendations. We recommend that the Legislature take the following actions in regard to various CDC requests for additional funding for its medical operations:

- *Improvements in Health Care Operations.* We recommend approval of two budget initiatives that, in our view, move the CDC

closer to compliance with the findings of the BSA. Specifically, we recommend approval of \$506,000 to strengthen oversight of its health care utilization management unit. We also recommend approval of a separate \$6.5 million budget request to provide resources to conduct audits of the quality of medical care, better track inmate complaints about medical care, upgrade the level of medical services at two women's prisons, and study the idea of turning over management of CDC medical operations to an outside entity.

- ***Compliance With Court Orders.*** We recommend approval of an \$18.8 million budget request to comply with a federal court order to improve mental health services in administrative segregation units, areas within state prisons for inmates who for various reasons require additional security measures. The funding package also provides funding for incentives and staffing shifts intended to help address persistent shortages of certain medical clinicians. These steps were ordered by a court as part of an ongoing federal case, *Coleman v. Davis*.
- ***Adjustments for Lower Inmate Caseload.*** We recommend a reduction of \$4.4 million from a total of \$6.4 million requested for increased costs for contracting for outside medical services, and a further reduction of \$900,000 from a total of \$6.5 million requested because of increased costs for medical and psychiatric supplies. This total reduction of \$5.3 million is recommended to take into account a significant slowdown in inmate population growth.
- ***Implementation of Audit Recommendations.*** We withhold recommendation on the remaining \$7.6 million requested for outside medical contracting and supplies. Before considering this request, CDC should report at budget hearings on its implementation of the BSA recommendations and the projected savings from such efforts in the budget year. If CDC is effectively implementing a better managed care system and improving its pharmacy contracting, some or all of this requested budget augmentation should be offset with projected savings. The CDC should provide an estimate of those savings at the time of the budget hearings.

CORRECTIONAL ADMINISTRATION

Audits Show Need to Overhaul Poor CDC Personnel Management Practices

A Bureau of State Audits (BSA) report has found that poor personnel management practices at state prisons are wasting as much as \$35 million annually and building up a state liability of leave time that could amount to \$127 million within four years. We recommend an \$18.3 million reduction to reflect the savings from correcting these problems. (Reduce Item 5240-001-0001 by \$18.3 million.)

We withhold recommendation on \$119 million provided in the budget for overtime pay pending a review of the Department of Corrections' (CDC's) response to the BSA recommendations and a report from CDC at budget hearings regarding additional short-term funding needed to address the leave-time liability problem.

Audits Find Significant Problems. In last year's analysis of the CDC budget, we discussed the significant problems the department had been experiencing in effectively managing its prison personnel. We noted our concerns regarding high overtime costs that increased \$25 million in one year, constraints on prisons' use of less costly permanent intermittent workers, and unusually high vacancy rates for custody positions in some institutions. In response to these concerns, the Legislature directed that BSA review the personnel management policies and practices at a sample of state prisons and recommend what changes, if any, were warranted in CDC's prison operations.

That audit, which was released in late January 2000, concluded that CDC has failed to effectively manage sick leave usage and its holiday and leave programs. The audit found that, as a result, the department is incurring high overtime costs primarily as a result of significant use of sick leave by custodial staff. A prior audit, released in July 1999, found that overtime was being authorized improperly for CDC employees.

Among the significant findings of the two audits:

- *Sick Leave Abuse.* The BSA found that CDC expenditures to bring in replacements for staff who had called in sick were so substantial as to indicate that sick leave benefits were possibly being abused. If CDC incurred sick leave at the same rate as California Highway Patrol officers, and used a more efficient approach to fill vacant positions, BSA determined the state would save \$35 million. The BSA suggested that significant efforts to curtail abuse of sick leave, such as more effective discipline for abuse and bet-

ter tracking of sick leave usage, could allow a reduction in the CDC budget of at least \$17 million.

- **Leave Balance Liability.** The BSA report called attention to the practice by which CDC staff have built up large balances of unused holiday leave, vacation leave, and annual leave which could prove costly to the state because of inflexible prison policies limiting employees' ability to take time off. Such a liability grows when a full-time correctional officer earns 13 days off each year but is allowed to take only a few of those days off. As the employee's pay increases over time because of merit and general salary increases, the amount of money the state must someday pay to that employee also increases. The BSA estimated that the state liability just for holiday leave alone now amounts to \$72.3 million and could reach \$127 million within four years. In order to save money in the long run, it recommended the state act now to cash out the leave balances owed to lower-paid staff and to require more highly paid custody staff to use their leave time.
- **Overuse of Overtime.** The BSA audit found that some prisons are failing to properly fill permanent custody positions, or to sufficiently use part-time staffers known as permanent intermittent employees or PIEs, and too often were using overtime to fill in when a post is vacant due to sick leave usage or other reasons. As a result, many CDC staff were earning more than their superiors; in 42 cases, staff members received more than the \$90,576 earned by prison wardens. The BSA recommended that each prison conduct an analysis of its permanent staffing needs and use PIEs more effectively to hold down overtime costs.
- **Improper Authorization of Overtime.** The BSA found cases in which (1) CDC custody staff were allowed to sign off on their own overtime requests, (2) no supervisor had signed time records authorizing time, and (3) custodial staff were allowed to work excessive overtime hours. It recommended that CDC enforce overtime authorization rules.

Analyst's Recommendation. Because of the concerns raised by the BSA audits regarding mismanagement of personnel operations at state prisons, we recommend that the Legislature take the following actions:

- We recommend a \$17 million reduction from reducing excessive sick leave by implementing the reforms recommended by the BSA. We also recommend that a pending CDC budget request for \$1.3 million in additional sick leave coverage be rejected, bringing the proposed total reduction to \$18.3 million. The BSA indi-

cates that this money would not be needed if CDC takes the actions needed to reduce sick leave usage to more reasonable levels.

- We recommend that the Legislature concur with a CDC budget request to hire 264 additional custody staff statewide, beginning in the current fiscal year, to hold down the overtime costs for filling in for staff who have called in sick. The CDC budget request assumes that this strategy will result in an additional net savings to the state of \$4 million during the budget year.
- We withhold recommendation at this time on \$119 million in CDC's baseline budget for overtime pay pending: (1) our review of CDC's response to the BSA recommendations and (2) a report from CDC at budget hearings regarding the additional short-term funding that would be needed to address the department's leave-time liability problem. We recognize that, in order to reduce this leave liability and save money in the long run, CDC may require additional funding in the short run to cash out leave balances for some existing staff members and to hire additional custody staff to fill in for workers who are mandated to use their accumulated leave.

Various Proposals Need Modification

We recommend a reduction of \$17.1 million requested in the Department of Corrections' (CDC's) budget for leased jail beds, recruitment of new correctional officers, internal affairs investigations, a new inmate drug-testing program, prison construction staffing, and special repair projects. We recommend that positions proposed for development of a new training curriculum for new and existing staff be extended to two years instead of the one year that is proposed. Finally, we recommend that CDC provide the Legislature before hearings with full documentation of the details and the ramification of its departmental restructuring plan. (Reduce Item 5240-001-0001 by \$17.1 million.)

The proposed 2000-01 CDC budget includes funding relating to leased jail beds, recruitment of new correctional officers, development of new training curriculum for new and existing staff, internal affairs investigations, and a new inmate drug-testing program. The budget also provides \$140 million for administration of the department.

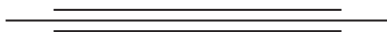
Analyst's Recommendation. We recommend deletion or a reduction of funding for various proposed expenditures that we have found are not justified, and offer other recommendations as outlined below.

- **Leased Jail Beds.** We recommend a reduction of \$5.7 million for the leasing of jail beds from Los Angeles County. The CDC budget includes funding to pay Los Angeles County for holding 1,400

parole violators in its jails. Our review has found that only about 1,000 contract beds are actually being used now. For two years in a row, CDC has obtained full funding for these beds but then fallen far short of using them. If, at the time of the May Revision, CDC actually brings the capacity of the Los Angeles County jail space to 1,400 beds, it would be appropriate for the Legislature to consider restoration of the \$5.7 million.

- **Recruitment Efforts.** We recommend the deletion of \$1.5 million requested to create a new administrative unit within CDC to recruit additional custody staff. The proposal does not take into account the significant reduction in the number of new correctional officers who will be needed in the future due to the slow-down in inmate population growth.
- **Internal Affairs Investigations.** We recommend a \$2 million reduction in the budget for CDC's Office of Internal Affairs for investigations of allegations of workplace retaliation against "whistleblowers" because of the administration's proposal to shift this workload to the Office of the Inspector General (OIG). The OIG budget request assumes this work would no longer be done by the CDC investigative unit, but no adjustment has been made to the CDC budget to account for this proposed change. (Please see our analysis of the OIG later in this chapter for more details.)
- **Random Drug Testing of Inmates.** We recommend the deletion of \$1.5 million proposed to hire 27 custody staff to conduct random drug testing of inmates at state prisons because the proposal is premature. The CDC budget includes \$900,000 in funding, for which we recommend approval, to complete pilot projects to test several approaches to curbing the infiltration of drugs into prisons. The results of the pilot projects should be available before this proposal is considered.
- **Planning and Construction Division Staffing.** We recommend that the Legislature delete \$1.4 million and 25.5 positions requested in the budget year and nine positions requested for 2001-02 for design and construction services related to the new state prison near Delano because the department has not demonstrated a need for additional staff. The Planning and Construction Division already has an authorized staff of more than 300 positions, of which nearly 100 are vacant. Many of the requested positions have the same classification as vacant ones. Moreover, while the CDC says additional staff is needed to expedite the construction of the prison, recent inmate population trends now indicate that there is no need to expedite its construction.

- ***Special Repair Funding.*** We recommend that the Legislature delete a \$5 million augmentation sought for special repair projects because the department has not justified the need for additional funds for such purposes as replacing roofs and repairing boilers. The CDC already receives \$10 million annually for such projects, yet the current special repair workload includes projects begun as long as four years ago that have yet to be completed for various reasons. We recommend that the department concentrate its efforts on completing the projects it has already begun before assuming additional workload and seeking additional funding for special repairs.
- ***Curriculum Development Unit.*** We recommend approval of 14 positions for a unit that develops new curriculum for CDC training operations. However, we recommend that the positions be approved for an additional two-year period, rather than the one-year extension that is proposed, because the workload of the unit is certain to extend into the 2001-02 fiscal year.
- ***Administrative Restructuring Plan.*** We recommend that CDC provide the Legislature before budget hearings with full documentation of the details and ramifications of its September 1999 Departmental Restructuring Plan to reduce CDC expenditures by \$65.8 million and 491 personnel-years. The Governor's budget plan indicates that any recommendations for changes to the CDC budget resulting from the plan may be presented to the Legislature in the spring. Given the significant impact this plan is already having upon CDC operations, primarily by adding to an unusually large number of vacancies in the central office, we believe it is critical that the Legislature have an opportunity to conduct a full and independent review of the original proposal before taking final action on the CDC's \$140 million budget for administration.



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 BPT considers parole release for all persons sentenced to state prison under the indeterminate sentencing laws. The BPT may also suspend or revoke the parole of any prisoner under its jurisdiction who has violated parole. In addition, the BPT advises the Governor on applications for clemency and helps screen prison inmates who are scheduled for parole to determine if they are sexually violent predators subject to potential civil commitment.

The 2000-01 *Governor's Budget* proposes \$19 million from the General Fund for the support of the BPT. This is an increase of \$1.4 million, or 7.7 percent, above estimated expenditures for the current year. The proposed current- and budget-year increases are primarily the result of an increase in compensation for BPT employees.

Process Without Possibility of Parole: Hearings for Life-Term Inmates

An unwritten administration policy that effectively ensures that no inmate with a life sentence is released on parole has significant legal, policy, and fiscal ramifications for the state criminal justice system. The Board of Prison Terms (BPT) continues to receive full funding for its parole review process despite the current release policy. We recommend that the Youth and Adult Correctional Agency and BPT clarify the scope, intent, and reasons for the administration's policy at budget hearings.

Background. Under the state's determinate sentencing law, many offenders, such as those convicted of robbery or burglary, are sentenced by the courts to serve a specific period of time in state prison as punishment for their offenses and then are automatically released to the community under the supervision of parole agents. However, certain offenders, par-

ticularly those punished for murder, are serving so-called indeterminate sentences in which the period of time to be served in prison before release to parole is not fixed in advance by the court.

For example, a first-degree murderer can be sentenced to an indeterminate prison term of 25 years to life. These indeterminately sentenced offenders are often called “lifers” even though most are eventually legally eligible for release. In the example of the person convicted of murder above, an offender sentenced now for such a crime is eligible for release on parole after being incarcerated for 25 years for the offense.

About 24,100 offenders with life sentences were being held in the adult state prison system as of December 1998. Of that group, 2,100 were inmates serving prison terms of life without the possibility of parole and 5,500 inmates were offenders sentenced under the “Three Strikes and You’re Out” law who will not be eligible for parole until 2014 at the earliest.

The remaining 16,500 inmates who have received life terms, the great majority of whom have been convicted of first- or second-degree murder, become eligible under state law for parole consideration once they have served the minimum number of years in prison specified in state law for their particular crime.

The Role of BPT and the Governor. The BPT is the state agency primarily responsible under state law for deciding when those lifers who have served the minimum required prison time, and thus are now eligible for parole, will actually be released to the community. The formal process for making parole decisions and the criteria that are supposed to be applied in making such decisions are outlined in the State Constitution and the Penal Code and in past judicial decisions. The process outlined includes the following steps:

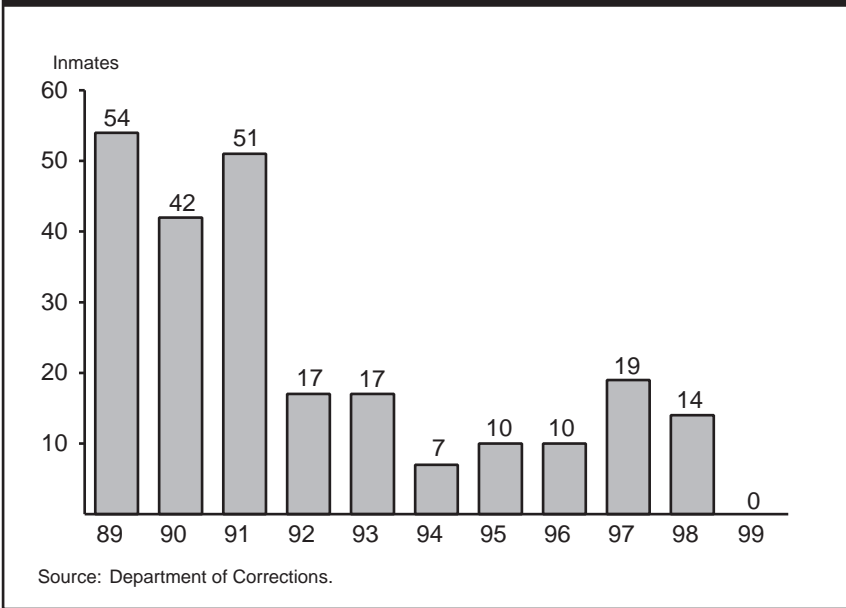
- Beginning three years after an inmate is sent to prison with a life sentence, the BPT conducts so-called “documentation hearings” to review each such inmate’s file, document the inmate’s conduct and activities, and make recommendations (such as proposing the offender complete his high school education or learn a job skill) that could affect the time the offender will serve in prison.
- The BPT is to meet with each lifer one year prior to the date the inmate is eligible for parole consideration and “shall normally set a release date,” a process termed “initial hearings.” The law states that the board “shall set a release date” unless it determines that the gravity and timing of the individual’s most recent or prior crimes requires that a release date not be established at that time in order to protect the safety of the public. The BPT is to conduct formal hearings, ordinarily involving two commissioners and one

deputy commissioner, to determine whether a parole date shall be granted.

