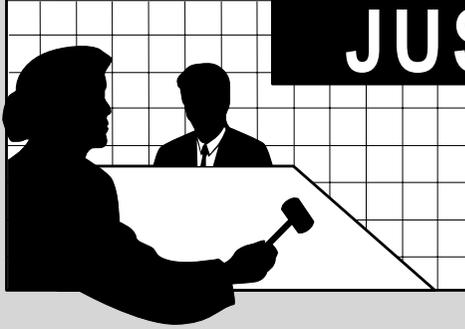


# JUDICIARY & CRIMINAL JUSTICE



2001-02 Analysis



# MAJOR ISSUES

## *Judiciary and Criminal Justice*

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### **Prison Inmate Population to Decrease Slightly**

- The California Department of Corrections (CDC) is projecting a slower rate of growth in the prison population than the state experienced through much of the 1990s. Based on recent inmate population data, we estimate that the prison population will actually decline slightly between the current and budget years (see Page D-46).



### **Need to Link Developmentally Disabled Offenders to Community Care**

- A plan prepared by the CDC would increase services to inmates with developmental disabilities but does not provide sufficient community services for parolees.
- We recommend the Legislature direct CDC to assess the need for services for developmentally disabled parolees and develop a plan for their provision (see page D-53).



### **Prison Management Costs Still Increasing**

- The budget proposes an increase of \$117 million for health care services, which is a significant increase over current-year expenditures. We recommend the department report on a plan for implementing reforms to improve delivery and reduce costs of pharmacy services and medical contracting (see page D-64).
- The department continues to experience high sick leave usage and overtime expenditures. Our review finds that departmental actions have not resulted in significant cost reductions in these areas. We discuss several budget

initiatives aimed at addressing these issues and recommend more aggressive cost containment measures (see page D-67).



### **Transfer of Trial Court Facilities Presents State with Major Potential Financial Liability**

- Recent legislation shifted primary financial responsibility for trial court support from counties to the state, resulting in annual General Fund costs of over \$1.2 billion.
- A state/local task force has voted to recommend that the state assume full responsibility for court facilities. This has the potential to transfer an additional multibillion dollar responsibility to the state.
- While we concur that such a transfer is consistent with prior legislative direction in this area, we take issue with a number of the task force's recommendations on how to achieve that transfer. We recommend several alternatives the Legislature could consider in order to streamline the process, integrate it into the state's capital outlay planning process, and appropriately limit the state's future funding liability (see page D-19).



### **Governor Proposes Modest Reforms for Youth Authority**

- The budget proposes new resources for sex offender, mental health, and substance abuse treatment, and ward grievance procedures. Legislative augmentations in similar areas were vetoed last year by the Governor. While the budget proposals reflect these legislative priorities, they are significantly more modest in scope (see page D-93).



### **War on Methamphetamine Program Not Justified**

- The budget proposes a new \$40 million program to assist local law enforcement agencies to combat methamphetamines. We find that the program has not been justified and recommend that funding be deleted. We note that the proposal lacks important details and that a significant level of state and federal resources are currently being directed to such efforts (see page D-100).

# TABLE OF CONTENTS

## *Judiciary and Criminal Justice*

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|   |             |
|---|-------------|
| <b>Overview .....</b>   | <b>D-7</b>  |
| Spending by Major Program .....   | D-7         |
| Major Budget Changes .....  | D-8         |
| <b>Departmental Issues .....</b>  | <b>D-13</b> |
| Judicial (0250) .....   | D-13        |
| Trial Court Funding (0450) .....  | D-17        |
| Youth and Adult Correctional Agency (0550).....                                 | D-33        |
| Office of the Inspector General (0552) .....                                    | D-36        |
| Department of Justice (0820) .....  | D-38        |
| Department of Corrections (5240) .....  | D-41        |
| Board of Prison Terms (5440) .....  | D-73        |
| Department of the Youth Authority (5460) .....                                  | D-77        |
| Commission on Correctional Peace Officer<br>Standards and Training (5480) ..... | D-98        |

Office of Criminal Justice Planning (8100) ..... D-100

**Findings and Recommendations ..... D-111**

# OVERVIEW

## *Judiciary and Criminal Justice*

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**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 funding for state and local law enforcement and judicial programs and (2) growth in workload and slight increases in caseload-driven programs. The number of state prison inmates and parolees is projected to increase slightly in the budget year, but at a substantially slower rate than experienced through much of the 1990s.

The budget proposes total expenditures of \$8.2 billion for judiciary and criminal justice programs in 2001-02. This is an increase of \$300 million, or 3.8 percent, above estimated current-year spending. The increase is due primarily to a projected increase in the state's prison and parole populations, new and expanded state and local criminal justice programs, and increases in the cost of state support for trial courts.

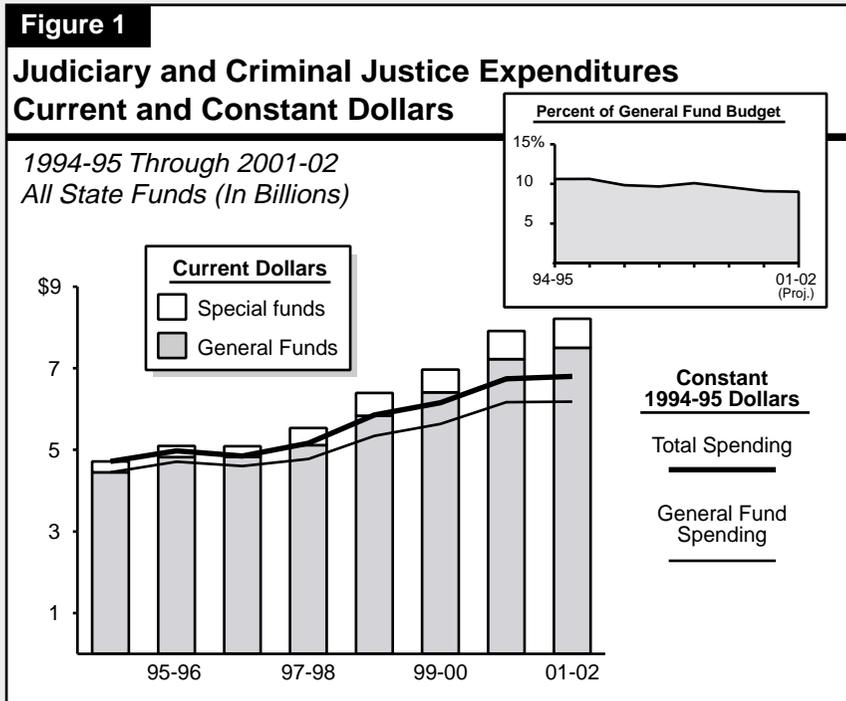
General Fund expenditures are estimated to total \$7.5 billion for judiciary and criminal justice programs which is an increase of \$224 million, or 3.1 percent, above estimated General Fund expenditures in the current year.

Figure 1 (see next page) shows expenditures from all state funds for judiciary and criminal justice programs since 1994-95. Expenditures for 1995-96 through 2001-02 have been reduced to reflect federal funds the state has 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 \$3.5 billion since 1994-95, representing an average annual increase of 8.2 percent.

## SPENDING BY MAJOR PROGRAM

Figure 2 (see page 9) shows expenditures from all sources for the major judiciary and criminal justice programs in 1999-00, 2000-01, and as

proposed for 2001-02. 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 for judiciary and criminal justice programs. These changes are described below:

**Full Funding for Workload Increases and Little Growth in Caseload-Driven Correctional Programs.** The budget includes full funding for caseload growth in the prison inmate, ward, and parole populations, and projected workload growth in court and state law enforcement programs. It assumes, however, that the state's prison inmate population will increase by only 1.8 percent. (We discuss inmate population trends in our analysis of CDC later in this chapter.) The state's Youth Authority ward population will actually decrease by a slight amount in the budget year.

The budget does not propose to construct any new state-operated prisons, but assumes continued work on the new Delano facility authorized in 1998.