- The BPT is required to establish criteria for setting parole release dates that consider the number of crime victims and other factors in aggravation or mitigation of the crime. Parole release dates are supposed to be uniform for offenses of similar gravity and magnitude with respect to their threat to the public. The BPT is to consider the statements and recommendations of judges, district attorneys, sheriffs, and crime victims in granting or denying parole.
- Inmates who are initially denied a release date are ordinarily to be reconsidered for parole each year thereafter in what BPT terms “subsequent hearings.” The board can defer reconsideration for two to five years if it finds it is not reasonable to expect parole would be granted during the intervening time.
- Any BPT decision to deny parole is subject to appeal and review by an internal BPT unit. Also, BPT decisions to grant parole to any person convicted of murder cannot take effect until after 30 days. During that time the Governor may review the decision and is allowed to reverse it, but only if his decision is based on the same factors considered by the BPT. The Governor is also required to provide a report to the Legislature explaining the pertinent facts and reason for his action.

The parole process constitutes a significant workload for the BPT. The BPT’s latest budget request is based on the assumption that panels of commissioners and deputy commissioners will conduct 2,700 documentation hearings, 500 initial hearings, 1,700 subsequent hearings, 2,300 decision review hearings, and process 400 lifer-inmate appeals during the course of the 2000-01 fiscal year. These activities are estimated to consume about 9,000 hours of time of deputy commissioners and 15,400 hours of time of commissioners, as well as generate a considerable workload for clerical, legal, and other administrative staff.

Lifer Releases Essentially Discontinued. As shown in Figure 1, the number of lifers released to the community diminished during the 1990s according to California Department of Corrections (CDC) data. During the 1989 calendar year, 51 first-degree and three second-degree murderers were released on parole by the BPT. By 1998, the number had decreased to 14—two first-degree and 12 second-degree murderers. Notably, this dramatic slowdown in the rate of parole for lifers occurred even as the pool of lifer inmates eligible for release grew by 300 to 700 inmates per year.

Figure 1**Parole Releases for "Lifers" Diminished in the 1990s**

No inmates were released on parole in 1999. On at least 18 occasions in 1999 (BPT declined to provide the Legislature with the exact figure), BPT recommended that parole be granted, but in each case the Governor requested to review the case and reversed the parole decision. The administration has issued no formal written policy declaring or explaining this change in parole decision-making and has not yet provided reports required by the State Constitution explaining its actions on the parole cases. However, the Governor has indicated publicly that he objects to the release of anyone who has committed murder.

Ramifications of the New Policy. The unwritten administration policy of no longer releasing from prison any life-term inmate who is eligible for parole has significant legal, policy, and fiscal ramifications for the state criminal justice system.

The no-parole policy for lifers is likely to result in further litigation between the state and inmates seeking parole. The courts could determine that the administration's policy is contrary to state law and restrict the administration's authority over parole releases. Alternatively, the courts might conclude that the Governor's actions are not contrary to current law.

Recent Office of Administrative Law Determination. A recent ruling by a state agency has cast a legal cloud over the administration's actions. In November 1999, the Office of Administrative Law (OAL) released an official regulatory determination finding that, if the state was denying parole to life inmates as a group, such actions were illegal because such a policy would have to be adopted as a formal state regulation.

The OAL stopped short of determining whether such a policy was actually in practice, saying that such a determination is beyond its legal jurisdiction. Its written ruling raises the question, however, whether any such regulation establishing a no-parole policy for lifers, if it were to be formally submitted to OAL, would be in conflict with existing statutes and judicial case law governing the parole process. The OAL determination refers to a 1972 California Supreme Court ruling and a 1983 state appellate court ruling which held that state officials could not legally prohibit the release on parole of offenders as a class but were instead required to examine the case of each inmate individually based upon all relevant aggravating and mitigating factors.

Effects on Future Decisions. The practice of denying parole to all lifers potentially could also affect sentencing practices by the courts and future legislative decision-making on sentencing laws. Under such a circumstance, both the courts and the Legislature might take into account the likelihood that any prison term of life *with* the possibility of parole may actually amount to life *without* the possibility of parole. This could result in judges being more or less willing to sentence a particular offender to a life term, and could make the Legislature more or less willing in the future to establish a life term as the penalty for a particular offense in the drafting of new sentencing laws.

Fiscal Impact of Policy Change. The slowdown in parole releases during the 1990s has already had a significant fiscal impact on the state. We estimate that more than 4,000 offenders now held in the state prison system at an annual cost of at least \$100 million annually have served the minimum period of prison time to be eligible for parole release. Based on our review of BPT caseload data, the number of additional prison inmates who exceed their minimum eligible release date without being released to the community is about 500 per year. Thus, with each passing year, state incarceration costs for this group of offenders is building by about \$12 million.

In addition, because offenders with life terms ordinarily are held in high-security facilities, the policy has added to the pressure on the state to build additional maximum-security bed space, such as the \$335 million prison now under construction near Delano. The policy is also driv-

ing up CDC medical costs, because aging lifers are more likely to need medical assistance.

Even before the 1990s decline in parole releases, only a fraction of the offenders eligible for parole were actually being released. In 1989-90, for example, about 3.2 percent of the inmates participating in parole hearings were granted a parole date. If parole releases of lifers were occurring today at the same 3.2 percent rate, the number paroling each year would be about 70 and state incarceration costs would be offset by about \$1.6 million more each year.

Impact on BPT Expenditures. One effect of the policy of denying release of life-term inmates has been to increase costs for BPT operations. After initially being denied release, the offenders periodically come back to the board for subsequent hearings, increasing that caseload by 140 percent during the 1990s.

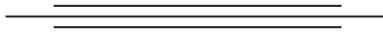
So far, however, the decision to halt the release of lifers has not otherwise affected BPT expenditures. The BPT has continued to receive full funding for hearings, decision reviews, and other parole procedures in its budget even though current practice indicates that no life-term inmates will be released on parole.

Analyst's Recommendation. At the time this *Analysis* was prepared, we were unable to clarify the scope, intent, and reasons for the administration's unwritten policy of halting all releases of lifers to parole. A response by BPT to our request for this information, which was reviewed and released to us by the Youth and Adult Correctional Agency, stated only that BPT has not changed its own parole policies and provided no information regarding the administration position on several important issues. Among the issues for which we were unable to obtain clarification:

- Whether the administration's no-parole policy applies only to offenders convicted of murder or also extends to other lifers, such as offenders convicted under the "Three Strikes and You're Out" law.
- The administration's legal justification for reversing all grants of parole by the BPT.
- The administration's position regarding the OAL regulatory determination that any blanket policy prohibiting parole of lifers must be formally adopted as a state regulation.
- The administration's reasons for continuing to budget funding for BPT parole hearings given that these offenders will not be released on parole.

Accordingly, we recommend that the Youth and Adult Correctional Agency and the BPT clarify the scope, intent, and reasons for the administration policy at budget hearings. We also recommend that they provide the following additional information to the Legislature:

- The number of indeterminately sentenced inmates whose grant of parole release was reviewed by the Governor during the 1999 calendar year.
- The disposition of each such case to date.
- The report to the Legislature regarding parole decisions required under Article V, Section 8 (b) of the California Constitution for all 1999 decisions of the Governor.



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, including two reception centers/clinics, and four conservation camps. In addition, the department supervises parolees through 16 offices located throughout the state.

The budget proposes total expenditures of \$411 million for the Youth Authority in 2000-01. This is \$5.2 million, or about 1.2 percent, less than estimated current-year expenditures. General Fund expenditures are proposed to total \$330 million in the budget year, a decrease of \$6.9 million, or 2 percent, below expenditures in 1999-00. The department's proposed General Fund expenditures include \$41 million in Proposition 98 educational funds. The Youth Authority also estimates that it will receive about \$79.2 million in reimbursements in 2000-01. These reimbursements primarily come from the fees that counties pay for certain wards they send to the Youth Authority.

The primary reason for the decrease in General Fund spending for the budget year is that parole expenditures are decreasing by \$16.4 million, due to a decrease in the number of projected releases to parole.

Approximately 73 percent of the total funds requested for the department is for operation of the department's institutions and camps and 14 percent is for parole and community services. The remaining 13 percent of total funds is for the Youth Authority's education program.

WARD POPULATION

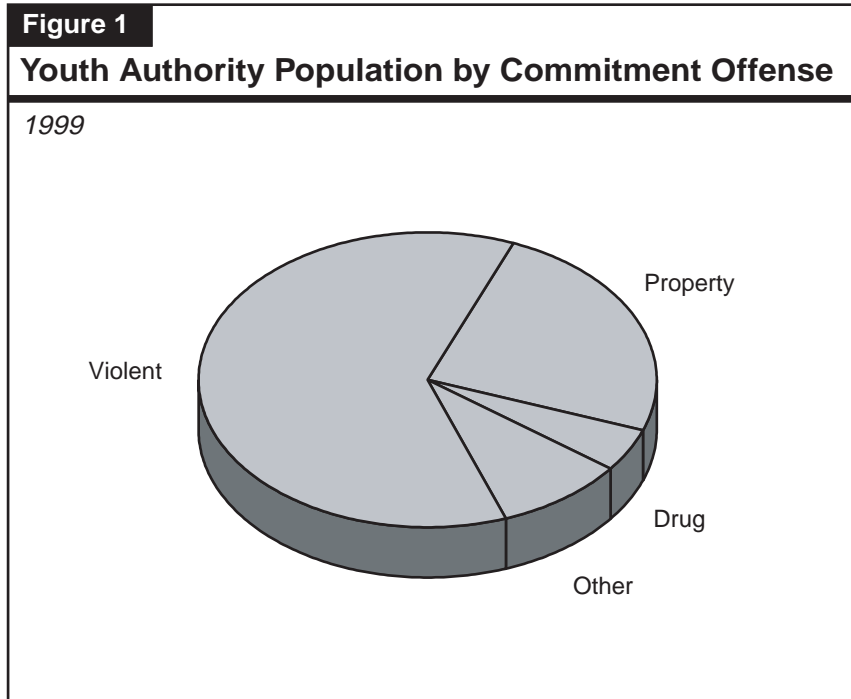
Who Is in the Youth Authority?

There are several ways that an individual can be committed to the Youth Authority's institution and camp population, including:

- **Juvenile Court Admissions.** The largest number of first-time admissions to the Youth Authority are made by juvenile courts. As of December 1999, 95 percent of the institutional population was committed by the juvenile courts. Juvenile court commitments include offenders who have committed both misdemeanors and felonies.
- **Criminal Court Commitments.** These courts send juveniles who were tried and convicted as adults to the Youth Authority. On December 31, 1999, 5 percent of the institutional population were juveniles committed by criminal courts.
- **Corrections Inmates.** This segment of the Youth Authority population—2 percent of the population in December 1999—is comprised of inmates from the Department of Corrections (CDC). These inmates are referred to as "M cases" because the letter M is used as part of their Youth Authority identification number. These individuals were under the age of 18 when they were committed to CDC after a felony conviction in criminal court. Prior to July 22, 1996, these inmates could have remained in the Youth Authority until they reached the age of 25. Chapter 195, Statutes of 1996 (AB 3369, Bordonaro) restricts future M cases to only those CDC inmates who are under the age of 18 at the time of sentencing. The new law requires that M cases be transferred to the CDC at age 18, unless their earliest possible release date comes before their 21st birthday.
- **Parole Violators.** These are parolees who violate a condition of parole and are returned to the Youth Authority. In addition, some parolees are recommitted to the Youth Authority if they commit a new offense while on parole.

Characteristics of the Youth Authority Wards. Wards in Youth Authority institutions are predominately male, 19 years old on average, and come primarily from southern California. Hispanics make up the largest racial and ethnic group in Youth Authority institutions, accounting for 49 percent of the total population. African Americans make up 29 percent of the population, whites are 14 percent, and Asians and others are approximately 8 percent.

Most Wards Committed for Violent Offenses. Figure 1 shows the Youth Authority population by type of offense.



As of December 1999, 62 percent of the wards housed in Youth Authority institutions were committed for a violent offense, such as homicide, robbery, assault, and various sex offenses. In contrast, only 43 percent of CDC's population has been incarcerated for violent offenses.

The number of wards incarcerated for property offenses, such as burglary and auto theft, was 25 percent of the total population. The number of wards incarcerated for drug offenses was 5 percent in 1998, and the remaining 9 percent was incarcerated for various other offenses. We believe that the percentage of wards that are incarcerated for violent offenses will probably remain the same or increase somewhat in future years. This is because the state has implemented a sliding fee schedule that provides the counties with an incentive to commit more serious offenders to the Youth Authority while retaining the less serious offenders at the local level. Specifically, counties are charged higher fees for less serious offenders committed to the Youth Authority and lower fees for more serious offenders.

Average Period of Incarceration Is Increasing. Wards committed to the Youth Authority for violent offenses serve longer periods of incarceration than offenders committed for property or drug offenses. Because of an increase in violent offender commitments, the average length of stay for a ward in an institution is increasing. For example, the Youth Authority estimates that on average, wards who are first paroled in 1999-00 will have spent 27.7 months in a Youth Authority institution compared to 22.6 months for a ward paroled in 1995-96. This trend is expected to continue; the Youth Authority projects that the length of stay for first parolees in 2003-04 will be 28.7 months, a 3.6 percent increase.

The longer lengths of stay also are explained in part by the fact that wards committed by the juvenile court serve “indeterminate” periods of incarceration, rather than a specified period of incarceration. Wards receive a parole consideration date when they are first admitted to the Youth Authority, based on their commitment offense. Time can be added or reduced by the Youthful Offender Parole Board (YOPB), based on the ward’s behavior and whether the ward has completed rehabilitation programs. In contrast, juveniles and most adults sentenced in criminal court serve “determinate” sentences—generally a fixed number of years—that can be reduced by “work” credits and time served prior to sentencing.

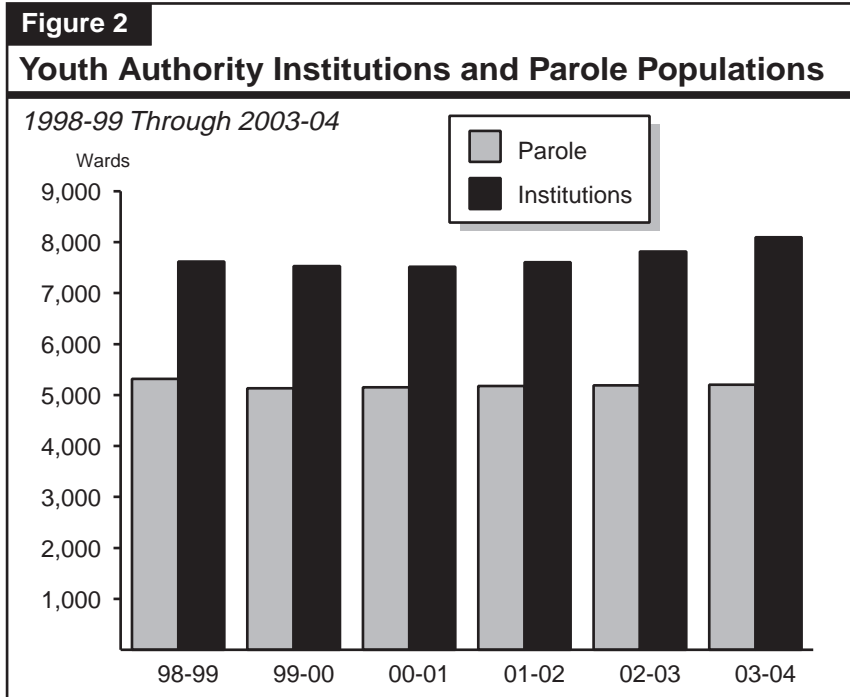
As the Youth Authority population changes, so that the number of wards committed for violent offenses makes up a larger share of the total population, the length of stay will become a significant factor in calculating population growth.

Ward and Parolee Populations Relatively Flat

The Youth Authority’s institutional population will remain relatively flat through 2000-01, increasing thereafter. The Youth Authority’s forecast is to have 7,420 wards at the end of the budget year and 8,100 wards in 2003-04. Youth Authority parole populations are expected to increase in the budget year to about 5,085 parolees, and will continue to increase to about 5,205 parolees by the end of 2003-04.

The Youth Authority’s September 1999 ward population projections (which form the basis for the 2000-01 Governor’s Budget) estimate that the number of wards and inmates housed in the Youth Authority will remain relatively flat through the budget year. For the budget year through 2003-04, the Youth Authority projects that its population will generally increase, reaching 8,100 incarcerated wards on June 30, 2004.

While the Youth Authority is experiencing a decline in the number of parolees it supervises in the current year, the number of parolees will increase slowly through 2004. Figure 2 shows the Youth Authority’s institutional and parolee populations from 1998-99 through 2003-04.



Ward and Parolee Population Projections Will Be Updated in May

We withhold recommendation on a net \$565,000 increase from the General Fund based on projected ward and parolee population changes, pending receipt of the revised budget proposal and population projections to be contained in the May Revision.

Ward and Parolee Population in the Budget Year. The Youth Authority population is projected to be essentially flat—declining by only ten wards—from the end of the current year to the end of the budget year. Despite this slight decrease, the budget proposes a net increase of \$565,000 from the General Fund. This increase in costs reflects an anticipated demographic shift in the Youth Authority population toward increased admissions of female and younger male wards. The female population is expected to increase by ten wards by the end of the budget year. A projected decrease in the male population at the department’s male and female facility in Ventura could free-up resources to accommodate additional females without new costs. However, this is not possible due to recent facility modifications that segregated male wards from female wards.

Adolescent males are at a higher risk for suicidal and self-destructive behavior, and an increase in this population will result in additional costs. These costs are primarily for additional staff to monitor these younger wards. Thus, additional resources are required at the institutions designed to serve these segments of the ward population.

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. To the extent that the population decline is greater than currently assumed, it could necessitate closing a housing unit or one of the department's 16 parole offices, which would result in substantial savings.

In recent years, Youth Authority projections have tended to be somewhat higher than the actual population, leading to downward revisions for the future projected population. For example, the projection of the June 30, 2000 institutional population projection dropped from 7,510 in the fall 1998 projections to 7,355 in the spring 1999 projections, and currently stands at 7,430.

While the population appears to be relatively flat, there is sufficient uncertainty to warrant withholding recommendation on the budget changes associated with the population size pending receipt and analysis of the revised budget proposal.

BUDGET ISSUES

Expansion of Basic Peace Officers Academy Relies on Training Standards

We withhold recommendation on the Youth Authority's plan to expand the Basic Peace Officers Academy from five weeks to ten weeks, because the merits of this proposal cannot be fully assessed without information about academy training standards.

Budget Proposal. The Governor's budget requests \$2.1 million from the General Fund to expand from 200 hours to 600 hours the amount of training provided at the Youth Authority's Basic Peace Officers Academy. The training would be conducted within a ten-week period. In addition to the purchase of training equipment, the proposed appropriation would be used to hire curriculum designers, consultants and training staff to develop and teach an expanded curriculum which would include courses on cultural diversity, restorative justice, and computer training.

Report on Academy Training Standards Not Yet Available. The proposal states that the proposed curriculum changes have been made in

response to recommendations made by an internal Basic Academy Task Force, as well as training standards set by the Commission on Correctional Peace Officers' Standards and Training. However, a commission report on academy training standards, which was due on September 1, 1999, has not yet been released. (For a discussion of this commission report issue, see the commission's budget later in this chapter.) The information in the report is necessary in order to consider alternatives for improving Youth Authority training programs, and for determining which courses need to be taught in academy training and which can be taught during in-service training.

Analyst's Recommendation. Since the validity of the Basic Peace Officers Academy expansion plan is dependent on how well the proposed curriculum meets the training standards set by the commission, we withhold recommendation on the plan at this time pending receipt of the commission's report on correctional officer academy training standards.

Effectiveness of Ombudsperson Depends on Complaint Procedures

We withhold recommendation on the department's request for \$184,000 from the General Fund to establish two "ombudsperson" positions pending receipt of a report from the Youth Authority, prior to budget hearings, on the department's policies and complaint procedures related to these positions.

Recent events at various Youth Authority institutions indicate a possible need for an "early warning system" to alert the Director of the Youth Authority to serious problems in the department. The budget proposes \$184,000 from the General Fund to establish two ombudsperson positions to serve as independent officials whose role would be to oversee administrative actions and report to the Director on highly sensitive issues. The ombudspersons would act independently of the Youth and Adult Correctional Agency's Inspector General and the department's Internal Affairs Unit.

As issues are identified, the positions would conduct research that could result in policy and operational recommendations. The primary objective of these positions would be to provide early resolution to sensitive issues raised by wards and outside entities. The two positions would be responsible for overseeing the northern and southern facilities respectively.

Ombudsperson Policies Not Well Defined. At the time this analysis was prepared, the department had not developed policies and procedures related to the utilization of these positions. In order for the ombudsperson positions to effectively identify and address both ward and staff com-

plaints in a manner which holds the department accountable for outcomes, the ombudsperson's duties should include the following:

- Decide whether to investigate a complaint and notify the complainant of intent to investigate or of the reason not to investigate.
- Investigate and attempt to resolve complaints made by or on behalf of wards and staff.
- Submit written plans recommending the course of action to resolve the complaint.
- Update complainant on the progress of the investigation and notify the complainant of the final outcome.
- Compile and make available to the Legislature all data collected, including the number of complaints made, the number of investigations performed by the office, the number of unresolved complaints, and the nature of the complaints.

Analyst's Recommendation. Given the uncertainties about how these ombudspersons will be used, we withhold recommendation on the proposal to establish two such positions, pending receipt of additional information. The Youth Authority should inform the Legislature, prior to budget hearings, about department policies and procedures related to these positions.



OFFICE OF THE INSPECTOR GENERAL (0552)

The Office of the Inspector General, within the Youth and Adult Correctional Agency, is responsible for audits and investigations of the boards and departments within the state's correctional system. The office performs management review audits of adult prison wardens and Youth Authority facility superintendents. It audits the performance of internal affairs units operated within the state correctional system and reviews the adequacy of those investigations. The office also directly investigates certain allegations of staff misconduct in the correctional system and operates a toll-free telephone hotline for reporting of such misconduct and violations of state policy. State law establishes the office as an independent entity reporting directly to the Governor.

The budget proposes expenditures of \$10.2 million in 2000-01 from the General Fund. This is about \$4.2 million, or 69 percent, more than the current-year expenditures estimated in the Governor's spending plan. (As we will discuss later, we believe the current-year expenditures are overestimated.) The increase in year-to-year expenditures is due primarily to the implementation of state legislation significantly expanding the responsibilities of the office.

Fast-Growing Office Overbudgeted

The Office of Inspector General is significantly overbudgeted for 1999-00, with the result that \$2.3 million—about one-third of its initial budget allocation—will likely go unspent. About 70 percent of the new positions added for 1999-00 were still vacant as of January 2000 because the office could not keep pace with the budgeted quadrupling of its workforce. We recommend that the proposed 2000-01 spending request be reduced by \$1.5 million because (1) the rapid pace of personnel growth that is assumed is unrealistic and (2) its auditing and investigative workload is moderately less than projected. (Reduce Item 0550-001-0001 by \$1.5 million.)

Office Hiring Not Keeping Pace With Projections. The Office of the Inspector General, which was initially created in 1994, has been assigned significantly expanded duties by several 1998 and 1999 legislative measures. While the Legislature has fully funded the office's requests for additional funding to carry out these legislative mandates, the office has not expended all the funds or hired all the staff that was budgeted for these purposes.

In 1998-99, the office was overbudgeted by about \$129,000, or 7 percent, and used only about nine personnel-years (PYs) in staffing despite being budgeted for 16 PYs. We estimate that in 1999-00 the office will be overbudgeted by about \$2.3 million, or almost one-third of the budget allocation provided in the *1999-00 Budget Act*, and thus will expend about \$5.1 million in the current fiscal year. About 70 percent of the new positions added for 1999-00 were still vacant as of January 2000 because the office cannot keep pace with the budgeted quadrupling of its workforce. As a result, the office estimates that it will use only about 26 PYs in the current year out of the 59 PYs of staffing added to the office's operations.

In May 1999, we advised the Legislature that the office appeared unlikely to be able to add staff and expand its auditing and investigative programs as quickly as had been proposed. At the time, the office assured the Legislature that all of the resources were needed and could be used. Subsequently, the full funding it requested was provided in the *1999-00 Budget Act*. However, the office now acknowledges that, what it has termed as "unavoidable delays" in expanding its operations will result in a significant portion of its current-year budget being left unspent. This will occur even though the office intends to redirect about \$490,000 of its funds to temporarily hire retired annuitants and outside consultants in place of permanent investigative staff which it is unable to hire as planned.

Current-Year Audit and Investigative Workload Overstated. Our review of revised caseload estimates indicates that the workload projections upon which the 1999-00 office budget was based were also moderately overstated. For example, the office now expects to conduct only seven investigations initiated by legislative requests instead of the 30 for which it sought and received funding. The toll-free telephone hotline is now anticipated to generate only 15 investigations instead of the 90 the office predicted.

Some categories of investigations and audits, such as management review audits, are exceeding projections, and the time expended on certain types of investigations is exceeding the office's budgetary standards. However, taking all of these changes into account, we estimate that the

office is overbudgeted for its workload by about \$570,000 and six PYs in staffing in 1999-00.

New Budget Request Also Excessive. Although the office has yet to catch up with the significant increases in staffing and spending it was provided in the 1999-00 *Budget Act*, its 2000-01 budget plan assumes that all of the staffing authorized for the current year will be in place by June 2000. It also provides resources to implement two new investigative programs required by 1999 state legislation:

- About \$2.3 million and 23.7 PYs in staffing would be added to investigate allegations of retaliation against so-called “whistleblowers”—state employees who point out wrongdoing by other staff (Chapter 806 [SB 377, Polanco]).
- An additional \$451,000 and 4.8 PYs in staffing would be added to perform additional management reviews of adult prisons and Youth Authority facilities (Chapter 918 [SB 868, Wright]).

We believe it is reasonable and appropriate for the office’s budget request for 2000-01 to include additional resources to comply with the 1999 legislative requirements. We are concerned, however, that the budget request assumes that all of the new staff would be hired and in place from the very start of the 2000-01 fiscal year. This seems unlikely given the office’s track record for bringing on additional personnel over the past two years. Our review of updated caseload data also indicates that the budget request moderately overstates the new and existing workload the office would have to handle for correctional audits and investigations.

(We would note that Chapter 806, the bill to protect so-called “whistleblowers,” assigns these types of cases to the Office of the Inspector General from the California Department of Corrections’ [CDC] internal affairs unit. However, no offsetting reduction has been made in the CDC budget to account for a reduction in the caseload of that unit.)

Analyst’s Recommendation. We recommend that the Legislature approve a 2000-01 budget for the Office of the Inspector General amounting to \$8.7 million—an increase of \$3.6 million, or 70 percent, above our \$5.1 million estimate of what the office will actually spend in the current year. The General Fund spending level we recommend amounts to a \$1.5 million reduction from the level proposed in the Governor’s budget. We believe this budget level provides the additional resources the office needs to comply with legislative mandates while being realistic about the pace of staff expansion and workload the office can handle.

If our recommendation were adopted, the number of authorized positions would grow to about 105, or five fewer than proposed in the Governor’s spending plan, reflecting our updated workload estimates

for the office. (Because of a gradual phase-in of new staffing over the course of 2000-01, our recommendation would result in a total of 88 PYs for the office—about 16 fewer PYs than proposed in the Governor's spending plan.)

Figure 1 summarizes our specific recommendations relating to the 2000-01 budget and their effect on funding, position authority, and personnel-year staffing levels of the Office of the Inspector General.

Figure 1

LAO-Recommended Reductions to Office of the Inspector General

(Dollars in Thousands)

	Funding	Positions	Personnel-Years
"Whistle-blower" investigations	\$1,061	2.0	11.1
Management review audits	185	No change	2.7
Existing workload	299	3.2	3.2
Total recommended reductions	\$1,545	5.2	16.3

COMMISSION ON CORRECTIONAL PEACE OFFICERS' STANDARDS AND TRAINING (5480)

The Commission on Correctional Peace Officers' Standards and Training is a joint management-employee panel responsible for establishing job training standards for correctional staff and monitoring compliance with those standards. The commission administers the correctional peace officer apprenticeship program. It develops, approves, and monitors selection and training standards applied by the Departments of Corrections (CDC) and the Youth Authority. The panel also issues decisions on complaints or recommendations from interested parties on its rules, regulations, standards, or decisions.