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

1999-00 Through 2001-02  
(Dollars in Millions)

|   | Actual<br>1999-00 | Estimated<br>2000-01 | Proposed<br>2001-02 | Change From<br>2000-01 |              |
|---|-------------------|----------------------|---------------------|------------------------|--------------|
|   |                   |                      |                     | Amount                 | Percent      |
| <b>Department of Corrections</b>                  |                   |                      |                     |                        |              |
| General Fund                                      | \$4,146.9         | \$4,437.1            | \$4,697.3           | \$260.2                | 5.9%         |
| Special funds                                     | 43.2              | 46.6                 | 46.8                | 0.1                    | 0.3          |
| Reimbursements and<br>federal funds               | 95.1              | 104.2                | 64.7                | -39.5                  | -37.9        |
| <b>Totals</b>                                     | <b>\$4,285.3</b>  | <b>\$4,587.9</b>     | <b>\$4,808.8</b>    | <b>\$220.8</b>         | <b>4.8%</b>  |
| <b>Department of the Youth Authority</b>          |                   |                      |                     |                        |              |
| General Fund                                      | \$317.5           | \$334.4              | \$348.1             | \$13.7                 | 4.1%         |
| Bond funds and<br>special funds                   | 2.8               | 1.2                  | 0.9                 | -0.3                   | -25.0        |
| Reimbursements and<br>federal funds               | 74.2              | 80.0                 | 82.4                | 2.4                    | 3.0          |
| <b>Totals</b>                                     | <b>\$394.5</b>    | <b>\$415.6</b>       | <b>\$431.4</b>      | <b>\$15.8</b>          | <b>3.8%</b>  |
| <b>Federal offset for<br/>undocumented felons</b> | <b>\$191.4</b>    | <b>\$190.9</b>       | <b>\$189.2</b>      | <b>-\$1.7</b>          | <b>-1.0%</b> |
| <b>Trial Court Funding</b>                        |                   |                      |                     |                        |              |
| General Fund                                      | \$962.0           | \$1,140.6            | \$1,160.7           | \$20.1                 | 1.8%         |
| Special funds                                     | 417.0             | 460.3                | 534.2               | 73.9                   | 16.1         |
| County contribution                               | 457.6             | 459.4                | 475.1               | 15.7                   | 3.4          |
| <b>Totals</b>                                     | <b>\$1,836.7</b>  | <b>\$2,060.3</b>     | <b>\$2,170.0</b>    | <b>\$109.7</b>         | <b>5.3%</b>  |
| <b>Judicial</b>                                   |                   |                      |                     |                        |              |
| General Fund                                      | \$244.6           | \$277.1              | \$297.9             | \$20.9                 | 7.5%         |
| Other funds and<br>reimbursements                 | 46.9              | 54.2                 | 53.3                | -0.9                   | -1.7         |
| <b>Totals</b>                                     | <b>\$291.5</b>    | <b>\$331.3</b>       | <b>\$351.2</b>      | <b>\$20.0</b>          | <b>6.0%</b>  |
| <b>Department of Justice</b>                      |                   |                      |                     |                        |              |
| General Fund                                      | \$266.0           | \$302.9              | \$323.7             | \$20.7                 | 6.8%         |
| Special funds                                     | 90.3              | 120.0                | 120.6               | 0.6                    | 0.5          |
| Federal funds                                     | 32.1              | 44.1                 | 25.8                | -18.3                  | -41.5        |
| Reimbursements                                    | 107.5             | 121.1                | 126.7               | 5.6                    | 4.6          |
| <b>Totals</b>                                     | <b>\$495.9</b>    | <b>\$588.1</b>       | <b>\$596.8</b>      | <b>\$8.6</b>           | <b>1.5%</b>  |

**Figure 3**

### Judiciary and Criminal Justice Proposed Major Changes for 2001-02 All Funds

|                                  |  |
|----------------------------------|--|
| <b>Department of Corrections</b> | <b>Requested: \$4.8 billion</b>        |
|                                  | <b>Increase: \$221 million (+4.8%)</b> |

- + \$82.8 million for pharmacy and contract medical cost increases
- + \$63.7 million for employee compensation adjustments
- + \$58.3 million for electromechanical security doors
- + \$32 million for medical and mental health service delivery

|                            |  |
|----------------------------|--|
| <b>Trial Court Funding</b> | <b>Requested: \$2.2 billion</b>        |
|                            | <b>Increase: \$110 million (+5.3%)</b> |

- + \$22.5 million for court security
- + \$10 million for family and children services
- + \$8.1 million for increased charges for county-provided services
- + \$5 million for equal access for indigent litigants
- + \$4.6 million for infrastructure improvements in trial court facilities
- + \$3.5 million for new trial court personnel system

|  |  |
|--|--|
| <b>Office of Criminal Justice<br/>Planning</b> | <b>Requested: \$315.5 million</b>        |
|  | <b>Decrease: \$71.2 million (-18.3%)</b> |

- + \$40 million for War on Methamphetamines
  - + \$30 million for local forensic lab improvements
  - + \$11 million for high-tech crime programs
- 
- \$96 million for one-time grant for Los Angeles crime lab

*Several New Criminal Justice Initiatives.* The budget proposes a number of new criminal justice programs, and continues recent expansions of others. The largest initiative is \$40 million for a War on Metham-

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phetamine program in the Office of Criminal Justice Planning (OCJP) to provide one-time funds to local law enforcement agencies for equipment and training (\$25 million) and ongoing funds for enforcement activities (\$15 million). The budget proposes \$30 million for OCJP for equipment and construction grants for local forensic laboratories and \$11 million for high-technology crime programs. In addition, the budget proposes to continue \$243 million in funds for the Citizens' Option for Public Safety program which provides support to local governments on a per-capita basis for juvenile and criminal justice programs. Finally, the budget again includes \$75 million in one-time funds for local law enforcement technology equipment grants.

***Escalating Costs for Trial Courts.*** In the area of trial court funding, the budget also proposes expanded support for court security (\$22.5 million), the increased cost of county-provided services which the state is now obligated to pay (\$8.1 million), additional family and children services (\$10 million), and a variety of smaller program increases.

***Correctional Programs Contain Few New Program Initiatives.*** In CDC, budget increases are aimed primarily at ongoing programs including pharmacy and contract medical costs (\$82.8 million), employee compensation (\$63.7 million), enhanced facility security (\$58.3 million), and medical and mental health services (\$32 million). In the California Youth Authority (CYA), the budget proposes several increases totaling \$7.4 million for treatment and aftercare in the areas of sex offenders, mental health, and substance abuse.

***Slight Increase in Federal Reimbursements for Incarceration and Parole of Undocumented Immigrant Offenders.*** The budget assumes that the state will receive \$189.2 million in federal funds in 2001-02 to offset the state's costs to incarcerate and supervise undocumented immigrants in CDC and CYA. This amount is slightly higher than the amount the state received in 2000-01. These federal funds are counted as offsets to state expenditures and are not shown in the budgets of either department or in the budget bill.



# DEPARTMENTAL ISSUES

## *Judiciary and Criminal Justice*

### 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, the six courts of appeal, and the Judicial Council of California, which is the administrative body of the judicial system, 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 proposes total appropriations of \$351 million in 2001-02. This is an increase of \$26.3 million, or 6 percent, above estimated current-year expenditures. Total General Fund expenditures are proposed at \$298 million, an increase of \$21 million, or 7.5 percent, above current-year expenditures.

The increase in the Judicial budget is primarily due to requests for: (1) an augmentation to the Equal Access Fund to provide attorneys for unrepresented indigent litigants (\$5 million), (2) Administrative Office of the Courts (AOC) services to the trial courts (\$3 million), (3) increased operating expenses for the Court-Appointed Counsel program (\$2 million), (4) creation of an external fiscal review and audit process for trial courts (\$1.9 million), (5) pilot projects to determine the effectiveness of court-based self-help programs for low-income persons (\$832,000), (6) expansion of the Court Appointed Special Advocates Grants Project

(\$675,000), and (7) increased expenditure authority for child support commissioner salaries (\$605,000).

### **Current Budget Display Understates Assistance to the Trial Courts**

*We recommend that, prior to budget hearings, the Judicial Council report to the Legislature on the amount of local assistance funding provided to the trial courts through the Judicial budget item. We further recommend that the Legislature transfer trial court local assistance funding located in the Judicial budget into the budget item for Trial Court Funding (Item 0450).*

As indicated above, the Judicial budget includes support for the Supreme Court, the courts of appeal, the Habeas Resource Center, and the Judicial Council. The AOC, which is located within the Judicial Council, provides administrative support and services for all the courts in California, including the trial courts.

The Lockyer-Isenberg Trial Court Funding Act of 1997, Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle) shifted primary fiscal responsibility for support of the trial courts from the counties to the state. In addition, the Trial Court Employment Protection and Governance Act of 2000, Chapter 1010, Statutes of 2000 (SB 2140, Burton) established a new trial court personnel system. This statute redesignated county employees in the trial courts as "court employees." The courts are required to develop new procedures for these court employees, including, a uniform classification system, an employment protection system, personnel rules, and eligibility for defined-benefit retirement systems.

*The AOC Expands Role in Trial Court Assistance.* The process of separating county and court functions has led to a new environment for the trial courts in which many services once provided by the county must be purchased elsewhere, handled in-house, or provided by the AOC. For the most part, the AOC has significantly increased its role in assisting the trial courts. This is reflected in the fact that the Judicial Council budget has increased by nearly 80 percent since 1997-98.

Partly as a result of recent legislation, AOC's budget contains substantial amounts for assistance to the state's trial courts. For example, the budget proposes (1) \$2 million and 18.5 positions to implement the Trial Court Employment Protection and Governance Act, (2) \$1.9 million to initiate an external fiscal review of the trial courts, (3) \$1.5 million in local assistance funding, and (4) \$844,000 and five positions to provide direct attorney, consulting, and other administrative services to the courts.

*Trial Court Funds Not Displayed in Judicial Budget.* Currently, funds for trial courts are appropriated in two separate items of the Budget Bill:

the Judicial budget item (Item 0250) and the Trial Court Funding budget item (Item 0450). The funds in Item 0250 are not separately identified or displayed and instead are included within the Judicial Council line item along with other Council expenses. By contrast, the funds for the trial courts are separately identified in Item 0450. This situation makes it difficult for the Legislature to determine the amount of state support being provided to trial courts in the Judicial item and the *total* amount provided in the Governor's budget. This problem is becoming more significant as AOC continues to acquire and provide additional staff and support for court services no longer being provided by counties.

***Analyst's Recommendation.*** Separating out the trial court funds in Item 0250 would facilitate the Legislature's review of funding levels and trends for trial courts relative to those for other state programs. Accordingly, we recommend that the Judicial Council, prior to budget hearings, report to the Legislature, on the amount of local assistance funding included in the Judicial budget item. We further recommend that this amount be transferred to and scheduled in the Trial Court Funding budget item, or at a minimum, be placed in a local assistance program item within the Judicial budget.

## **Reporting Requirements Needed for Model Self-Help Pilot Programs**

***We recommend approval of \$832,000 for the Administrative Office of the Courts to begin pilot projects to determine the effectiveness of court-based self-help programs for low-income persons. We further recommend the adoption of supplemental report language that directs the Judicial Council to report the results of the pilot projects upon their completion.***

***Proposal.*** The budget requests \$832,000 to establish pilot projects to determine the effectiveness of five different models of court-based self-help programs. The purpose of these programs is to assist low-income persons in having their court cases resolved.

***Background.*** A growing number of unrepresented litigants are presenting their own civil cases in courts throughout the state. Currently, over one half of the parents seeking custody and visitation services from the courts act as their own attorneys, and over 62 percent of parents with child support problems act on their own behalf.

Unrepresented litigants require more time from judicial officers and court clerks to process papers and explain procedures. The State Bar estimates that it would take over \$360 million per year to provide legal representation for persons below the poverty line. The courts have been seeking other, less expensive, strategies to assist unrepresented litigants so

that the courts can make informed decisions and ensure more efficient use of staff time.

**Recommendation.** We recommend approval of \$832,000 to fund the self-help pilot projects in order to identify effective ways of providing assistance to unrepresented low-income litigants. We also recommend adoption of the following supplemental report language requiring the Judicial Council to report the results of its pilot projects to the Legislature.

The Judicial Council shall report to the Chair of the Joint Legislative Budget Committee and the chairs of the Legislature's fiscal committees on March 1, 2005 on the efficiency and effectiveness of the Model Self-Help Pilot Programs in assisting unrepresented litigants.

=====

## 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 2001-02 of \$2.2 billion for support of the Trial Court Funding Program. This is \$110 million, or 5.3 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 (see next page) shows the sources of revenue for the fund.

**Figure 1**

### Trial Court Funding Program

*(In Millions)*

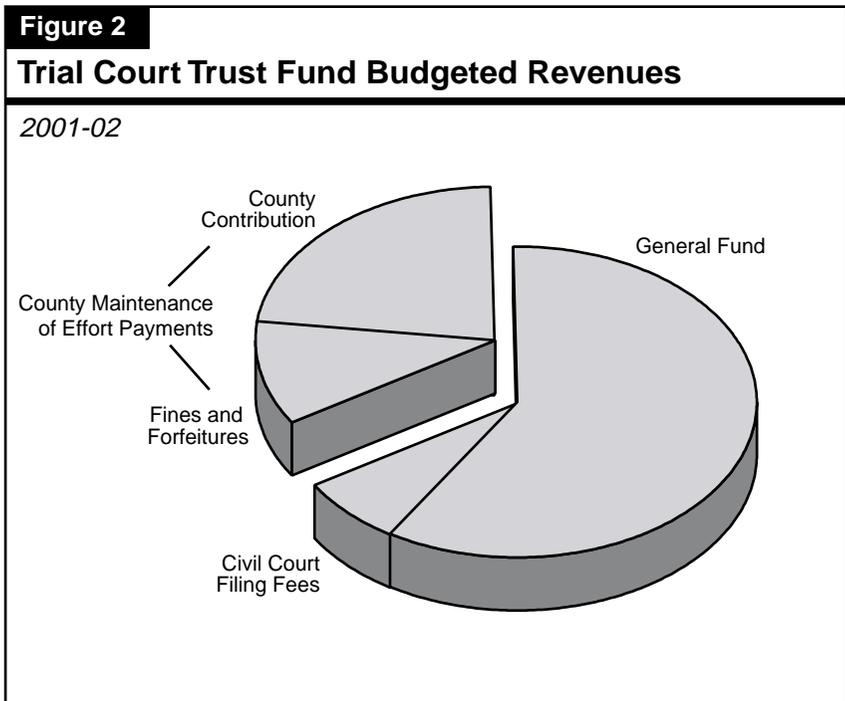
|                                | Actual<br>1999-00 | Estimated<br>2000-01 | Proposed<br>2001-02 |
|--------------------------------|-------------------|----------------------|---------------------|
| Trial court operations         | \$1,609.5         | \$1,775.2            | \$1,861.5           |
| Court interpreters             | 50.3              | 54.4                 | 58.1                |
| Superior court judges salaries | 160.2             | 212.9                | 232.6               |
| Assigned judges                | 16.7              | 17.7                 | 17.8                |
| <b>Totals</b>                  | <b>\$1,836.7</b>  | <b>\$2,060.2</b>     | <b>\$2,170.0</b>    |

### Budget Request

The budget proposes a number of augmentations for support of the trial courts in 2001-02. The major proposals include the following:

- \$22.5 million for cost increases and additional levels of service for security, including equipment.
- \$8 million for increased charges for county-provided services.

- \$4.6 million for infrastructure improvements in trial court facilities.
- \$4.2 million for implementation of the one-day/one-trial system.
- \$3.9 million for increased costs in the appointment of counsel for parents in juvenile dependency proceedings.
- \$3.7 million for court interpreter workload growth.
- \$3.6 million for appointed counsel and Court-Appointed Special Advocates for Children in dependency proceedings.
- \$3.5 million to establish a new trial court personnel system in accordance with the Trial Court Employment and Governance Act.
- \$3 million for court services for family and children.
- \$3 million for trial court administrative operating expenses and staff.



## 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 fis-

cal responsibility for support of the trial courts from the counties to the state. This measure resulted in a major new financial responsibility for the state's General Fund and provided general purpose fiscal relief to counties by capping their future financial obligations for court operations.

As the state has proceeded to implement this new funding structure, it has encountered a number of issues that will require clarification in additional legislation or changes in budgeting practices. Below we discuss three issues that we believe the Legislature and Governor should consider this year. These issues are court facilities, court-related fees, and court employee salaries.

### **Preliminary Task Force Report Targets Court Facilities**

*Background.* Chapter 850 established the Task Force on Court Facilities to identify the capital outlay needs of trial and appellate court facilities. The legislation also directed the task force to provide options and recommendations for funding court facility maintenance, improvements, and expansion. Finally, Chapter 850 directed the task force to recommend an appropriate assignment of state and local funding responsibilities for these facilities as well as a transition plan for any changes.

The task force submitted an interim report on October 1, 1999. A second interim report is expected in the spring of 2001, and a final report was originally due July 1, 2001. However, the task force now estimates that its final report will not be issued until October 2001. In formulating its recommendations, the task force relied on a survey of existing county facilities and a model for court facility standards which incorporated existing and anticipated funding levels.

*Task Force Recommendations.* The task force has voted to recommend that the state assume full responsibility for funding and maintaining court facilities and has designed a transition plan to achieve this. The task force chose not to adopt a single plan to transfer and manage all facilities. Instead it recommends that the Judicial Council and the counties negotiate the transfer of facility responsibilities on a building-by-building basis. Under this plan, the state would have the option of either taking title to a building or leasing court space from the county.

Counties, on the other hand, would continue to have responsibility for financing at least a portion of the cost of facility operations and maintenance through a maintenance-of-effort (MOE) agreement with the state. This would obligate counties to make payments to the state based on historical funding levels of operations and maintenance.

Figure 3 ( see next page) summarizes some of the transfer principles recommended by the task force.

**Figure 3****Key Features of County-to State Transfer  
Of Responsibility for Court Facilities  
Recommended by Task Force**

- State assumes responsibility for court facilities.
- Judicial Council is lead entity and would negotiate transfers with counties on a building-by-building basis.
- The state provides no payment for capitalized value of buildings and associated land.
- Counties can decide whether or not to transfer certain special classes of facilities, such as historically significant buildings, which may be leased by the state for court use.
- State can decide whether or not to accept facilities deemed unsuitable for court use.
- County and court representatives shall agree upon occupancy and use of space within a mixed-use building, as spelled out in a memorandum of understanding.
- Counties will finance a portion of maintenance and operations costs and transfer payments to the state that are calculated using a base year.
- Counties retain existing debt on facilities but are not responsible for deferred maintenance.
- Courthouse construction fees, less any funds obligated to debt service, transfer to state.