In the past, the commission's funding was included in the budget of the Youth and Adult Correctional Agency. This year, for the first time, the Governor's budget plan establishes a separate budget item for the commission reflecting its operation, henceforth, as an independent entity.

The budget proposes \$2.3 million in expenditures from the General Fund in 2000-01, an increase of \$1.7 million, or 267 percent, over estimated current-year spending. The increase is due to a proposal to expand the operations of the commission in compliance with the mandates of 1998 legislation further defining its role and duties.

Report on CDC Training Overdue

A report by the Commission on Correctional Peace Officers' Standards and Training on realigning training for Departments of Corrections (CDC) and the Youth Authority correctional cadets was due September 1, 1999, but had not been provided to the Legislature at the time this analysis was prepared. The commission should report its findings at budget hearings so that the Legislature will be in a position to consider the merit of further changes to CDC and Youth Authority training operations that could have a major impact on state costs.

Report Required by 1998 Legislation. Chapter 762, Statutes of 1998 (AB 271, Villaraigosa), directed the Commission on Correctional Peace Officers' Standards and Training to report to the Governor and the Legislature by September 1, 1999, concerning the training standards for correctional officers and their supervisors of CDC and the Youth Authority. The legislation states that the report should include a description of the standards for the curriculum taught at the respective training academies of the two state correctional departments and the length of time required to satisfactorily train officers for their duties.

We have been advised by the commission that it has completed a report that has been submitted to the Governor's office for review. At the time this analysis was prepared, however, more than four months after the statutory deadline for its submission, the Legislature has yet to receive the report.

We are advised that the commission's report may recommend restructuring training operations, including lengthening the basic correctional officers' academy to 16 weeks, limiting training to a maximum eight hours per day, requiring 80 hours of training for correctional sergeants before they can start their assignment, and revisions of training courses to more adequately address such issues as cultural diversity and sexual harassment.

Implementation of such changes could have significant effects on the day-to-day operations of the two departments and could potentially increase state costs by millions or even tens of millions of dollars. In order to fully assess the merits of these proposals, as well as to consider any alternatives for improving CDC and Youth Authority training programs, it is important that the Legislature receive the overdue report in time for appropriate review and discussion in its budget subcommittee hearings.

Analyst's Recommendation. For these reasons, we recommend that the commission report at budget hearings on the findings of the Chapter 762 report so that the Legislature will be in a position to consider the merits of further changes to CDC training operations as part of the 2000-01 budget deliberations.

Audit Needed of On-the-Job Training Efforts

We recommend approval of the budget request for a \$1.7 million augmentation for the commission to more fully enforce correctional staff training standards and comply with other legislative mandates. We further recommend the adoption of supplemental report language directing the commission to use part of these new resources to conduct audits of the implementation to date of a major expansion in state-paid staff time for on-the-job training.

Funding and Staffing Increase Sought. The commission's 2000-01 budget plan includes a request for a General Fund augmentation of \$1.7 million and 15.8 personnel-years to bring its operations more fully into compliance with statutory requirements. Given that the commission now has a total staff of three and significant responsibilities, we agree that these additional resources are needed if it is to accomplish its statutory mission and thus we recommend approval of the proposed augmentation.

The state law which created the commission defines the roles of CDC and the Youth Authority as well as the role of the commission in the operation of correctional staff training programs. The CDC and the Youth Authority are responsible for the design and delivery of the training programs, the conduct of validation studies, and program support. The commission establishes standards for those programs and is responsible for monitoring the departments to ensure that those standards are met. The commission further has the authority to disapprove any training courses if it determines that they do not meet its standards.

Although the commission was created by statute 13 years ago, its role to date in monitoring and enforcing training standards has been severely hampered by a lack of resources. We believe the additional funding and staffing included in the 2000-01 budget provide an opportunity for the commission to ensure that state training programs meet its standards and are being operated cost-effectively. We further recommend that the commission use part of those additional resources to conduct audits of the so-called "7k" on-the-job training program implemented by CDC and the Youth Authority.

Additional Training Hours Funded. The 7k program (a reference to Section 207 [k] of the federal Fair Labor Standards Act), is the result of contract negotiations with the labor organization representing CDC and Youth Authority correctional staff. Beginning in 1998-99, the standard work week for these staff members—including correctional officers, correctional counselors, and parole agents—was increased to add, on average, two more paid working hours per week to the regular 40 hours of pay those workers previously received.

One of those two additional state-paid hours per week is to compensate staff for the extra time it may take an employee to get to his or her post by the time a shift at work begins. The other state-paid hour is intended as compensation for participation in on-site training programs. Thus, the state committed in 1998-99 and subsequent contract agreements to pay for 52 hours per year of on-the-job training. Until then, only eight hours per year of such training was required for most correctional staff.

We estimate that the cost of the 7k training hours will amount to about \$36 million in 2000-01, with \$33 million in 7k training hours paid for CDC personnel and more than \$3 million spent for this purpose at the Youth Authority. In addition, the CDC last year received an additional budget augmentation of \$2.3 million for two instructional designers to develop new 7k curriculum and 33 correctional sergeants—one per state prison—to run the training programs at their facilities.

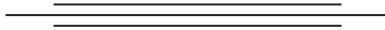
Analyst's Recommendation. Given this significant and ongoing investment in state resources, we recommend that the commission be provided the \$1.7 million augmentation it has requested and that the commission be directed to use part of those resources to conduct audits that would include, but not be limited, to the following matters:

- An examination of the degree to which the additional 7k hours are actually being used for training and the reasons for any cases in which pay is being provided without the occurrence of training. While increased pay is provided to correctional staff based on the assumption such training will occur, the burden is on the departments to actually ensure the training is available.
- A review of whether the training courses offered under the 7k agreement meet commission standards, are appropriate for the correctional or parole units and the particular staff members attending them, and are scheduled in an appropriate fashion.
- An examination of the process by which 7k training courses are designed, approved, implemented, and evaluated. We are advised that, to date, proposed 7k courses have not been submitted to the commission for its advance review and approval, despite statutory requirements giving the commission authority over such training courses.
- The commission's recommendations for improvement of 7k training programs, if any are warranted, as well as an appropriate approach for ongoing monitoring to ensure that this training adheres to commission training standards.

We believe the audits can and should be accomplished within existing resources because this activity is consistent with the purposes of the proposed budget augmentation, which include field monitoring of the implementation of training programs to ensure they meet the commission's standards.

Accordingly, we recommend the adoption of the following supplemental report language:

It is the intent of the Legislature that the Commission on Correctional Peace Officers' Standards and Training conduct audits of the "7k" training program including, but not limited to, the following matters: an examination of whether the additional state-paid hours are actually being used for training and the reasons if pay is being provided without the occurrence of training; a review of whether the training courses offered under the 7k agreement meet commission standards, are appropriate for the correctional or parole units and the particular staff members attending them, and are scheduled in an appropriate fashion; and an examination of the process by which 7k training courses are designed, approved, implemented, and evaluated. The commission shall provide recommendations for improvement of 7k training programs if any are warranted, as well as an appropriate approach for ongoing monitoring to ensure that this training adheres to commission training standards. The commission shall accomplish this audit by examining what it deems to be a representative sample of adult prisons, Youth Authority facilities, and parole units. The audit findings in regard to Youth Authority facilities and parole operations shall be reported by December 1, 2000, and in regard to the California Department of Corrections' prisons and parole operations by December 1, 2001, to the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature.



TRIAL COURT FUNDING (0450)

The Trial Court Funding item provides state funds for support of the state's trial courts. The budget proposes total expenditures in 2000-01 of \$2 billion for support of the Trial Court Funding Program. This is \$139 million, or 7.6 percent, greater than estimated current-year expenditures. Figure 1 shows proposed expenditures for the trial courts in the past, current, and budget years. The Trial Court Trust Fund is the main funding source for trial court activities, Figure 2 shows the sources of revenue for the fund.

Figure 1

Trial Court Funding Program

*1998-99 Through 2000-01
(In Millions)*

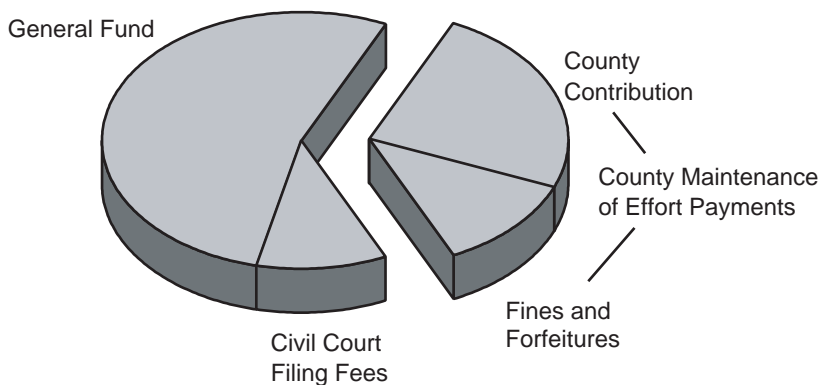
	Actual 1998-99	Estimated 1999-00	Proposed 2000-01
Trial court operations	\$1,456.8	\$1,628.8	\$1,743.6
Court interpreters	43.7	50.6	54.4
Superior court judges salaries	138.3	148.9	169.8
Assigned judges	18.3	16.3	16.3
Totals	\$1,657.1	\$1,844.6	\$1,984.1

Budget Request. The budget proposes a number of augmentations for support of the trial courts in 2000-01. The major proposals include the following:

- \$22 million one-time funding for case processing in the trial courts.

Figure 2**Trial Court Trust Fund Budgeted Revenues**

2000-01



- \$20 million for negotiated salary increases for trial court employees.
- \$16.8 million for one day/one trial jury service and increased juror compensation.
- \$13.2 million for a 5 percent salary increase for judicial officers.
- \$10 million for court services for families and children.
- \$4.8 million for increased court interpreter salaries and workload growth.
- \$2.4 million for salary adjustments for municipal judges and subordinate officers.
- \$1.2 million to process an expected increase in elder protective order requests.

Like all monies appropriated for support of the trial courts, the augmentations outlined above would be distributed to individual trial courts based on decisions of the Judicial Council. Thus, it is not possible at this time to determine which specific courts would receive the funds.

NEXT STEPS IN TRIAL COURT FUNDING

Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle)—the Lockyer-Isenberg Trial Court Funding Act of 1997—shifted primary fiscal responsibility for support of the trial courts from counties to the state. The measure resulted in a major new financial responsibility for the state's General Fund.

As implementation of the new funding structure has proceeded, a number of issues have surfaced that will require clarification in additional legislation or in changes to budgeting practices. We outline three issues that we believe the Legislature and Governor should consider this year.

Clarification Needed on Undesignated Court-Related Fees

There are a number of fees collected by the trial courts that were not designated for either the courts or the counties by the 1997 trial court funding legislation. The amount of revenues generated by these fees and which entity, the courts or counties, are receiving the revenues is unknown. The Legislature should consider alternatives to ensure the fees are distributed fairly and uniformly across the state. We recommend that the Judicial Council report to the Legislature prior to budget hearings on its recommendations for resolving this issue.

Background. Chapter 850 and other recent trial court funding legislation made changes in the distribution and amount of court-related fees. An important part of the financing mechanism for the state's new fiscal responsibility for the trial courts was the requirement that local governments transfer a variety of court-related fees collected by trial courts and local governments to the state's trust fund.

However, Chapter 850 did not designate which entity—the state or local governments—would retain a number of court-related fees. Some of the undesignated court fees include fees for postponement, change of venue, filing for Writ of Execution, and the civil assessment fee. The amount of each fee varies from \$1 to as much as \$1,000.

Working Group Seeks to Determine Where Fee Revenues Should Go. An informal 12-member working group, composed of court executives and county administrators, was formed to determine how much revenue these undesignated fees generate and whether the state or counties should be receiving the funds.

The group identified and catalogued, by statute, all court-related fees not addressed in Chapter 850. The fees were placed in one of four categories. Three of the categories include fees in which the disposition of the

fees (either state or counties) is clearly laid out in statute. The fourth category consists of revenues where the use or disposition is not specified. About 47 percent of the fees not addressed by Chapter 850 fall into this category.

There is a lack of information about (1) where fees in the fourth category are currently being deposited, with the trial courts or the counties; and (2) the total amount of fee revenues in question.

Need for Clarification. Although it is not readily apparent from an analytical standpoint which entity—the state or counties—is entitled to these funds, the situation should be clarified for two reasons. First, there should not be disparities as to how the revenues are treated throughout the state. Second, the state and counties should be able to factor these revenues into their planning processes.

Most important to resolving this issue is knowing how much revenue is involved and who is currently receiving it. Currently, there is little information regarding these questions, and it is unlikely that there is a statewide uniform disposition of the funds. The working group has not met since June 1999, and until it resumes working or the Legislature intervenes, the problem will remain.

In order to answer these questions, the Legislature has several alternatives:

- Require an audit of the court-related fees to determine the revenue and disposition of the fees. Such an audit could be undertaken by a state entity (such as the State Controller or Judicial Council) or by county auditors using a standard set of audit questions and guidelines developed by the state.
- Require the Judicial Council to establish a more formal task force to review this issue and report back to the Legislature.
- Enact legislation to designate the disposition of the fees based on the Legislature's policy preferences.

In summary, we believe the revenue generated by these fees could be significant. It is important for the Legislature to consider a method for determining the amount and disposition of the undesignated fee revenues. Therefore, we recommend that the Judicial Council report to the Legislature, prior to budget hearings, on its recommendations to resolve this issue.

Mechanism Needed for Funding Trial Court Salary Increases

We recommend that the Judicial Council present the Legislature, prior to budget hearings, with options to fund costs of negotiated salary increases for trial court staff and court security personnel.

Background. Salaries for trial court employees and court security personnel (generally provided by county sheriffs) are determined locally, largely as a result of negotiations between county representatives and labor organizations. With state assumption of fiscal responsibility for the trial courts, the state has become the funding source for negotiated salary increases (NSIs) in the trial courts. In some cases, the full fiscal impacts of NSIs negotiated today are not realized until subsequent years.

The NSIs for 1998-99 were fully funded, either through budget appropriations or deficiency requests. However, it appears that the NSIs for 1999-00 have not been fully funded, principally because the timing of negotiations and implementation of local bargaining agreements does not fit well with the state's budget process. According to information provided by the Judicial Council, the current-year budget is short \$20.5 million to fully fund NSIs. The Governor's budget proposes \$20 million for NSIs for the budget year, but the Judicial Council indicates this amount is \$13.5 million short of the amount needed to fully cover the costs.

Implications of Not Providing Full Funding. Unquestionably, trial courts will have to pay for NSIs whether they have been provided funding to do so or not. To the extent that the funds to pay for NSIs are not provided by the state, trial courts will have to cover the remaining unfunded cost by redirecting other resources. This may not be a problem for some courts to the extent that the courts can generate savings from reduced workload or more efficient operations.