**State Needs to Take Action on Court Facilities**

*Because existing law already requires the state to assume responsibility for court operations, having the state assume responsibility for court facilities is consistent with that action. In addition, failure to do so may result in continued neglect and deterioration of some facilities. We, therefore, recommend the enactment of legislation that transfers*

*responsibility for court facilities to the state. We also recommend that the legislation do the following: (1) provide authority for the state to assume responsibility in a timely manner, (2) include court facilities in the state's existing capital outlay planning process, (3) establish a streamlined facility transfer process, (4) establish a funding mechanism that recognizes those counties which have made a good-faith effort to maintain their court facilities, and (5) count court facility funding as fiscal relief in the context of the state-county fiscal relationship.*

It is important for the state to decide whether to assume responsibility for court facilities. Currently court facilities have a backlog of deferred maintenance issues which are increasing. This growing backlog is a result of two factors. The first is the historical nature of the relationship between counties and courts. Those counties that have not had a close working relationship with their courts traditionally have been disinclined to invest resources in their facilities. The second factor is a more recent behavioral change on the part of counties in anticipation of a state takeover of facilities. In these cases, counties may have reduced their efforts to maintain and improve their facilities because they have no incentive to do so.

Since Chapter 850 already established the state's responsibility for trial court operations, we concur with the task force conclusion that state assumption of responsibility for facilities is consistent with that action. We differ with the task force, however, on specific findings. It is important that legislation be enacted to clearly identify the state's authority with regard to ownership and management of these facilities.

***State Needs to Acknowledge Huge Fiscal Liability.*** It is important for the Legislature to be aware that with this state responsibility comes a huge amount of future capital outlay needs. The task force estimates that there are approximately 440 trial court facilities occupying 10 million square feet of space. Of these facilities, approximately two-thirds are mixed-use, meaning the court shares building space with other county personnel and operations. Of the space in mixed-use buildings, about 52 percent is occupied by court operations.

Based on its county survey, the task force's preliminary estimates of annual support and lease costs for court facilities are \$119 million. This amount would be partially offset by the county share for facility operations and maintenance costs established through a negotiated MOE agreement (currently estimated at \$80 million to 90 million annually). Beyond this, the task force has identified *future* capital funding needs in the multibillion dollar range over the next 20 years. While we recognize that a future need exists, we are concerned about task force expectations regarding the state's ability and willingness to address that future need.

We also are concerned about the feasibility and desirability of some of the elements in the task force's transition plan. Below we identify these concerns and suggest alternative approaches.

***Court Facilities Need to Be Included in the State's Capital Outlay Planning Process.*** The task force report does not lay out how court facility priorities would be considered in the context of other state capital outlay priorities. However, the report appears to assume that the state would develop a separate system for evaluating and funding court facility needs. To the extent the state assumes responsibility for court facilities, we recommend that any process developed by the Judicial Council for funding court capital outlay be conducted within the context of the process set forth in Chapter 606, Statutes of 1999 (AB 1473, Hertzberg). This legislation emphasizes the Legislature's intent that the state establish and annually update a five-year plan for identifying and establishing priorities for all state infrastructure needs.

The incorporation of court facilities into the statewide capital outlay planning process means that court facility needs will be reviewed as part of a statewide review process and in conjunction with statewide capital outlay needs. It does not imply a commitment to or guarantee for any particular level of funding for court facilities. As part of this process, the Judicial Council would be required to submit a five-year plan for court facility needs to the administration and Legislature like any other state agency.

***Facility Transfer Process Needs to Be Streamlined.*** As indicated earlier, the task force estimates there are 440 trial court facility buildings. Requiring the state to negotiate the transfer of *each* building presents a difficult administrative task that could drag on for years. Nor does it offer any motivation or incentives to counties to move to a quick resolution. We recommend that any legislation relating to the assumption of state responsibility identify a specific date or time frame for facility transfer to avoid continuing problems of deferred maintenance.

Because of the diversity which exists among facilities, we recommend that the state be authorized to negotiate with counties on the terms of transfer for mixed-use and historical buildings. In the case of mixed-use buildings, we suggest that those facilities where the majority of space is occupied by the court be transferred to the state, but that the state be authorized to negotiate with counties on the continued provision of space to other county occupants. The state also should be allowed to require long-term leases from counties in mixed-use buildings so as to avoid having to seek tenants for that space in the future.

As regards historical buildings, we recommend a process that would respect their significance to the community but not exempt them from statewide policies on court facilities. Specifically, the state should negoti-

ate with counties to allow them to have access to or retain the ability to use historical facilities for specified purposes.

***Facility Code Compliance Issues Need Attention.*** The task force survey of court facilities identified and catalogued a wide range of compliance problems associated with the American with Disabilities Act, seismic safety, and other fire and life safety code issues. Some of these problems relate to retroactive code requirements which include changes required to address urgent and immediate problems with *existing* facilities' condition. In general, counties should be responsible for those retroactive code changes that went into effect when a facility was under county ownership. The state, however, would be responsible for any nonretroactive code compliance requirements, that is, changes required for any *future* facility designs or modifications. These future compliance requirements would need to be addressed as part of the state's capital outlay planning process.

***Need to Recognize Some Counties' Efforts to Maintain Facilities and Make Them Code Compliant.*** The task force report recommended that counties provide an MOE facility contribution to the state, based on a five-year average of maintenance and operations costs. The task force, however, recommended elimination of a county's responsibility for deferred maintenance. This would have the effect of rewarding those counties that have neglected their facilities while penalizing counties that chose to maintain their facilities. In addition, the task force did not directly address the issue of responsibility for code compliance but merely recommended that the state have the option of deciding whether or not to accept facilities "deemed unsuitable for court use." If the state deemed a facility unsuitable, presumably the county would continue to operate the facility but would have no responsibility or incentive for improving it.

Because of these problems, we recommend that any legislation dealing with state responsibility for facilities require that these costs be included in each county's respective MOE contribution to the state. Counties that have maintained and improved their facilities would have a lower MOE, all other things being equal, than counties that have chosen to defer their maintenance. To the extent a county has not renovated its facilities for code compliance because of demonstrated fiscal constraints, the Legislature may wish to consider the feasibility of "forgiving" some or all of that cost through a buyout of the county's MOE. This approach would be similar to that provided for in current law regarding MOE agreements for court operations in small counties.

***Count Court Facility Funding as Fiscal Relief in the Context of the State-County Fiscal Relationship.*** The task force report does not address the fact that the transfer of court facilities from counties to the state will

provide significant fiscal relief to counties through a reduced responsibility for maintenance and expansions. Accordingly, we further recommend that any legislation specify that the state's contribution toward existing and future capital outlay needs, less the county share identified in the MOE agreement, be considered fiscal relief in the context of the state-county fiscal relationship.

### **Clarification Needed on Undesignated Court-Related Fees**

*Trial courts collect a number of fees that were not specifically designated for either the courts or the counties by the Trial Court Funding Act of 1997. It is necessary to obtain more detailed information on how these fees should be divided. Accordingly, we recommend that the Legislature request the Bureau of State Audits to perform an audit to determine the total amount of revenues generated by these fees, which entities—the courts or counties—are receiving the revenues, and how that revenue is currently being used.*

**Background.** Chapter 850 and other recent trial court funding legislation changed the amounts and distribution of court-related fees. This legislation also transferred a variety of court-related fees collected by trial courts and local governments to the state's trust fund as an important part of the state's new financing mechanism for trial courts.

About 50 fees collected by the trial courts, however, were not designated for either the state or local governments. 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 Failed to Reach a Conclusion.** An informal 12-member working group, composed of court executives and county administrators, made an effort to determine how much revenue these undesignated fees generate and whether the state or counties should receive the funds.

The group identified and catalogued, by statute, all court-related fees not addressed in Chapter 850 and placed them in one of four categories. Three of the categories include fees in which the disposition (to either the state or counties) is clearly identified in statute. The fourth category consists of fees where the use or disposition is not specified. About 47 percent of the fees not addressed by Chapter 850 fall into this category.

The working group dissolved without concluding how to distribute the fee revenues in the fourth category. The Judicial Council has continued to meet with county representatives in an attempt to reach an agreement on the distribution of the fees, but a lack of information has pre-

vented the resolution of this issue. Currently, we have revenue estimates for only one fee and no information about how that revenue is used.

***Initial Estimates Suggest Significant Revenues.*** Currently, no detail is available on where all the fees are being deposited, the total amount of fee revenue, and how it is used. The Administrative Office of the Courts (AOC) collected information from the courts on one undesignated fee, the civil assessment, which is believed to generate the largest amount of revenue. Courts impose this fee for late payment of court ordered fines. In 2000, reported revenue for this fee amounted to \$36.4 million through the third quarter of the year with 37 counties reporting. This is an unverified estimate, but probably represents the minimum amount of revenue from civil assessments. The AOC estimates the total for the year for this one fee at approximately \$49 million.

In most cases, counties retain the majority of the civil assessment revenue. Some courts and counties have agreed to share this revenue or use the funds for court facilities. Less than five courts retain all the revenue.

***Need for Clarification of Designated Agency.*** Fees whose designation are specified in statute clearly present no problem in determining who should receive those revenues. It also is easy to resolve questions regarding designation of fees which are clearly tied to a specific function, such as photocopying court records, though it may be desirable to amend existing law to make that designation official. The problem lies with those fees for which designation to the court or counties is not readily apparent because statute is silent, and there is no clear connection between the fee and a particular function.

This situation needs clarification for two reasons. First, it is important to treat revenues uniformly throughout the state and guarantee that the courts and the counties receive an appropriate share. Second, the Legislature needs to be able to estimate the level of revenue available from civil assessments and other fees as it considers the issue of who should be responsible for court facilities and reviews the increasing costs of trial court operations, both discussed in this section.

***Analyst's Recommendation.*** Because the revenue generated by undesignated court fees is significant, it is important for the Legislature to identify a method for determining the distribution of these fee revenues among counties and the courts. Therefore, we recommend that the Legislature request the Bureau of State Audits to perform an audit to determine the total amount of revenues generated by these undesignated fees, which entity—the courts or counties—currently receive these revenues, and how these revenues are being used.

## **Mechanism Needed for Funding Trial Court Salary Increases**

*We recommend that the Judicial Council develop and submit a proposal to the Legislature, prior to budget hearings, for funding the costs of negotiated salary increases for trial court staff and court security personnel.*

**Background.** Salaries for trial court employees are determined at the local level, largely as a result of negotiations between court representatives and labor organizations. Because the state has assumed financial responsibility for trial courts, the funds it provides to courts are used to support these negotiated salary increases (NSIs). The time delays that often exist between when NSIs are negotiated and when they become effective means their full fiscal impact may not be realized for several years.

The state has funded trial court NSIs negotiated in previous years and the current year through budget appropriations or deficiency requests. The current-year's budget act included a one-time provision to adjust the trial court budget by the amount of the average state employee salary and benefit increase and directed the Judicial Council to provide a permanent funding policy to the Governor and Legislature by December 31, 2000. At the time this analysis was prepared, the Judicial Council and the administration had not decided on a permanent policy for funding NSIs. Furthermore, the Governor's budget does not contain funds for trial courts to use for NSIs, now estimated at \$38 million.

**Implications of Not Providing Full Funding.** Trial courts are obligated to pay for NSIs whether they have received funds to do so or not. To the extent the state budget fails to appropriate funds for NSIs, trial courts will have to redirect other resources to pay for these unfunded costs.

This may not be a problem for some courts that can generate savings from reduced workload or more efficient operations. We are concerned, however, about the extent to which some courts may choose to redirect resources that the state provides to them for specific programs and services. For example, the Governor's budget provides tens of millions of dollars for new programs related to court security, family and children, and infrastructure improvement needs. If the trial courts do not receive funds for NSIs, it is likely they will redirect funds provided for these other new programs to cover the costs of their NSIs. To the extent that NSIs are not funded in the budget, the Legislature has no guarantee that funds it approves for other specific trial court activities ultimately will be used by individual court systems for those purposes.

**The NSI Funding Policy Needed.** To ensure fiscal accountability, the state needs to develop a realistic method for budgeting funds for the trial court NSIs. Such a mechanism should recognize that the courts are obli-

gated to fully pay for their salary commitments. The mechanism should also give courts incentives to negotiate salary agreements that are cost-effective from the state's perspective, given that the state is now responsible for funding NSIs.

There are two alternatives the Legislature may wish to consider in budgeting funds for court NSIs. The Judicial Council indicates that budgeting funds at a level similar to that negotiated for state employees would provide an amount sufficient to cover the budget-year costs of the NSIs. Thus, the Legislature annually could set aside the same amounts for trial court NSIs as it does for state employees in budget bill Item 9800, for distribution by the Department of Finance. This alternative, however, may have the effect of giving courts an incentive to bring negotiated increases up to the amounts negotiated for state employees.

A second alternative is for the Legislature to annually appropriate a lump sum "NSI reserve" in the Trial Court Funding budget and adopt budget bill language to specify the following: (1) funds are to be distributed only after NSIs are finalized and (2) any amounts not specifically needed for NSIs would revert to the General Fund.

In either case, the Legislature should encourage the trial courts and the Judicial Council to time their negotiations so that NSIs can appropriately be funded through the state budget process to allow maximum opportunity for legislative review and ensure that courts ultimately spend their funds in the manner intended.

***Analyst's Recommendation.*** If funds are not provided for NSI costs, trial courts likely will redirect resources away from other budgeted activities to pay for court employee salary increases. The Legislature, therefore, needs to consider a permanent approach to budgeting funds for trial court NSIs. For this reason, we recommend that the Judicial Council develop and submit a proposal to the Legislature, prior to budget hearings, for funding NSIs on a permanent basis.

## **BUDGET ISSUES**

### **Courts Experience Changes in County-Provided Services**

*The budget requests \$35.8 million to fund the increased costs of court operations. In order to develop a strategy for dealing with these escalating costs, we recommend the Legislature adopt supplemental report language directing the Judicial Council to report on the following: (1) ways to provide the courts with the authority and flexibility they need to purchase court services in a cost-effective manner, (2) an incentive plan for use by the Administrative Offices of the Court in the review of court budget*

*proposals to encourage local courts to reduce costs and achieve efficiencies in their operations, (3) the feasibility of the Judicial Council and courts having a role in negotiating the cost of court services provided by counties but funded by the state, and (4) any statutory changes needed to implement its recommendations.*

**Background.** As indicated earlier, Chapter 850 shifted primary fiscal responsibility for support of the trial courts from counties to the state. Chapter 850 also included provisions to: (1) permit counties to continue to provide services to each court at a rate that does not exceed the costs of providing similar services to county departments or special districts, (2) establish California Rules of Court, Rule 810, which defines court operations for the purpose of identifying state-funded costs, and (3) specify that the state is solely responsible for funding court operations as of July 1, 1997.

**Courts Seek Funds for Increased Cost of County-Provided Services.** In the budget year, courts are facing increased operating costs in three areas from county-provided services.

- **Routine cost** increases are those that occur annually, typically as a result of increased salary costs for county employees, which are passed on to all county departments including the courts. An example would be salary increases for sheriff deputies who provide court security.
- **Imposed costs** are periodic costs which derive from county actions such as increases for living wage ordinances, the implementation of new countywide payroll or communications systems, and debt service for which the courts must pay their share. Other imposed costs include charges for security provided in court rooms by county sheriff personnel.
- **New costs** are those costs that counties have not previously charged the courts, but that are allowable under Rule 810. One example is county sheriff charges to the court for providing security in the holding area for defendants waiting to appear in court. This cost previously was a county responsibility.

**Budget Request.** The budget proposes a total of \$35.8 million for two local trial court funding requests. The first is \$32.8 million for the increased costs of county-provided services. The second is \$3 million for the costs to courts to provide functions previously provided by counties. We discuss these two proposals in the following pages.

The budget requests \$32.8 million for the increased court costs of county-provided services. The two previous budgets provided a total of nearly \$28 million for increases in existing and newly identified charges for county-provided services. These amounts represent increases in the

cost of doing business at a “current services” level, rather than an expansion of existing programs and services. They also represent costs over which the courts have little to no control. In some cases the courts are prohibited from purchasing services from anyone other than the county. In other cases the county is the only entity available to provide these services. We discuss some of these budget increase proposals below.

- **Security.** The budget requests \$22.5 million, including \$5 million in one-time costs, for additional court security staff and equipment. Courts have little opportunity to influence either the level of security to be provided or the salaries of those security officers, but are expected to pay the full amount of each. In most cases, the county sheriff determines the minimum level of security required in a court facility. In addition, the county board of supervisors negotiates the level of salary and benefits with the sheriff. Although the negotiated salary increase for security staff will equal \$5.1 million in the budget year, the budget contains no funding for this increase.
- **Court-Appointed Counsel.** The budget requests an increase of \$3.9 million for the cost of court-appointed counsel for parents in dependency cases. Parents have the right to court-appointed counsel in dependency cases if they are indigent. In most cases the appointed counsel are from county public defender’s and district attorney’s offices. Of the \$3.9 million increase, approximately \$1.7 million is for increased caseload. The remaining \$2.2 million, however, is for increases in rates paid to appointed attorneys which are negotiated by the counties and the attorney’s offices, rather than the courts.
- **Increased County Chargebacks.** The budget requests \$8.1 million for the increased costs of administrative and janitorial services provided by counties. This proposal includes (1) \$3.6 million for one court’s share of debt service on pension obligation bonds; (2) \$2.8 million for janitorial costs (mostly related to salary increases resulting from a county living wage ordinance); (3) \$806,000 for county-wide computer operations, software, and support; (4) \$350,000 for county-wide communications modernization, staffing, and cost-of-living adjustments (COLAs); (5) \$300,000 for auditor/controller check processing fees, staffing, and COLAs; and (6) \$62,000 for COLAs for county human resources staff. The courts may opt to discontinue county-provided services and contract with an outside vendor. Often times, however, county-provided services are the only viable option for the courts. For example, in one case the court’s lease agreement

with the county for the court building requires the court to use county-contracted janitorial services.

***Local Courts Seek Funds for In-House Administrative Operations.*** The budget also requests \$3 million and 55 staff for court in-house administrative operations. The new positions are for accounting and budgeting, training programs, house counsel to advise courts, and mail and janitorial services. This funding also will be used to establish (1) accounting and fiscal services (\$515,000), (2) janitorial and handy-person services (\$114,000), (3) in-house counsel (\$51,000), (4) mail and courier services (\$57,000), (5) personnel services (\$396,000), and (6) purchasing services (\$101,000).