We are concerned, however, about the extent to which courts redirect resources that the state provides to them for various specific programs and services. For example, the Governor's budget provides tens of millions of dollars for new programs related to jury service, children and families, and technology. Should the budgets of individual trial courts not include funds to cover NSIs, it is likely that funds provided for these new services will not be spent for the intended purpose, but rather redirected for NSIs.

The courts in San Diego County recently reported that their trial court funding allocations were not adequate to cover the full costs of their NSIs and that the courts would potentially have to redirect more than \$3 million for these purposes.

NSI Funding Policy Needed. We believe that the state needs to develop an appropriate funding method for the trial courts to pay NSIs. Such a mechanism should allow the courts to fully pay for their commitments while also giving them the proper incentive to negotiate salary agreements that are cost-effective from the perspective of the state, given that the state is now responsible for funding NSIs.

Judicial Council projections for 2000-01 show that the average NSI in the courts will be 3.7 percent, indicating that funding the NSIs for trial courts are similar to those negotiated for state employees. Thus, the Legislature could set aside the same amounts for trial court NSIs as it does for state employees each year—in budget act Item 9800, for distribution by the Department of Finance. Such an arrangement may have the effect of giving an incentive to courts to negotiate increases that are similar or identical to the amounts negotiated for state employees.

Alternatively, the Legislature could provide a lump sum “NSI reserve” to the Judicial Council in the annual budget act with limitations that the funds be distributed only after NSIs are finalized and any amounts not specifically needed would revert to the General Fund.

Under any circumstances, the Legislature should encourage the trial courts and the Judicial Council’s budget commission to time their negotiations so that NSIs could be implemented with the state budget process. We acknowledge this may be difficult, however, restructuring contract dates may lead to fewer deficiency requests for unexpected NSIs.

Analyst’s Recommendation. The Legislature needs to consider a permanent approach to funding trial court NSIs. If funds are not provided for NSI costs, trial courts will likely redirect resources away from budgeted activities to pay for court employee salary increases. For this reason, we recommend that the Judicial Council present the Legislature with its list of options for dealing with this situation, including the pros and cons of each, prior to budget hearings.

Fiscal Analysis Needed of Employee Task Force Recommendations Prior to Enactment of Legislation

The Task Force on Trial Court Employees has submitted to the Legislature its final report in which it recommends that trial court employees be considered employees of the court, rather than state or county employees. Legislation is required before this can occur. Before legislation is considered, we recommend that the Legislature direct the Judicial Council to submit a thorough fiscal analysis, including an identification of potential costs to the state, of the changes proposed in the task force report.

Background. Chapter 850 established the Task Force on Trial Court Employees to recommend an appropriate personnel and governance structure for trial court employees. The task force submitted its final report on December 31, 1999. The report contains the final recommendation that trial court employees become employees of the court, rather than county employees, as most are today.

The task force began by defining the term *trial court employee* and then outlining four options for their status: state employees, county employees, court employees, or other employees. All of the status options assumed that the employees would be managed by local trial courts and assumed a financing structure with the state as the principal funding source. After considering all options, the task force unanimously recommended that trial court employees be considered employees of the court, rather than of the state or counties; and have court employment status except for certain benefits, where they would be designated as county employees.

In formulating its recommendations, the task force assumed that state costs would not significantly change as a result of the new personnel structure. It also assumed that the new trial court employee personnel system would not require changes to federal law (such as for Social Security or Medicare). However, the task force did recognize that existing state law may need to be changed in order to implement the trial court personnel system.

The task force set out with the objective to not reduce the level of benefits of trial court employees as a result of the implementation of the trial court personnel system and to achieve a system with local flexibility and statewide applicability.

The task force was also required to submit the personnel system to the trial court employees for an advisory vote before issuing a final report to the Legislature. The task force was unable to complete the vote in advance of the final report of December 31, 1999. The report contains recommendations to the Legislature for conducting the employee advisory vote.

The task force will continue to meet through the first three months of 2000 to focus efforts on drafting legislation and educating interested parties on the recommendations.

Recommendation Raises Concerns. While the recommendations of the task force may be reasonable, we are concerned that there has been little analysis of the *fiscal impact* of the proposed changes. It is unclear what impact the task force recommendations would have on future salary and benefit adjustments for court employees. In addition, there are a number of administrative changes that may result in increased costs or savings to the state. For example, court costs currently include payments for county services, such as payroll processing. Whether or not these and other such administrative costs will change as a result of changes to the employee personnel system is unknown.

For this reason, we recommend that the Legislature require the Judicial Council to submit a thorough fiscal analysis, including the potential costs and/or savings of the proposal to the state, before it considers the task force's recommendations in legislation.

BUDGET ISSUES

Judicial Salary Increase Raises Broader Policy Issues

The budget requests \$13.2 million for a 5 percent increase in judicial salaries and benefits for trial court judges and subordinate judicial officers. We recommend that the issue of judicial salary increases be referred to the Legislature's policy committees to consider along with other broader policy issues regarding recruitment and retention of judges and, thus, delete the proposed funding in the budget bill. (Reduce Item 0450-101-0932 by \$13.2 million and Item 0450-111-0001 by the same amount.)

Background. In February 1998, the Judicial Council established a Task Force on the Quality of Justice. In an April 1999 report to the Judicial Council, the task force's Subcommittee on the Quality of Judicial Service outlined a number of changes designed to improve recruiting and retention of judicial officers. The report recommended increases to judicial officer salaries and noted that their salaries are currently 24 percent below comparable officials. The task force also suggested other ways to improve judicial service, most of which would require additional funding.

Budget Request. The budget requests \$13.2 million for a 5 percent increase in salaries for judges and subordinate judicial officers. In addition, the Judicial budget (Item 0250) includes \$843,000 to grant a similar increase to appellate justices. According to the Governor's budget, this increase is needed to attract and retain highly qualified judicial officers.

The proposed increase would be in addition to cost-of-living increases previously authorized for judges—2.5 percent effective June 30, 1999, 4 percent effective July 1, 1999, and 4 percent effective September 1, 2000. With this budget augmentation, judicial salaries will have increased about 16 percent between June 30, 1999 and September 1, 2000.

The proposed 5 percent salary increase would require enactment of a budget trailer bill.

Broader Policy Issues. We believe that recruiting and retaining qualified judicial officers is an important issue. We believe, however, that the Governor's proposal to provide a salary increase for judges raises broader policy issues that the Legislature may wish to consider in separate legislation.

The report of the Subcommittee on the Quality of Judicial Service makes clear that there are a number of ways to improve the recruitment and retention of judges that are not part of the budget proposal. Some of these include:

- Eliminating the financial penalty of service beyond retirement eligibility that requires judges to pay 8 percent of salary to the retirement system after 20 years of service, without increased benefits.
- Implementing a three-tiered leave policy based on years of service.
- Ensuring judges are provided appropriate resources to perform adequately (judicial mentoring, calendar management training, judicial services resource manual, adequate staff, security, and facilities).
- Implementing sabbatical leave programs for judicial officers and an assistance program similar to the employee assistance program in state government.

In addition, the report recommends that judicial salaries be set by an independent commission, similar to the current method used to set the salaries of the state's constitutional officers and the Legislature.

The Judicial Council advises that it will be sponsoring separate legislation to address some of the recommendations made by the subcommittee. We believe that the Legislature's policy committees should review the request for judicial salary increases along with these other proposals. If legislation is enacted, appropriate funding should be included in the bill.

For these reasons, we recommend that the Legislature delete funding for judicial salary increases in the amount of \$13.2 million and instead refer this issue to the policy committees for further review.

Funds to Increase Juror Compensation Should Be Used to Test Other Reforms of Jury System

We recommend approval of \$4.1 million proposed to assist trial courts in implementing one day/one trial jury systems. We further recommend that the Legislature not approve a proposed increase in juror compensation because the proposal is unlikely to have much impact on reducing juror dissatisfaction and improving the ability of courts to obtain adequate juror pools. Instead, we recommend that the funding proposed for the compensation increase (\$12.7 million) be used to establish pilot projects to test various jury reforms.

Background. In May 1996, the Judicial Council released the final report of its Blue Ribbon Commission on Jury System Improvement. The commission's report concluded that the jury system is in crisis and that the crisis manifests itself in public dissatisfaction with the structure and operation of the jury system. Specifically, the Judicial Council noted that jury participation across the state is low and that courts must cope with public apathy towards jury service.

The report outlined more than 50 recommendations for improving the jury system covering a wide range of topics, including jury management and selection and the jury's deliberative function. Specific fiscal recommendations in the report included increasing juror fees from the current \$5 per day to \$40 per day, implementing a system of tax credits to employers who pay jurors their regular salaries during service, fully reimbursing juror mileage and parking, and reimbursing jurors for the costs of care of their dependents while serving on a jury.

One Day/One Trial. The report also recommended adoption of a one-day/one-trial jury system in which persons called for jury service report to court for one day and, unless impaneled that day, are dismissed.

Chapter 714, Statutes of 1998 (SB 1947, Lockyer) directed the Judicial Council to require courts to implement one-day/one-trial programs by January 1, 2000. Prior to passage of this bill, 24 countywide trial court systems had already implemented a one-day/one-trial system. The 1999-00 *Budget Act* included \$1.2 million to fund implementation of one-day/one trial service in eight additional courts.

Budget Request. The budget requests \$16.8 million from the General Fund to (1) fund additional costs associated with one-day/one-trial system implementation (\$4.1 million) and (2) increase juror per diem rates from \$5 to \$12 per day (\$12.7 million). These proposals are intended to increase jury summons response rates and overall public satisfaction with jury service.

Implementing One-Day/One-Trial Jury Service. The budget requests \$4.1 million to assist the remaining 26 countywide trial court systems in new or continued implementation of one-day/one-trial systems. Costs associated with this program include additional staff and technology systems.

Increasing Juror Compensation. The budget requests \$12.7 million to increase juror compensation from \$5 per day to \$12 for the second and subsequent days of jury service. Under the proposal, jurors would not be compensated for their first day of jury service. Trailer bill legislation will be required to implement this change.

The Judicial Council indicates that increasing jury compensation would address a number of issues raised by the Blue Ribbon Commis-

sion on jury system improvement. Specifically, the council points out that the current \$5 per day sends the message to jurors that the state does not really value their time and creates a severe financial hardship for jurors that must take uncompensated time off from work to serve. In addition, the council points out that the current rate does not adequately cover the costs of round-trip transportation, parking, and meals for jurors.

We concur with the commission's conclusion that changes are needed in the state's jury system in order to reduce dissatisfaction and ensure public confidence. The public's concerns about the length of service, low compensation, and negative experiences while serving have led to difficulty in drawing a sufficient pool of jurors. Shrinking jury pools in turn decrease the likelihood of obtaining a representative cross-section of the community. Increasing jury summons response and service rates is crucial to maintaining an effective justice system. We believe that moving to the one day/one trial system will help in these areas and recommend approval of the \$4.1 million proposed to assist the remaining 26 trial courts with implementation.

Increased Compensation Unlikely to Have Much Effect. We are concerned, however, about whether the proposed increase of \$7 per day will really have much impact on addressing the issues of concern raised by the council.

First, it is unlikely that increasing juror compensation to \$12 per day is sending a significantly different message to potential jurors about the value the state puts on their time. Given that the state cannot pay jurors the value they believe their service is worth, monetary compensation may not be the most appropriate way to show the state values the time of jurors.

Second, it is unlikely that those potential jurors, who would otherwise be excused from service due to financial hardship of service, would remain in the juror pool because of the proposed compensation increase. One court noted that 55 percent of the individuals summoned for jury service were excused because serving on jury duty would cause them a financial hardship. There has been no data provided by the Judicial Council to show that a \$7 per day increase in compensation will result in fewer persons being excused due to financial hardship. The movement to one-day/one-trial service, which could significantly limit the number of days a juror will have to appear at the courthouse, will likely have a more significant effect in this area.

Third, although the proposed increase will help, it is unlikely to fully cover out-of-pocket expenses for transportation, parking, or meals. The costs to jurors varies considerably by location. In some cities \$12 would

not cover parking expenses and in some rural areas, parking is a lesser concern than transportation needs in general.

An Alternative Approach. We acknowledge that some of the required changes to increase juror satisfaction will cost money. However, given the limited impact that increasing the compensation levels will likely have, we believe that the proposed \$12.7 million could be better used to improve the jury system by establishing a series of pilot projects to test various reforms. The results of these pilot projects would provide the data necessary to determine what motivates juror behavior and satisfaction.

Specifically, we suggest that pilot projects be established in counties of various size (urban, suburban, rural) using different jury compensation and reimbursement schemes. For example, pilot projects could be established in which jurors are compensated at various amounts (say, \$30 to \$50 per day); provided full or partial reimbursement for child care expenses; and provided full, round-trip mileage reimbursement.

We also believe it is important to include an evaluative component to these proposals. It is essential to evaluate whether fiscal reforms of the jury system meet the ultimate goals: to increase public satisfaction, reduce jury service apathy, and increase the ability of courts to seat juries.

Thus, we recommend that the Legislature deny the Judicial Council's proposal to spend \$12.7 million for additional juror compensation and instead direct the council to use the funds to develop projects in at least three different court systems testing various alternatives.

Uncertainty About Costs of Elder Protective Orders

The budget requests \$1.2 million to process increased elder protective orders that result from changes in law. Due to a high degree of uncertainty regarding how many new protective orders will be requested, we recommend the Legislature adopt budget bill language to restrict the use of these funds to solely provide elder protective orders so that any savings would revert to the General Fund.

Chapter 561, Statutes of 1999 (AB 59, Cedillo) expands the list of abuses for which elders and dependent adults may seek protective orders to include financial abuse. In addition, it expands the provisions of the Domestic Violence Protection Act to include protection for elders and dependent adults from abuse, by nonrelative cohabitants, through expanding the ability of judicial officers to issue emergency protective orders.

The new protective order for financial abuse and the expanded emergency protective order will likely increase the number of protective orders processed in the courts. Although the Governor's budget includes

\$1.2 million to cover the costs of processing these additional orders, the Judicial Council estimates the total increase in court costs could range from \$235,000 to \$2.3 million.

Analyst's Recommendation. We believe that it is possible that the amount requested could be substantially lower or higher than what will be needed. To the extent that the amount is too low, the Judicial Council can seek a deficiency allocation during the budget year. To the extent that it is too high, we think that savings should be captured and returned to the General Fund rather than permitting savings to be redirected to other unbudgeted activities. Thus, we recommend that the Legislature adopt budget bill language which would restrict the use of these funds to process elder protective orders only and provide that any savings revert to the General Fund.

Specifically, we recommend the following budget bill language:

The funds appropriated by this item include an augmentation of \$1,175,000 for Court Operations related to Chapter 561, Statutes of 1999 (AB 59, Cedillo). It is the intent of the Legislature that these funds only be used for the processing of elder abuse protective orders. Any funds not used for this purpose shall revert to the General Fund.