The need for additional state funding for court in-house administrative positions and services is a result of two factors. First, the courts are taking over work previously performed by the counties. Second, the courts require additional funds to handle workload the counties previously had deferred. Court dependence on counties to provide administrative services is decreasing for a variety of reasons. In many cases counties are unable to provide the services required and in some cases the county has chosen not to provide the services in the future.

Below, we discuss some approaches the Legislature may wish to consider in order to address the escalating costs of court operations and services.

***Emerging Market for Providers of Court Operations and Services.*** Trial courts are experiencing a new environment in which many services once provided by the county must be purchased elsewhere, handled in-house, or provided by the AOC within the Judicial Council. As new markets develop from which courts may purchase court services, it will be necessary for the state to identify ways to increase the ability of and incentive for courts to purchase services in the most cost-effective way.

***Reduce Barriers to Purchasing Cost-Effective Services.*** In some service areas, such as court security provided by the sheriff, existing state law restricts the court's ability to purchase services from other providers. In other cases, agreements made in the past between courts and counties require the courts to pay for services that may be more expensive than if purchased elsewhere. To the extent possible these kind of arrangements should be avoided in the future. It also may be appropriate for the state to identify a role for the Judicial Council and the courts in negotiation processes that determine state costs of county-provided services which the state is obligated to pay.

***Reward Efficiencies Through Trial Court Funding Allocations.*** The Judicial Council is responsible for distributing funds appropriated for courts. In determining the amount of funds to be allocated to individual

courts, the Judicial Council does not have a formal procedure for recognizing operational efficiencies or developing incentives for cost containment measures by courts. A number of cases exist in which trial courts have found ways to save funds, but they have had no incentive to report these savings to the AOC. By developing a funding allocation system which rewards courts for efficiency, courts are encouraged to look for and report savings.

The Judicial Council indicates that under the state's former block grant approach to trial court funding, encouraging efficiency through the allocation formula made sense. The council points out that currently trial courts submit their budget proposals to the AOC, which in turn compiles and submits them to the administration and Legislature. Currently individual trial court allocations are based upon approved requests rather than a formula. The Judicial Council seems to believe this new process precludes the AOC from rewarding efficiency.

We disagree and instead argue that the AOC could incorporate incentives for efficiency early in its review of court requests. Each individual court request that comes to the AOC must have adequate justification in order for the AOC to approve and forward that request. At this stage, the AOC could take into account ways in which individual courts have reduced costs and/or used more efficient procedures.

***Analyst's Recommendation.*** We recommend the Legislature direct the Judicial Council to examine ways to control the escalating costs of state-funded trial court services. To achieve this, we recommend the Legislature adopt the following supplemental report language:

The Judicial Council shall report to the Joint Legislative Budget Committee and the chairs of the Legislature's fiscal committees by December 1, 2001 on the following: (1) ways to provide the courts with the authority and flexibility they need to purchase court services in a cost-effective manner, (2) an incentive plan for use by the Administrative Offices of the Court in the review of court budget proposals to encourage local courts to reduce costs and achieve efficiencies in their operations, (3) the feasibility of the Judicial Council and courts having a role in negotiating the cost of court services provided by counties but funded by the state, and (4) any statutory changes needed to implement its recommendations.

## **Funding to Implement New Trial Court Personnel System Premature**

*We withhold recommendation on the proposal for \$3.5 million for the trial courts to implement the new trial court personnel system in accordance with the Trial Court Employment Protection and Governance Act because the request is premature. The Judicial Council anticipates*

*that a consultant report, due May 2001, will provide detailed information about actual trial court needs. We recommend the Judicial Council present the consultant report and detailed justification for its proposal prior to budget hearings.*

**Background.** The Trial Court Employment Protection and Governance Act of 2000, (Chapter 1010, Statutes of 2000 [SB 2140, Burton]) established a new trial court personnel system. This statute redesignated county employees in the trial courts as “court employees.” The courts are required to develop new personnel procedures for these court employees including a uniform classification system, an employment protection system, personnel rules, and eligibility for defined-benefit retirement systems. As the employer, the trial courts will assume responsibility from the county for nearly all aspects of trial court employment.

**Budget Request.** The budget proposes (1) \$2 million and 18.5 positions for the AOC in Item 0250 (Judicial) and (2) \$3.5 million and an undetermined number of trial court positions in Item 0450 (Trial Court) to implement the Trial Court Employment Protection and Governance Act.

**Funding for Trial Courts Premature.** The Judicial Council indicates that some courts have already transitioned from their county’s administrative and human resources services to their own. Those courts, however, that have not made this transition were required to assume fiscal and administrative responsibility for ensuring the provision of human resources in January 2001 regardless of which entity actually provides them. To facilitate the immediate transition of these services, the budget proposes \$3.5 million to the trial courts for this purpose. At the time this analysis was prepared, the AOC indicated it was unable to provide specific justification for the additional staff related to trial court funding activities. The AOC indicates, however, that it should be able to provide this information in the coming months, once it receives a report from a consultant. The report is expected in April or May of 2001.

**Analyst’s Recommendation.** Receipt of this report will assist the AOC in determining its specific need for funds and staff for trial courts as related to Chapter 1010. We, therefore, withhold recommendation on the \$3.5 million request pending receipt of a more detailed proposal from the Judicial Council.

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## YOUTH AND ADULT CORRECTIONAL AGENCY (0550)

The Youth and Adult Correctional Agency (YACA) is responsible for overseeing and coordinating the activities, budgets, and policy directions of the following departments:

- Department of Corrections.
- California Youth Authority (CYA).
- Board of Prison Terms.
- Youthful Offender Parole Board.
- Board of Corrections.
- Prison Industry Authority.
- Narcotic Addict Evaluation Authority (paroling authority for the Civil Addict Program).

The Governor's budget proposes \$3.4 million for support of the agency, which is an increase of \$62,000, or 2 percent, over projected current-year expenditures. The proposed current- and budget-year increases are primarily the result of a proposal to create a Substance Abuse Coordinator position.

### **Substance Abuse Coordinator Position Not Justified**

*We recommend the Legislature deny the Youth and Adult Correctional Agency's request for \$127,000 to create an agency-level Substance Abuse Coordinator position. The proposal duplicates existing resources currently available to coordinate substance abuse programs, and the need for additional agency-level coordination has not been justified. (Reduce Item 0550-001-0001 by \$127,000.)*

The budget proposes \$127,000 to establish an agency-level Substance Abuse Coordinator position. This position would be responsible for providing statewide coordination in the substance abuse programming efforts of correctional agencies. Specifically, the coordinator would monitor utilization, adequacy, and effectiveness of drug abuse programs and services for youth and adult offenders and parolees.

**Background.** Two departments within YACA—the Department of Corrections (CDC) and the CYA—operate substance abuse treatment programs, with total annual expenditures of \$292 million. The CDC, which is responsible for \$280 million, or 95 percent, of correctional substance abuse program expenditures, operates 15 in-prison programs, in addition to parolee service networks, regional substance abuse coordination agencies, and a drug reduction strategy. Together these programs and services assist about 20,000 adult inmates and parolees. The CYA, which spends about \$12 million annually on substance abuse programs, operates about 1,300 substance abuse treatment beds in nine facilities and a limited aftercare program for parolees.

**Additional Coordination of Treatment Programs Is Unjustified.** The budget indicates that the proposed position would focus on implementing Proposition 36, the drug diversion initiative approved by the voters, and coordinating substance abuse programs between CDC and CYA. This additional level of coordination is not needed for the following reasons.

**Proposal Duplicates Existing Resources.** Proposition 36 applies only to adults and its most significant impact will be to reduce the CDC inmate population and possibly increase the Board of Prison Terms (BPT) parole revocation hearing workload. (For a discussion of Proposition 36, see the Department of Alcohol and Drug Programs budget in the “Health and Social Services” chapter of this *Analysis*). Although implementation of Proposition 36 may make it necessary to modify existing relationships between BPT and CDC, existing staff within these two departments are sufficient to accomplish this activity.

In addition, YACA currently has CYA and CDC Liaison positions which are responsible for monitoring and coordinating all department activities at the agency-level. Given these existing positions, it is unclear why an additional position is needed to coordinate individual program areas within the two departments.

At the department level, oversight, evaluation, and monitoring of correctional substance abuse programs is already occurring in the Office of Substance Abuse Programs (OSAP) at CDC and in the Research Division at CYA. Although these activities could be enhanced, limitations in evaluations and monitoring tend to reflect a lack of resources at the department level, rather than a lack of coordination at the agency level.

Finally, the budget indicates that the proposed coordinator would establish a communication network with local providers to enhance the continuum of care between correctional institutions and the community. The OSAP, however, has already formed such a network of providers for CDC parolees. Extending this network benefit to the CYA would require some coordination between the two departments but would not require the addition of an agency-level coordinator.

***Limited Opportunities Exist for a Continuum of Care.*** The proposal indicates that the coordinator would be responsible for structuring a continuum of services to encompass both CDC and CYA. Research indicates, however, that youth and adult populations have different substance abuse problems and need different treatment programs. In addition, the number of offenders who transition directly from the CYA into CDC is relatively small. These factors significantly reduce the opportunities for the development of a continuum of services. Existing departmental staff should have the capability to explore those opportunities that do exist. As an alternative to additional agency coordination, each department should focus on providing effective substance abuse treatment programs for its own unique population. If the CYA offers effective substance abuse treatment programs to its targeted population of youths, they will be less likely to need substance abuse services from CDC in the future.

***Analyst's Recommendation.*** We recommend denying the request for \$127,000 to establish a Substance Abuse Coordinator position to coordinate substance abuse treatment activities between correctional departments. The position duplicates not only existing agency coordinator positions but departmental evaluation, monitoring, and coordinating resources as well which are available to the agency. These existing agency and departmental positions should be sufficient to provide coordinating services given the level of interface needed to implement Proposition 36 and the inherent differences in the treatment needs of CDC and CYA populations. If the Legislature wishes to improve correctional substance abuse treatment services, we recommend redirecting the proposed funds to direct services for youth and adult offenders and parolees.

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## OFFICE OF THE INSPECTOR GENERAL (0552)

The Office of the Inspector General (OIG) 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 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 \$11.2 million in 2001-02 from the General Fund. This is about \$754,000, or 7 percent, more than the current-year expenditures. This increase is due primarily to the establishment of an administrative support unit and an expansion of the office's facilities budget.

### **No Basis for Facilities Augmentation**

*We recommend a General Fund reduction of \$339,000 for expansion of office facilities because the office continues to have a high vacancy rate and has not established any new positions to justify the augmentation. (Reduce Item 0552-001-0001 by \$339,000.)*

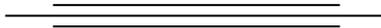
**Budget Proposal.** The budget requests \$406,000 to augment the Inspector General's facilities operation budget. The request, which represents a 97 percent increase over the department's current facilities budget, is for (1) increased rental costs for existing office space and (2) rental costs for new office spaces. The proposal states that OIG needs to move out of its current facilities and into new facilities due to a departmental reorganization and a projected increase in staff.

**Office Hiring Not Keeping Pace With Projections.** Recent legislative measures enacted in 1998 and 1999 have significantly expanded the duties of the OIG. While the Legislature has fully funded the office's budget, including facilities costs, in order to carry out these legislative mandates, the office has not filled all of its authorized positions.

The budget proposal is based on the assumption that OIG has no vacancies and will add 15 employees within two years. The office, however, currently has about a 25 percent vacancy rate. These vacant positions have remained unfilled for an average of nine months, suggesting that the office has had continued difficulty recruiting for these positions. In addition, the office has not submitted any proposals to increase budgeted staff to the level assumed in its facilities plan.

Given the existing vacancy level, it is unclear why the office requires such a significant increase in facilities funding. In the event the office wishes to reorganize its current facilities, our analysis indicates existing resources should be sufficient to allow it to do so.

**Analyst's Recommendation.** We recommend the Legislature reduce the requested augmentation for the OIG's facilities budget by \$339,000 because the proposal assumes that the office will have significantly more staff in the budget year than the department is likely to hire, based on experience to date.



## 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 \$597 million for support of the DOJ in the budget year. This amount is \$8.6 million, or about 1.5 percent, more than estimated current-year expenditures. The requested amount includes \$324 million from the General Fund (an increase of \$20.7 million, or 6.8 percent), \$120 million from special funds, \$25.8 million from federal funds, and \$127 million from reimbursements. Major proposed funding increases are discussed below.

***Division of Law Enforcement.*** The Governor's budget proposes \$159 million (\$104 million General Fund, and \$55 million federal and special funds) for support of programs in the Division of Law Enforcement. The most significant change concerns the Bureau of Narcotics Enforcement. The budget assumes the state will take over funding responsibility for the California Methamphetamine Strategy (CALMS) and proposes to shift over a hundred positions from federal funds to the General Fund (at a cost of \$10.4 million). In addition, the Bureau of Investigation proposes to expand its Sexual Predator Apprehension Team program to place teams in its Orange County and San Diego regional offices (at a cost of \$2.8 million).

***Division of Criminal Justice Information Services (CJIS).*** The budget proposes expenditures of \$151 million (\$61 million General Fund and \$90 million federal and special funds) for programs in the CJIS. This amount includes the continuation of several federally funded initiatives which support activities such as maintaining a databank of criminal history information and a national sex offender registry. The budget also

requests \$9.1 million from the General Fund to address workload growth in criminal fingerprints.

**Firearms Division.** The department recently consolidated its firearms programs into a new Firearms Division. The budget proposes \$7.2 million (\$243,000 General Fund and \$7 million special funds) to fulfill its firearms related responsibilities. These include registering assault weapons, certifying safety devices, enforcing gun show promoter requirements, and ensuring that mental health facilities report persons ineligible to purchase firearms. The budget proposes an increase of \$327,000 from the Dealers' Record of Sale Special Account to increase the frequency of firearms dealer compliance inspections.

**Legal Divisions.** The budget proposes \$98 million (\$24 million General Fund, \$10 million special funds, and \$64 million reimbursements) for the Civil Law Division. Major changes proposed for the budget year include: (1) a one-time increase of \$4.5 million for continued consultant fees related to the state's involvement in the Stringfellow toxic dump site and (2) an increase of \$600,000 from the False Claims Act Fund to investigate and prosecute cases where an entity has acted against the public interest.

The budget requests \$93 million (\$79 million General Fund, \$13 million federal funds, and \$1 million reimbursements) for the Criminal Law Division which includes: (1) an increase of \$1.3 million (\$461,000 General Fund and \$1.4 million federal funds) to investigate and prosecute elder abuse and neglect in Medi-Cal funded facilities; (2) \$2.4 million to address increased workload in habeas corpus matters; and (3) \$447,000 for post-conviction testing of DNA samples.

For the Public Rights Division, the budget proposes \$47 million (\$31 million General Fund, \$7 million special funds, and \$9 million reimbursements). The amount includes: (1) an increase in the current year of \$2.4 million and \$4 million in the budget year to investigate the current electricity and natural gas emergency, and (2) \$1.3 million (\$275,000 in reimbursements) to provide litigation representation and legal counsel to client agencies that enforce and administer environmental and natural resources laws and programs.

### **CALMS Funding Shifting to General Fund; DOJ Should Continue To Seek Federal Funds**

*We withhold recommendation on the proposal to shift funding for the California Methamphetamine Strategy to the General Fund pending receipt of further information about the availability of continued federal funding for this program.*

**Background.** The CALMS, operated by the Bureau of Narcotics Enforcement, is a statewide effort to combat methamphetamine production, trafficking, and use. From federal fiscal year (FFY) 1997 to FFY 1999, DOJ has received annual grants of \$18.2 million from the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS) to implement and support CALMS. This money was to fund sworn personnel and support personnel in five areas: law enforcement, intelligence, forensics, safety and training, and community outreach. The 1999 grant funds were extended and will expire September 30, 2001. The FFY 2001 budget includes \$48.5 million for state and local law enforcement programs to combat methamphetamine. Although these funds were not specifically appropriated for CALMS, the Senate and House conference report on the budget instructs the COPS office to review requests for funds from CALMS and provide grants if warranted.

**Budget Proposal.** The Governor's budget proposes to shift \$10.4 million and 106.4 personnel-years (PYs) for CALMS from federal funds which are expiring to the General Fund. Because \$3.5 million in carryover federal funds are available for the budget year, the General Fund total would increase to \$14 million in 2002-03 and beyond. The General Fund amount is smaller than the federal grant amounts, but more accurately reflects the actual expenditure levels for the program which have ranged from \$12 million to \$14 million each fiscal year. This will necessitate an adjustment in its original CALMS plan to the federal government to bring originally proposed activity levels in line with more recent actual levels. To do this, DOJ proposes to reduce the original planned levels of funding for local agency training, overtime, and crime prevention activities.

**The DOJ Should Pursue Continued Federal Funding.** Given the extent of the methamphetamine problem in California, and the significant investment already made by DOJ in the CALMS program, it is appropriate to redirect General Fund monies to support these activities. However, based on the provisions of FFY 2001 Appropriations Bill, it appears likely that DOJ will receive some federal funding for CALMS through the COPS office. Given the high likelihood that we will receive some federal funding for CALMS, we withhold recommendation on the proposed fund shift until DOJ provides updated information on its prospects for continued federal grants.

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## DEPARTMENT OF CORRECTIONS (5240)

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

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 \$4.8 billion for CDC in 2001-02. This is \$220 million, or 5 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, equipment replacement, and increased costs for medical services.

Under the budget plan, the CDC workforce would grow by about 434 personnel-years, or about 1 percent, above the projected 2000-01 staffing level. This projected growth is significantly less than the anticipated current-year growth in the CDC workforce, estimated to be about 4,000 personnel-years, or 9.5 percent.

***Expenditure Growth Continues to Slow.*** The 2001-02 budget proposal represents a slower overall rate of growth in CDC expenditures. During the past ten years, the average annual growth rate has been about 8 percent. If the budget were adopted as proposed, the proposed 5 percent increase in CDC expenditures would be the smallest since 1978-79, ex-

cept for 1992-93—a year when the state faced an unusually large revenue shortfall and CDC spending actually decreased slightly. As discussed below, the proposed slowdown in correctional spending growth is associated with a slowdown in the growth in the inmate population and related growth in CDC staffing.