JUDICIAL (0250)

The California Constitution vests the state's judicial power in the Supreme Court, the courts of appeal, and the trial courts. The Supreme Court and the six courts of appeal are entirely state-supported. Under the Trial Court Funding program, the state also provides support (above a fixed county share) for the trial courts. (For more information on the Trial Court Funding program, please see our analysis of the program earlier in this chapter.)

Proposed Budget. The Judicial budget includes support for the Supreme Court, the courts of appeal, and the Judicial Council. The budget proposes total appropriations of \$334 million for support of these judicial functions in 2000-01. This is an increase of \$26.3 million, or 8.5 percent, above estimated current-year expenditures. Total General Fund expenditures are proposed at \$280 million, an increase of \$25.8 million, or 10 percent above current-year expenditures.

The increase in the Judicial budget is primarily due to requests for: (1) increased operating expenses for the Court-Appointed Counsel program (\$1.3 million), (2) increased staffing and related program costs for workload increases in the courts of appeal (\$4.2 million), (3) increased salary funding for the Administrative Office of the Courts (AOC) and the courts of appeal (\$2.5 million), (4) new programs and operations support in the AOC (\$3.9 million), (5) increased technology and paralegal support for the Habeas Corpus Resource Center (\$1 million), and (6) a 5 percent increase in compensation for appellate judicial officers (\$843,000), which we discuss in the "Trial Court Funding" section of this chapter.

Salary Funding and Adjustments Not Justified

We recommend a General Fund reduction of \$2.5 million requested to fund salary adjustments because the proposed augmentation has not been justified.

The budget requests funding of \$2.5 million for the appellate courts and AOC to (1) pay costs associated with hiring new positions above the minimum budgeted salary range (\$989,000) and (2) extend salary ranges by 5 percent at the minimum and maximum levels (\$1.5 million). Our review indicates that these proposals are not justified.

No Evidence of Need to Backfill Redirected Funds. The budget requests funding to reflect the actual hiring costs (not to exceed 10 percent above the minimum) for all appellate court and AOC positions established during the past three fiscal years (1996-97, 1997-98, and 1998-99) at a total cost of \$989,000. The requested amount will not actually pay for salary increases for these positions because the employees are already being paid at the higher rate. Rather, the money would be used to *backfill* funds that the Judicial Council has already redirected to pay for the costs of hiring employees above budgeted salary ranges.

Prior to 1999-00, all Judicial Branch positions were funded at the minimum salary range in keeping with standard budgeting practices. In 1999-00, the Legislature provided funding to hire all newly established appellate court and AOC positions at up to 10 percent above the minimum salary range. This additional funding is now included in the Judicial Council's baseline budget. The Judicial Council has concluded that last year's action suggests that funding should be provided to the Judicial Council to cover costs associated with funding *all* Judicial Branch positions at this higher rate.

We disagree with the Judicial Council's conclusion. The Judicial Council has been redirecting resources to fund the costs of hiring new positions above the budgeted minimum in the three fiscal years prior to 1999-00. The Judicial Council has been unable to provide evidence that redirecting resources has proven detrimental to its other budgeted activities. We note that the total increase proposed to backfill for the redirected funds is 0.3 percent of the total budget for the AOC and courts of appeal. In the absence of any evidence of a problem, we recommend that the proposal be denied.

Lack of Staff Turnover Indicates Salary Increases Not Justified. The budget requests adjustments that will increase both the minimum and maximum salary ranges of appellate court and AOC employees by 5 percent. The total cost of this proposal in the budget year is \$1.5 million and represents the cost for two groups of employees:

- 49 percent of Judicial Branch employees who are currently at the maximum of the salary range. Effective with their anniversary dates in 2000-01, they would receive a 5 percent increase.

- 5.8 percent of Judicial Branch employees who will have salaries at the current minimum of the range on July 1, 2000. The salaries of these employees would be adjusted upward by 5 percent.

The Judicial Council estimates the cost of completing this adjustment will grow to \$2.6 million in 2001-02 as the full effect of the change is realized.

The Judicial Council indicates that the increases are needed because the AOC and the courts of appeal are generally located in high-cost labor markets and must compete with the trial courts and other local government bodies for the same labor pool.

Generally, when state agencies are granted an increase in the salary range it is because they have *demonstrated* recruitment and retention problems. Our review indicates, however, that the vacancy rates for the AOC and courts are low—only 5 percent for AOC and 2.2 percent for the Supreme and appellate courts. In our view, these low rates do not indicate a serious problem with recruitment and retention of staff.

The AOC indicates that through accelerated and innovative recruitment efforts, they have been able to keep vacancy rates low. Since the AOC also requested two new positions in the Human Resources Bureau to focus on improving recruitment, we do not see why these accelerated and innovative efforts will not continue through the budget year keeping vacancy rates low.

Unlike most state agencies, the Judicial Council is not required to seek approval from the Department of Personnel Administration (DPA) or the State Personnel Board (SPB) prior to making these types of salary adjustments. Further, when agencies apply for approval for salary adjustments to DPA or SPB, the agency must be able to demonstrate that it has the necessary resources to fund any increase from within its *existing budget*. We believe that the Judicial Branch should be held to the same standards as other state agencies. For these reasons, we recommend that this proposal be denied.

In summary, we recommend both portions of the proposal be deleted for a General Fund savings of \$2.5 million.

Salary Increase for Appellate Justices

The Governor's budget proposes \$843,000 for a 5 percent salary increase for appellate justices. We recommend that the issue of Judicial salary increases be referred to the Legislature's policy committees to consider along with other broader policy issues regarding recruitment and retention of judges, and thus delete the proposed funding in the budget bill. (Reduce Item 0250-001-0001 by \$843,000.)

The Governor's budget requests \$843,000 in the Judicial budget for a 5 percent salary increase for appellate justices. In addition, the budget requests \$13.2 million to provide an identical increase for trial court judges in the Trial Court Funding budget. These increases will require enactment of a trailer bill.

In our analysis of Trial Court Funding earlier in this chapter, we recommend that the issue of judicial salary increases be referred to the Legislature's policy committees to consider along with other broader policy issues regarding recruitment and retention of judges. Thus, we recommend that the Legislature delete funding for judicial salary increases in the budget bill. If legislation is enacted that increases judicial salaries, appropriate funding should be included in the bill.

We discuss this recommendation in more detail in the Trial Court Funding analysis earlier in this chapter.

Equipment Replacement Should Not Be Included in Base Budget

We recommend approval of \$1.1 million requested for equipment and copier replacement programs in the Administrative Office of the Courts and the appellate courts. We further recommend the Legislature adopt supplemental report language specifying that these amounts are not to be included in the baseline budget.

The budget requests \$580,000 for an equipment replacement plan in the AOC and \$500,000 for a copier replacement program in the appellate courts. The request proposes to build these expenditures into the respective baseline budgets to fund additional equipment purchases in future years.

Equipment Replacement Should Not Be Included in Base Budget. Although we believe that the request for funding in the budget year is justified, adding the additional funding to the department's baseline budget would mean that the AOC and the appellate courts would have the same level of funding to use for equipment and copier replacement each year. The AOC equipment replacement plan calls for major equipment to be replaced in the budget year. However, some of that equipment has a four- to ten-year life, raising concerns about the need to include the same amount of funding for equipment purchases in the baseline equipment funding every year.

We do not believe that major equipment purchases such as those proposed should be included in the baseline. Instead, equipment purchases should be "zero-based" and justified each year. Justifying major equipment purchases each year has always been standard budget practice and, we believe, provides the Legislature with a better opportunity to per-

form oversight of the annual Judicial budget. For these reasons, we recommend the Legislature direct the AOC, appellate courts, and the Department of Finance not to add the funding for equipment and copier replacement to the baseline Judicial budget.

This could be accomplished by adopting the following supplemental report language:

It is the intent of the Legislature that the Judicial's baseline budget for 2001-02 not include an increase for equipment and copier replacement. Equipment and copier replacement shall be justified in the annual budget process.

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.

Budget Proposal

The budget proposes total expenditures of \$532 million for support of the DOJ in the budget year. This amount is \$8.1 million, or about 1.5 percent, more than estimated current-year expenditures. The requested amount includes \$277 million from the General Fund (an increase of \$3.7 million, or 1.4 percent), \$100 million from special funds, \$37.5 million from federal funds, and \$114 million from reimbursements. Major proposed funding increases are discussed below.

Division of Law Enforcement. The Governor's budget proposes \$131 million for support of programs in the Division of Law Enforcement. Most of the major budget changes proposed for the division concern the Bureau of Forensic Services (BFS), which operates 11 regional crime labs and a special DNA lab in Berkeley. The budget includes an augmentation of \$5.1 million to address DNA workload. This includes funds to reduce the backlog of DNA samples awaiting analysis and to process DNA samples from unsolved cases (referred to as "suspectless" cases). In addition, the budget proposes \$2.3 million to replace or upgrade existing forensic lab equipment. The budget also includes \$1.2 million in state funds to replace and upgrade surveillance equipment for the Bureau of Narcotics Enforcement.

Division of Criminal Justice Information Services (CJIS). The budget proposes expenditures of \$142 million for programs in the CJIS. This amount includes the continuation of several federally funded initiatives, which support activities such as maintaining criminal history information and a national sex offender registry. The budget also requests \$4.1 million from the Fingerprint Fees Account to implement provisions of Chap-

ter 588, Statutes of 1997 (AB 1610, Ortiz), and Chapter 589, Statutes of 1997 (AB 1612, Alby), to support ongoing activities such as managing the statewide electronic fingerprinting network and processing fingerprint background information.

Firearms Division. The department consolidated its firearms programs into a new Firearms Division in the current year. The budget proposes \$2.2 million to implement new firearms legislation, which imposed new responsibilities on DOJ. These include assault weapon registration, certifying safety devices, enforcing gun show promoter requirements, and ensuring that mental health facilities report persons ineligible to purchase firearms.

Legal Divisions. The budget proposes \$96.1 million for the Civil Law Division. Major changes proposed for the budget year include: (1) an increase of \$2.2 million to provide additional supervisory oversight of attorneys and legal assistants; (2) an increase of \$1.1 million to represent the state in *Hyatt v. Franchise Tax Board*, a case concerning the state's taxing authority over nonresidents; (3) an increase of \$6 million from the False Claims Act Fund to address increasing False Claim Act litigation; and (4) \$3.8 million for the Tobacco Litigation Section for enforcement of the Master Settlement Agreement between the tobacco companies and the states and to defend the state against attacks on the settlement.

The budget requests \$85.8 million for the Criminal Law Division. The major changes in this division include an increase of \$366,000 to address legal issues related to DNA and \$490,000 for the Spousal Abuser Prosecution Program.

For the Public Rights Division, the budget proposes \$41.8 million. The amount includes: (1) an increase of \$510,000 to provide additional supervisory oversight of attorneys and legal assistants; (2) an increase of \$823,000 to address workload related to the enforcement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1996; (3) an increase of \$411,000 in reimbursement authority for the Land Law Section to address workload increases from the CALFED Bay-Delta Program; and (4) \$434,000 in additional reimbursement authority for the Charitable Trust Registry Section to address workload related to Chapter 445, Statutes of 1998 (AB 1810, Davis).

Additional Funding Would Increase DNA Database Effectiveness

We recommend the Legislature approve a \$5.5 million augmentation to support increased DNA analysis workload and to improve the effectiveness of the DNA database in assisting criminal investigations. We further recommend the Legislature continue an oversight role over this program by adopting supplemental report language directing the department to report on its progress in expanding the DNA database.

Background. The DOJ is required to analyze DNA samples from most convicted felony sex and violent offenders. In addition, Chapter 696, Statutes of 1998 (AB 1332, Murray) required DOJ to maintain a database (CAL-DNA) of these offenders' DNA profiles.

In the 1999-00 *Budget Act*, the Legislature appropriated \$4.9 million to DOJ for the analysis of the backlog of 55,000 violent offender DNA samples. The funds are also to be used to reanalyze 45,000 samples that had been profiled in order to conform with the standards established for participation in the national DNA offender database. At present, the DOJ DNA lab has analyzed more than 15,000 of the total samples and more than 5,000 are in the state's searchable database. The DOJ recently filled the remaining positions authorized in 1999-00 and estimates that DNA analyses will eventually increase to 12,000 to 15,000 samples per month, which will exceed the goals set for the program.

Although the DNA lab will be able to address the backlog of violent offender DNA sample analysis with the current year appropriation, the DOJ has determined that the number of DNA samples in the 1999-00 workload was underestimated by 20,000, due to an undercount of parolees. In addition, the number of samples submitted to CAL-DNA from counties has doubled from 1,500 to 3,000 samples per month and is expected to double again by 2001.

The department maintains that in order for CAL-DNA to be an effective criminal investigation tool, the DNA lab needs to increase the number of DNA samples from suspectless cases that can be matched to samples in the database of convicted felon DNA samples. However, suspectless cases are rarely examined since the majority of work conducted by forensic labs is on cases with identified suspects where criminalists are asked to determine the existence of an association between the victim and the suspect. The turnaround time for these cases with suspects can exceed six to nine months, resulting in insufficient staff to work on suspectless cases.

Budget Proposal. The budget requests \$5.5 million from the General Fund to fund the increase in the DNA analysis caseload. Specifically, DOJ would purchase laboratory equipment and convert 24 limited-term senior criminalist positions, to permanent positions. These positions would analyze the increasing levels of submitted CAL-DNA samples, expand the suspectless DNA sample database, and address the analysis backlog for current suspect cases.

In addition, funds would be used to establish a legal support unit of two deputy attorneys general to provide consultation and training to criminal justice professionals, scientists, and technicians regarding the legal and scientific issues involved with the use of DNA in specific criminal cases.

Request Is Justified. Given the power of DNA testing to solve crimes, we believe that providing funds to address the increase in DNA sample submissions and expanding the suspectless DNA database is an important law enforcement objective and justifies further investment. The proposed increase in funding for equipment and personnel will allow the DNA lab to address existing backlogs, keep pace with legislative requirements, and increase the effectiveness of DNA databases for assisting with criminal investigations.

Because of the importance of this issue, however, we believe that the Legislature should be kept informed of the department's progress in responding to the increased DNA sample submission and expanding the suspectless case database. We therefore recommend the adoption of supplemental report language requiring the department to report to the Legislature on its progress on these issues. The following language is consistent with this recommendation:

The Department of Justice shall report to the Legislature annually, beginning December 1, 2000, on its progress in analyzing submitted DNA samples. The report should include information on the number of DNA samples entered in the database, the number of suspects identified by DNA matches, and the projected number of DNA samples.

Violence Suppression Program Augmentation Not Justified

We recommend the Legislature deny the request for \$1 million to hire additional Violence Suppression Program agents to conduct investigations for illegal weapons at gun shows because the request has not been justified on a workload basis. (Reduce Item 0820-001-0001 by \$1 million.)

Background. In 1994, DOJ established the Violence Suppression Program (VSP) within the Bureau of Narcotics Enforcement (BNE), to coordinate statewide efforts to investigate and apprehend career criminals that use weapons, firearms, and explosives to commit violent crimes. This program currently has 48 agents.

The budget requests \$1 million from the General Fund to add seven special agents and an office technician to increase the number of existing VSP teams for the purpose of preventing illegal weapons sales at gun shows throughout the state.

Workload Increase Not Well Defined. The proposal does not establish a need for the additional agents on a workload basis. Little information is provided on the number of agents needed for each gun show operation, how the additional agents will be used, or the workload of the existing agents. The proposal bases its projection of expected workload

on a 1999 DOJ investigation into illegal weapons activities at the largest gun show in California, that required 20 special agents over a two-day period. It is not clear that this particular investigation reflects normal workload, especially considering the recent announcement that this particular gun show will no longer be held in California. Furthermore, the workload statistics provided are calculated based on the number of advertised gun shows in California in 1998. It is not clear whether there will be the same number of shows in the budget year or whether DOJ plans to conduct investigations of illegal weapon sales at every gun show.

Local Law Enforcement Involvement Not Clear. The proposal also does not indicate the extent to which local law enforcement personnel have been or will be involved in illegal weapons investigations at gun shows. In the past, VSP agents were responsible for supporting and coordinating multiagency and multijurisdictional investigations concerning illegal weapons. There is no evidence that local law enforcement personnel do not have sufficient resources to conduct individual gun show investigations, with DOJ assuming a statewide coordinating role using existing VSP staff.

Analyst's Recommendation. We recommend denying the request for \$1 million to provide additional VSP agents to conduct illegal weapons investigations at California gun shows. These positions have not been justified on a workload basis and the proposal does not address the alternative of utilizing local law enforcement personnel to conduct these investigations.

DOJ Agents for High Technology Crime Program Not Justified

We recommend the Legislature delete the request for \$643,000 from the General Fund to create the High Technology Crime Program because the request for additional staff is not justified on a workload basis. (Reduce Item 0820-001-0001 by \$643,000.)

Background. In 1997, the Legislature enacted Chapter 906, Statutes of 1997 (SB 438, Johnston), which created the High Technology Theft Apprehension and Prosecution Program. Under this program, regional law enforcement task forces received grants, administered by the Office of Criminal Justice Planning (OCJP), to address high technology-related crimes, such as computer equipment theft, software piracy, and money laundering. In addition, the statute established the High Technology Theft Apprehension and Prosecution Trust Fund. Up to 10 percent of the monies appropriated to this fund are to be allocated for the development and maintenance of a statewide database on high technology crime (maintained by DOJ) for distributing intelligence information to participating law enforcement agencies.

In the 1999-00 *Budget Act*, the Legislature appropriated \$2 million to OCJP for this program. Of this amount, \$500,000 was for the development of the high technology crime database within the DOJ and \$1.5 million was for the regional task forces. At the time this *Analysis* was prepared, the task force grants from the current-year appropriation had not been awarded and the \$500,000 appropriation for database development has not been transferred to DOJ.

Budget Proposal. The budget proposes \$643,000 from the General Fund and \$150,000 in reimbursements from the High Technology Fund to establish the High Technology Crime Program within the DOJ. The objective of the program is to coordinate the efforts of law enforcement in combating high technology crime. Specifically, the funds would be used to provide five Bureau of Investigation agents to staff separately funded local regional high technology crime task forces. These positions would provide investigation, enforcement, and computer forensic services. In addition, the requested reimbursement funds from the High Technology Fund would be used to establish two positions to develop and maintain the high technology crime statewide database.

No Demonstrated Need for DOJ Involvement. The proposal indicates that each regional high technology crime task force needs one full-time special agent to address the increase in the high technology crime caseload. However, there is evidence that only one out of the three task forces has experienced an increase in high technology crimes, and that task force has been able to hire additional staff to avoid a backlog of cases. Since the increased current-year appropriation to the High Technology Theft Apprehension and Prosecution Program has not been awarded, it is possible that the larger grant awards will enable local high technology crime task forces to hire sufficient staff to address increases in high technology crime caseloads.

Analyst's Recommendation. We recommend the Legislature delete the request for \$643,000 from the General Fund to establish five special agents as staff to regional high technology crime task forces, because there is little evidence that all of the task forces have experienced increases in high technology crime caseloads which cannot be addressed with existing resources. We recommend approval of the proposed reimbursement from the High Technology Trust Fund to continue development of the high technology crime database.

Continuation of Unsolved Homicide Pilot Program Not Justified

We recommend the Legislature deny the request for \$249,000 from the General Fund to extend the unsolved homicide pilot program by two years, because the pilot program has yielded limited results and the program is unnecessary due to the expansion of the DNA database. (Reduce Item 0820-001-0001 by \$249,000.)

Background. Local law enforcement agencies commit significant resources to solving homicides. Investigators work with both physical evidence obtained from the crime scene and interview all witness “leads.” When physical evidence and leads have been fully investigated, but the homicide remains unsolved, the case is placed in an inactive status and evidence collected is stored indefinitely. The DOJ reports that there are more than 8,000 unsolved homicides in California. Inactive homicide cases are known as “old and cold” cases. Currently, DOJ will aid local law enforcement agencies with active cases, by providing crime scene analysis and forensic laboratory tests.

In recent years, there have been a number of technological advances in forensic science. For example, latent fingerprints that had previously been unusable can be made visible with new laser-assisted techniques. In addition, the DOJ’s DNA database has been expanded and will have records for all known sex offenders by 2001. Consequently, old serological evidence can now be tested for DNA and matched against known offenders. Finally, the DOJ has developed an automated system for the examination and identification of recovered firearm evidence. All of these techniques and databases have been available for several years, and could be applied to unsolved homicide cases in order to develop new leads and possibly solve the cases.

In the 1998-99 *Budget Act*, the Legislature appropriated \$266,000 from the General Fund to form a two-year pilot team of forensic specialists which would identify and reopen old and cold homicides in Northern California, applying various new forensic techniques (including DNA analysis and latent fingerprint analysis) to stored physical evidence. The team consisted of a special agent, a senior criminalist, and a latent fingerprint analyst.

The Legislature also adopted supplemental report language instructing DOJ to report, by December 31, 1999, on the number of cases investigated, the results of the investigations, which law enforcement agencies received services, and the cost of conducting each investigation. At the time this *Analysis* was prepared, the report had not been submitted.

Budget Proposal. The budget requests \$249,000 from the General Fund to extend the unsolved homicide pilot program by two years. The program would consist of the same three positions approved for the initial pilot, and would continue to investigate the selected old and cold homicide cases.

Pilot Program Yielded Limited Results. The department indicates that since the program was initiated, it has selected 11 homicide cases for review, two of which have been analyzed and resulted in the identification of a suspected perpetrator. The remaining cases are in various stages of

forensic analysis, procedural review, and evidence evaluation. The reason for these limited results is that DOJ had difficulty filling the positions during the first year and was not able to fill all positions until the second year of the program. Consequently, the program has been operating with full staff for less than one year.

Unsolved Homicide Program No Longer Necessary. Although investigating unsolved homicides should remain a priority, this program is not the most effective way to meet this goal. A more effective way to identify offenders in old and cold cases would be to match DNA samples from these cases against the DNA database of sex and violent offender samples. The Legislature recognized this in the *1999-00 Budget Act*, when it appropriated funds to increase the number of violent offender samples in the DNA database. A separate request in the *2000-01 Governor's Budget*, which we recommend the Legislature approve, proposes funds to increase the number of DNA samples in the suspectless case database by hiring additional criminalists to analyze DNA samples. Allocating resources to improve the overall DNA database program is a more cost-effective means of solving unsolved homicides, because building a larger pool of DNA samples will increase the chances of finding a match between the unsolved homicide DNA samples and the DNA databank.

Analyst's Recommendation. We recommend the Legislature deny the proposal to continue the unsolved homicide pilot program because (1) the pilot program has had very limited results and (2) it is more cost-effective to expand the DNA database to investigate unsolved homicides.

No Basis for Augmentation for Rent Increases

We recommend deletion of a proposed augmentation to cover the costs of rent increases in state buildings because we find no analytical basis for granting an adjustment to the department that has been denied virtually all other state agencies. (Reduce Item 0820-001-0001 and various other items by \$906,000.)

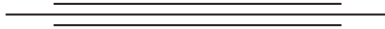
The budget requests \$906,000 from various funds to offset higher rental costs set by the Department of General Services for state buildings in which DOJ is a tenant. The request is based on cost increases that occurred in 1999-00 (\$329,000) and are set to occur in 2000-01 (\$577,000), for state buildings in Fresno, Los Angeles, Sacramento, San Francisco, and Oakland.

Our review found that only DOJ and three other agencies—the Departments of Industrial Relations and Fair Employment and Housing, and the State Treasurer's Office—received budget augmentations for rental

increases in state buildings. Presumably, all other state departments will absorb the rent increases.

We can find no analytical basis for granting an augmentation to pay for rent increases for these four departments when other departments and agencies are not provided such funds. We note that the administration's own budgeting guidelines indicate that departments will not receive funding for such price increases. Thus, we recommend that the requested augmentation be denied.

We discuss this issue in greater detail in our analysis of the Department of Finance's budget in the "General Government" chapter.



OFFICE OF CRIMINAL JUSTICE PLANNING (8100)

The Office of Criminal Justice Planning (OCJP) provides financial and technical assistance to state agencies, local governments, and the private sector for criminal justice programs such as crime prevention, victim and witness services, law enforcement, and juvenile justice. The OCJP has primary responsibility for the administration of federal criminal justice and victims grant programs, and acts as the grant agency for providing state-administered local assistance.

The budget proposes total expenditures for this office of \$318 million in 2000-01, including \$147 million from the General Fund. The total budget is a net increase of \$51.5 million, or about 19 percent, above estimated current-year expenditures. This increase is due primarily to a proposal for a \$100 million local law enforcement equipment grant program (we discuss this proposal in more detail below).

Local Law Enforcement Grants Not Justified

We recommend the Legislature reject the Governor's request for \$100.2 million from the General Fund and three positions for the California Law Enforcement Equipment Program and the California School Safety Equipment Program because the department has not provided adequate justification for the proposal.

Background. The 1999-00 Budget Act appropriated \$30 million to the OCJP to implement the California Law Enforcement Equipment Program (CLEEP). The objective of this program was to provide one-time competitive grants to law enforcement agencies for the acquisition of equipment, emergency response, and other criminal justice systems. However, seven months after the budget was enacted, CLEEP funds are unspent because OCJP has not yet issued grant applications to local law enforcement agencies.

Budget Proposal. The Governor's budget proposes another one-time General Fund allocation of \$100.2 million for a competitive local law enforcement and school safety equipment grant program, which would be allocated as follows:

- \$75 million to the existing CLEEP for police and sheriffs' departments to acquire "equipment and technology."
- \$25 million to a new program, the California School Safety Equipment Program (CSSEP), to provide one-time funds to school resource officer programs for emergency response, communications, surveillance, monitoring, and educational materials.
- \$237,000 and three positions to the OCJP for program administration.

These funds would be in addition to the \$121 million Citizen's Option for Public Safety (COPS) funds proposed for the budget year (for a discussion of the COPS program, see the Local Government Financing budget in the "General Government" chapter later in this *Analysis*).

Law Enforcement Grant Program Proposal Lacks Important Details. Our review indicates that the proposed program fails to address a number of important issues. For example, the proposal provides no information on such basic issues as:

- Criteria for selecting grant recipients.
- Types of purchases that would qualify as equipment, technology, or school safety expenditures.
- Measures which would be taken to provide oversight so that grant recipients are accountable for the appropriate use of grant monies.
- How program effectiveness would be evaluated.

No Evidence of the Level of Demand for Law Enforcement Equipment Funds. Since grant applications for the CLEEP funds appropriated in the 1999-00 *Budget Act* have not even been issued, no information is available regarding the level of local law enforcement needs for state assistance in purchasing equipment. Therefore, a large funding increase in the budget year could result in state funds supplanting rather than supplementing local funds for law enforcement equipment, especially since there is no local match requirement.

School Safety Grant Proposal Duplicates Existing Funding. In addition, the proposed \$25 million CSSEP is duplicative of an existing school safety grant program that is funded at a higher ongoing amount and has similar objectives. Specifically, the 1999-00 *Budget Act* appropriated \$100 million (\$71.1 million ongoing and \$28.9 million one-time) to the State

Department of Education for school safety grants. These funds are allocated to school districts based on enrollment of pupils in grades 8 to 12, with minimum allocations of \$5,000 per school site or \$10,000 per district, whichever is greater. These funds may be used for a broad range of purposes that contribute to the provision of safe schools, including on-campus safety devices and partnerships with law enforcement.

Increased OCJP Workload Not Justified. Independent of the problems with the equipment grant program proposal itself, OCJP has not provided documentation which shows that the overall increase in CLEEP funds will result in a higher workload level thereby necessitating three additional staff. Because the OCJP has not issued applications for the current-year CLEEP grants, there is no information about what the workload in the budget year will be and whether existing staff will be sufficient to administer the program.

Analyst's Recommendation. For these reasons, we recommend that the Legislature reject the Governor's request for \$100.2 million from the General Fund to support new local law enforcement grants.

Funding for DARE Program Not Justified

We recommend the Legislature delete \$1 million requested for the Drug Abuse Resistance Education (DARE) program because this program has not been shown to be effective for reducing drug abuse among young people. We also note that the Office of Criminal Justice Planning expended funds appropriated for the program in the 1999-00 Budget Act in a manner different than what the Legislature had approved.

The DARE program is a national substance abuse prevention program led by police officers, which is directed at elementary and middle school children. The curriculum includes lessons on the dangers of drugs, dealing with peer pressure, and conflict resolution.

The Governor's budget proposes \$1 million from the General Fund for support of the DARE program in the budget year. In addition, California DARE programs currently receive financial support from several sources, including the proceeds of voluntary donations on state tax forms and other OCJP drug suppression programs.

DARE Funds Have Not Been Spent in the Manner Approved by the Legislature. The 1999-00 Budget Act appropriated \$1 million from the General Fund to provide financial assistance to law enforcement agencies and school districts for the implementation of local DARE programs. However, without the approval of the Legislature, the OCJP changed the method of awarding grants from a competitive grant program, as the Legislature had approved, to a single noncompetitive grant of \$1 million

to DARE America, Inc., the national nonprofit organization that supports DARE. There is currently no information about how DARE America, Inc., will use the grant monies. Since the original legislative intent, to provide local assistance for drug abuse prevention programs, has not been followed, we question the advisability of additional appropriations for this program.

DARE Has Not Been Shown to Be Effective at Reducing Drug Abuse. More importantly, the DARE program has *repeatedly* been found in numerous scientific research studies to have little lasting effect on the attitudes or behavior of its participants with regard to drug use. A major 1998 report published by the U.S. Department of Justice stated that there is no scientific evidence which suggests that the DARE core curriculum will reduce substance abuse.

We believe that the state should not provide funds to programs that have been repeatedly found to be ineffective. Rather, if the state wants to direct General Fund resources to drug abuse prevention programs, such funds should be provided to programs that have a proven track record of effectiveness. For example, the Promoting Alternative Thinking Strategies (PATHS) curriculum, which teaches over a long period of time such skills as problem-solving, self-control, and social competence, has been shown to reduce substance abuse.

For these reasons, we recommend the Legislature delete \$1 million in General Fund support for the DARE program.

Full Funding for Grant Programs Not Justified

We recommend a reduction of \$4.5 million from the General Fund for various local assistance grant programs because program funds allocated in the 1999-00 Budget Act have not been spent and will not be awarded until the end of the current year.

The 1999-00 Budget Act included funding for several public safety local assistance programs to address issues such as elder abuse, rural crime, and high technology crime. However, as of January 2000, no grants have been awarded and no funds have been expended.

This delay in program implementation is the result of several factors, including problems in defining the program, developing grant application packages, and approving grantees. Nevertheless, it is difficult to understand why it is taking so long for these programs to be implemented, since the funds provided for these programs were requested by the administration last year during the budget process.

While these programs have resulted in some administrative costs to OCJP, the balance of funds appropriated for these programs is not likely to be spent by the end of the current year.

Budget Proposal. The budget proposes \$8.5 million from the General Fund to continue to support the programs in the budget year. The amounts are the same as the amounts included in the *1999-00 Budget Act*. They include:

- **Elder Abuse Vertical Prosecution Program—\$2 Million.** This program will provide grants to district attorneys for the purpose of creating special units focused on the vertical prosecution of offenders charged with felony elder/dependent adult abuse. The OCJP intends to make grant awards from the 1999-00 appropriations in April 2000.
- **High Technology Theft Apprehension and Prosecution Program—\$3 Million.** This program will provide grants to regional task forces focused on the apprehension and prosecution of criminal organizations and networks that are engaged in high technology crimes, such as the theft of high technology products and unlawful access to private or government computer networks. The OCJP intends to make grant awards from the 1999-00 appropriation in March 2000.
- **Rural Crime Prevention Program—\$3.5 Million.** This program provides grants to counties for the purpose of creating local law enforcement task forces which focus on the apprehension and prosecution of offenders engaged in agricultural crime, such as the theft of equipment, livestock, or crops. The OCJP intends to make grant awards from the 1999-00 appropriation in April 2000.

Analyst's Recommendation. Since funds appropriated for these grant programs will not be awarded until the end of the current fiscal year and the office does not plan to provide grants to new recipients in the budget year, we believe that less than full-year funding will be sufficient to support the grantees in the budget year. We believe that it would be more appropriate to provide partial-year funding for these programs, and recommend that the Legislature reduce each by \$1.5 million, for total General Fund savings of \$4.5 million.

Capacity to Recruit Evaluation Staff Is Uncertain

We withhold recommendation on \$346,000 in federal funds requested to establish four positions in the Program Evaluation Branch, pending receipt of updated information at the time of the May Revision on the office's ability to recruit staff to fill the existing vacancies in the branch.

Budget Proposal. The Governor's budget requests \$346,000 in federal funds to establish four new positions in the Program Evaluation Branch. These positions would be funded by redirecting funds from consulting and professional services.

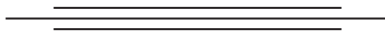
The additional staff positions would enable the OCJP to conduct a greater proportion of its evaluations with in-house staff as opposed to using external consultants. Currently, OCJP contracts with outside consulting services to perform program evaluations. However, contracts with these evaluators expire on July 1, 2000, and the OCJP plans to take over some of these ongoing evaluation projects. There are currently five positions authorized for the branch.

The budget includes full-year funding for the positions, meaning that the office assumes that it can fill the positions at the start of the 2000-01 fiscal year.

Analyst's Concerns. At the time this analysis was prepared, all five existing positions in the branch were vacant. The office advises that it is undertaking an aggressive recruitment effort to fill the vacant positions and believes that it can fill the proposed new positions at the beginning of the fiscal year.

Given the current vacancies and the historically high turnover in this branch, we are concerned that OCJP may not be able to fill the four requested positions, in addition to the five current vacancies. If this were the case, the office would not need the level of funding proposed.

For these reasons, we withhold recommendation on the proposal, pending receipt of information on the office's success in filling the current vacancies at the time of the May Revision.



FINDINGS AND RECOMMENDATIONS

Judiciary and Criminal Justice

Analysis

Page

Crosscutting Issues

Linking Mentally Ill Offenders to Community Care

- D-18 ■ **Department of Corrections: Mentally Ill Parolee Programs.** Recommend approval of \$6 million proposal to enhance services for mentally ill parolees with modifications, including the redirection of some resources from services for low-risk offenders for enhanced services those who pose a greater risk to public safety and the establishment of separate treatment programs for high-risk sex offenders. Also recommend approval of the \$1.9 million to provide closer parole supervision for seriously mentally disordered parolees.
- D-21 ■ **Department of Mental Health: Mentally Ill Homeless Program.** Withhold recommendation on the \$20 million proposed for continuation and expansion of pilot programs to assist the homeless mentally ill, pending review of the statutorily required report on effectiveness of the three existing projects. Further recommend that, if the Legislature does approve funding to expand the pilot projects to other counties, at least one of them be targeted primarily at providing assistance to parolees.
- D-24 ■ **Comprehensive Strategy for Addressing Mentally Ill Offenders in Criminal Justice System.** Recommend that the appropriate legislative budget and policy committees consider a more comprehensive approach for addressing the complex problems involving mentally ill offenders and the criminal justice system.

Analysis

Page

Legislative Oversight

- D-27 ■ **Information Overdue to Legislature.** Recommend Legislature withhold action on the budget of the Youth and Adult Correctional Agency pending the submittal of overdue reports by the agency or its constituent boards and departments.

Department of Corrections

Inmate and Parole Population Management Issues

- D-34 ■ **Inmate and Parole Population Trends.** The California Department of Corrections (CDC) projects slower growth in the prison population than the state experienced through much of the 1990s. Recent data suggest, however, that the growth rate is even slower than projections would indicate.
- D-40 ■ **Budget Adjustments for Caseload Growth. Reduce Item 5240-001-0001 by \$14 Million.** Recommend CDC funding reductions because inmate population growth is lagging below projections. Further adjustments should be considered at the time of the May Revision.
- D-41 ■ **2000-01 Prison Housing Plan.** Withhold recommendation on CDC's plan for housing the projected increase in the prison population because of administration's decision to halt procurement for community correctional facility beds and other factors that have rendered the plan obsolete.

Correctional Programs

- D-43 ■ **Budget Plan Implements Program Expansions.** The Governor has exercised special statutory authority to redirect \$10.5 million in the current year toward a drug treatment program and mental health services for parolees. The budget plan for 2000-01 continues a series of significant expansions of inmate and parole programs.
- D-45 ■ **Additional Steps Needed in Parole Reform. Reduce Item 5240-001-0001 by \$2 Million.** Recommend deletion of proposed augmentation to program to search for offenders

Analysis
Page

who have fled on parole because program has not been effective. Recommend Legislature consider other changes to budget to reform parole system.

Correctional Medical Care

- D-49 ■ **Department Not Fulling Using Managed Care to Curb Costs. Reduce Item 5240-001-0001 by \$5.3 Million.** Recommend reduction for medical services and supplies because request is based on outdate inmate population estimates. Withhold recommendation on \$7.6 million for other medical service augmentations, pending status report at budget hearings on department’s implementation of recommendations contained in recent report of Bureau of State Audits (BSA).

Correctional Administration

- D-51 ■ **Improvements Needed in Personnel Management Practices. Reduce Item 5240-001-0001 by \$18.3 Million.** Recommend reduction to reflect savings from correcting problems identified in recent BSA report. Withhold recommendation on \$119 million for overtime pay pending review of department’s compliance with BSA’s recommendations.
- D-53 ■ **Various Administrative Proposals Need Modification. Reduce Item 5240-001-0001 by \$17.1 Million.** Recommend reductions for leased jail beds, recruitment of new officers, internal affairs investigations, new inmate drug-testing program, prison construction staffing, and special repair projects, because requests are not justified. Recommend positions proposed to develop new training curriculum be extended to two years. Recommend that department provide Legislature with information on proposed departmental restructuring plan.

Board of Prison Terms

- D-56 ■ **Process Without Possibility of Parole: Hearings for Life-Term Inmates.** Recommend that the Youth and Adult Correctional Agency and the Board of Prison Terms provide information about an unwritten administration policy of no longer releasing life-term inmates from prisons.

Analysis

Page

Department of the Youth Authority

- D-66 ■ **Ward and Parolee Populations Relatively Flat.** Institutional population continued to decrease in the current year and it is projected to decrease slightly until June 2001, at which point it will start to increase, reaching about 8,100 wards by 2003-04. Parole populations are expected to increase in the budget year and will continue to increase to about 5,205 parolees by the end of 2003-04.
- D-67 ■ **Population Figures to Be Updated at May Revision.** Withhold recommendation on a net \$565,000 increase from the General Fund based on projected ward and parolee population changes, pending receipt of the revised budget proposal
- D-68 ■ **Expansion of Basic Peace Officers Academy.** Withhold recommendation on the plan to expand scope and length of the Basic Peace Officers Academy training, pending receipt of additional information on academy training standards.
- D-69 ■ **Ombudsperson Proposal Needs Clarification.** Withhold recommendation on the request to establish positions, pending receipt of additional information about position responsibilities.

Office of the Inspector General

- D-71 ■ **Fast-Growing Office Significantly Overbudgeted. Reduce Item 0550-001-0001 by \$1.5 Million.** Recommend funding reduction that will allow the office to comply with legislative mandates while being realistic about the pace of staff expansion and workload the office can handle.

Commission on Correctional Peace Officers' Standards and Training

- D-75 ■ **Report on Cadet Training Overdue.** Recommend that commission report at budget hearings on its findings so that the Legislature will be in a position to consider the merit of significant proposed changes in the Departments of Corrections (CDC) and the Youth Authority training operations.

Analysis

Page

- D-76 ■ **Audit Needed of On-The-Job Training Efforts.** Recommend approval of \$1.7 million augmentation and adoption of supplemental report language directing the commission to conduct an audit of the greatly expanded CDC and Youth Authority “7k” on-the-job training programs.

Trial Court Funding

- D-82 ■ **Clarification Needed on Fee Revenues.** There are a number of fees collected by the trial courts that were not designated for either the courts or the counties by the 1997 Trial Court Funding legislation. The Judicial Council should report its recommendations to resolve this issue.
- D-83 ■ **Mechanism Needed on Funding for Employee Salary Increases.** Recommend that the Judicial Council present the Legislature, prior to budget hearings, with options to fund costs of negotiated salary increases for trial court staff and court security personnel.
- D-85 ■ **Fiscal Analysis Needed of Employee Task Force Recommendations.** Recommend that the Legislature direct the Judicial Council to submit analysis, including an identification of potential costs to the state, of the proposed changes.
- D-87 ■ **Judicial Officer Salary Increase Raises Broader Policy Issues. Reduce Item 0450-101-0932 by \$13.2 Million and Item 0450-111-0001 by the Same Amount.** Recommend that the issue of judicial salary increases be referred to the Legislature’s fiscal committees to consider along with other issues regarding recruitment and retention of judges.
- D-88 ■ **Alternative Approaches Needed to Improve Jury Service.** Recommend that Legislature not approve a proposed increase in juror compensation because the proposal is unlikely to have much impact on reducing juror dissatisfaction and improving the ability of courts to obtain adequate juror pools, but instead use funds to establish pilot projects to test various jury reforms.

Analysis

Page

- D-91 ■ **Uncertainty Regarding Elder Protective Order Costs.** Recommend the Legislature adopt budget bill language to restrict the use of funding provided for elder protective orders so that the savings would revert to the General Fund.

Judicial

- D-93 ■ **Salary Funding Proposal Not Justified. Reduce Item 0250-001-0001 by \$2.5 Million.** Recommend denial of request because expenditures are not justified.
- D-95 ■ **Salary Increase for Appellate Justices. Reduce Item 0250-001-0001 by \$843,000.** Recommend that the Legislature refer issue of judicial salary increases to its policy committees for consideration along with other broader policy issues regarding recruitment and retention of judges.
- D-96 ■ **Equipment Replacement.** Recommend adoption of supplemental report language specifying that amounts proposed for equipment and copier replacement shall not be included in the baseline budget, but rather justified on an annual basis.

Department of Justice

- D-99 ■ **Additional Funding for DNA Labs.** Recommend approval of \$5.5 million to address the increased DNA sample analysis workload and increase the effectiveness of the DNA database in assisting with criminal investigations.
- D-101 ■ **Violence Suppression Program Augmentation. Reduce Item 0820-001-0001 by \$1 Million.** Recommend reduction because additional agents are not justified on a workload basis.
- D-102 ■ **High Technology Crime Program Not Justified. Reduce Item 0820-001-0001 by \$643,000.** Recommend reduction, because no clear need has been established for Department of Justice involvement in local high technology crime task forces.

Analysis

Page

- D-103 ■ **Discontinue Unsolved Homicide Program. Reduce Item 0820-001-0001 by \$249,000.** Recommend reduction because program has yielded limited results and will no longer be necessary when the DNA database is operating at full capacity.
- D-105 ■ **No Basis for Augmentation. Reduce Item 0820-001-0001 and Other Items by \$906,000.** Recommend deletion of augmentation to cover the costs of rent increases in state buildings because we find no analytical basis for granting an adjustment to DOJ that has been denied virtually all other state agencies.

Office of Criminal Justice Planning

- D-107 ■ **Equipment Grant Augmentations Not Justified. Reduce Item 8100-101-0001 by \$100 Million and Item 8100-001-0001 by \$237,000.** Recommend the Legislature deny request because demand for equipment has not been established and school safety funds are already available through the State Department of Education.
- D-109 ■ **Continuation of Drug Abuse Resistance Education (DARE) Program Funding Not Justified. Reduce Item 8100-101-0001 by \$1 Million.** Recommend reduction because DARE program has repeatedly been found to not be effective.
- D-110 ■ **Full Funding for Grant Programs Not Justified. Reduce Item 8100-101-0001 by \$4.5 Million.** Recommend the Legislature reduce funding levels for public safety local assistance programs because current fiscal year appropriations have not been awarded and full-year funding should not be needed in budget year.
- D-111 ■ **Program Evaluation Branch Staff Increase.** Withhold recommend on four proposed new positions, pending receipt of information on efforts to fill existing vacancies at the time of the May Revision.