However, despite overall expenditure growth trends in CDC, the average cost of providing supervision for each inmate is increasing significantly. After holding stable for many years, the average cost of maintaining an offender in the CDC prison system (excluding capital outlay costs) would grow to \$25,607 in the budget year, an increase of about 13 percent over 1999-00. The average cost of supervising a parolee remains stable at \$2,636 per offender under active supervision.

**General Fund Expenditures.** Proposed General Fund expenditures for the budget year total almost \$4.7 billion, an increase of about \$260 million, or 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 on lease-payment bonds. For 2001-02, these offsetting payments are budgeted at about \$13 million, a decline of about \$28 million, or 69 percent, below the current year. Because the state has nearly exhausted these surplus bond funds, larger General Fund appropriations to CDC are now required to pay off these lease-payment bonds.

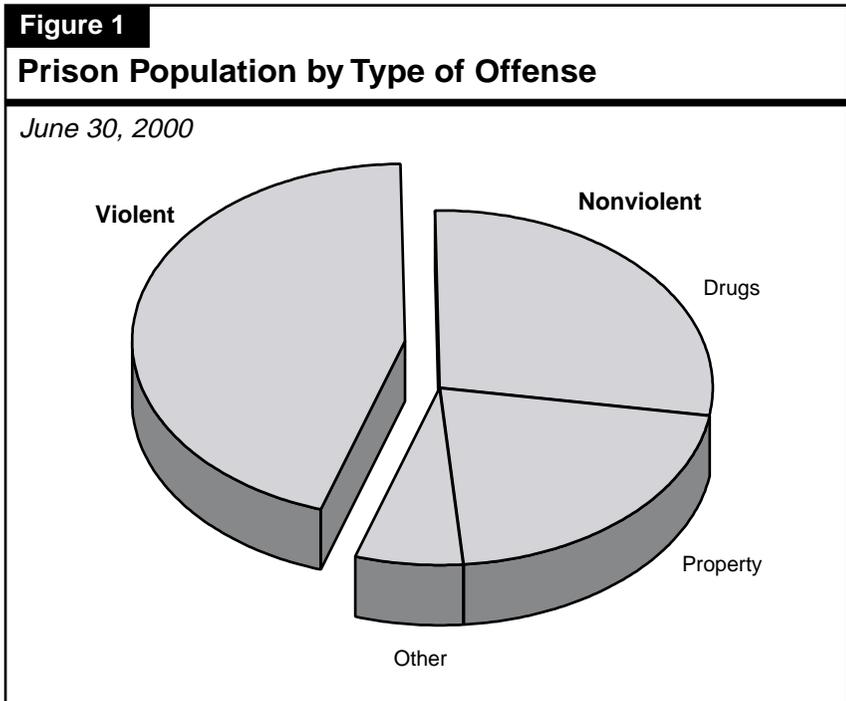
**Federal Fund Expenditures.** The Governor's budget assumes that the state will receive about \$189 million from the federal government during 2001-02 as partial reimbursement of CDC's cost (estimated to be \$551 million in the budget year) of incarcerating inmates in prison and supervising felons on parole who are illegally in the United States and have committed crimes in California. This is a slightly higher level of funding than 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 its total state General Fund expenditures.

## OVERVIEW OF THE INMATE POPULATION

### Who Is in Prison?

Figures 1 through 5 illustrate the characteristics of the state's prison population, which was 162,000 as of June 30, 2000. About 93 percent of the population is male. The charts show:

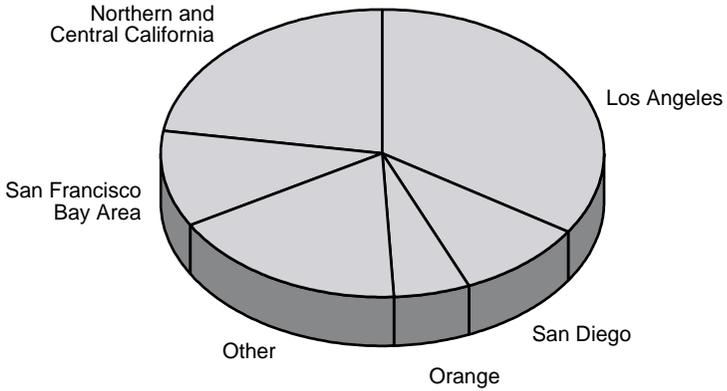
- About 55 percent of inmates are incarcerated for nonviolent offenses (Figure 1).
- About 68 percent of all inmates were committed to prison from Southern California, with about 33 percent from Los Angeles County alone and 9 percent from San Diego County. The San Francisco Bay Area is the source of about 10.5 percent of prison commitments (Figure 2, see next page).
- About 50 percent of all inmates are between 20 years and 34 years of age, with the number of inmates falling dramatically starting at age 45 (Figure 3, see next page).
- The prison population is divided relatively evenly among whites, blacks, and Hispanics (Figure 4, see page 45).
- 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 14 percent are parolees returned to prison by administrative actions for violation of their conditions of parole (Figure 5, see page 45).



**Figure 2**

**Prison Population by Area of Commitment**

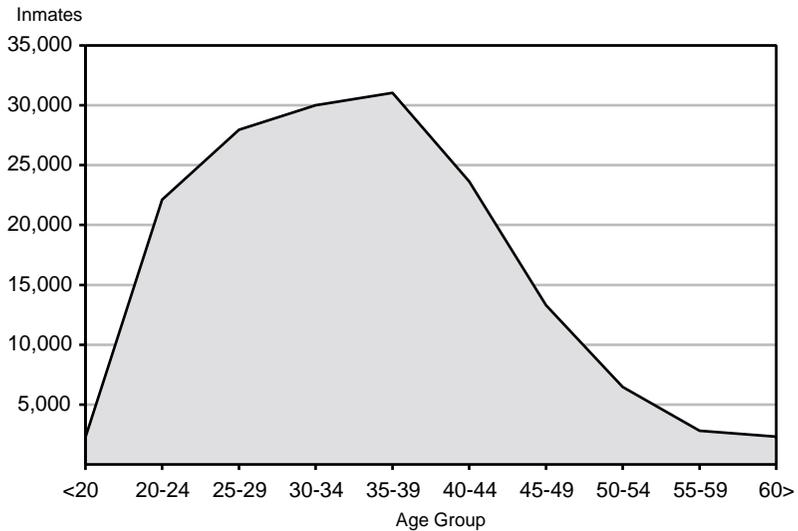
*June 30, 2000*



**Figure 3**

**Prison Population by Age Group**

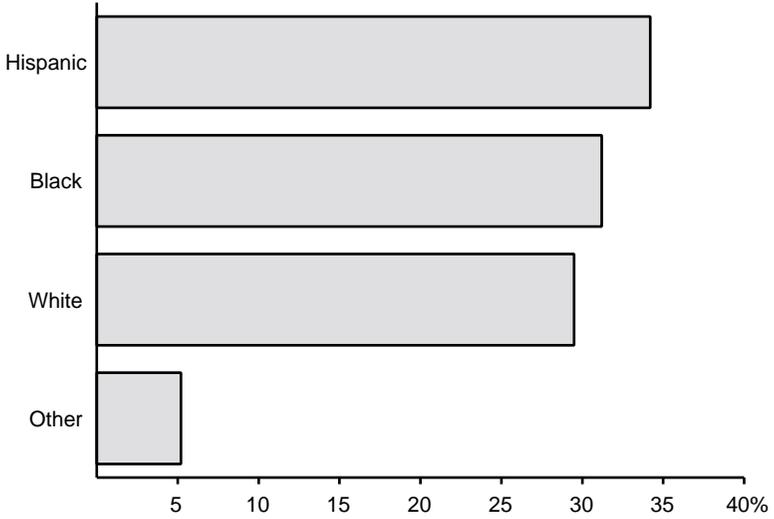
*June 30, 2000*



**Figure 4**

**Prison Population by Ethnicity**

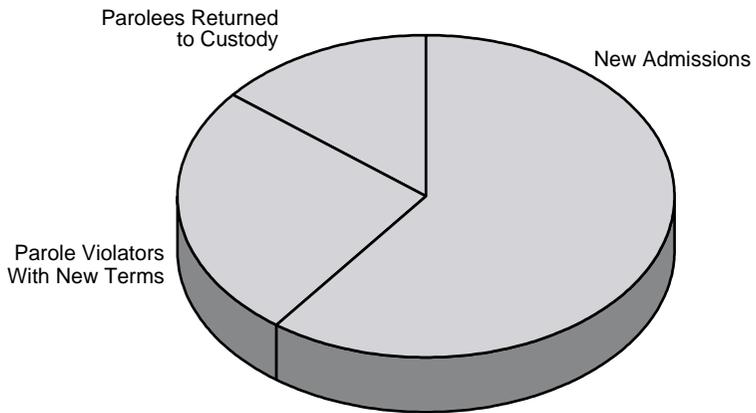
*June 30, 2000*



**Figure 5**

**Prison Population by Commitment Type**

*June 30, 2000*

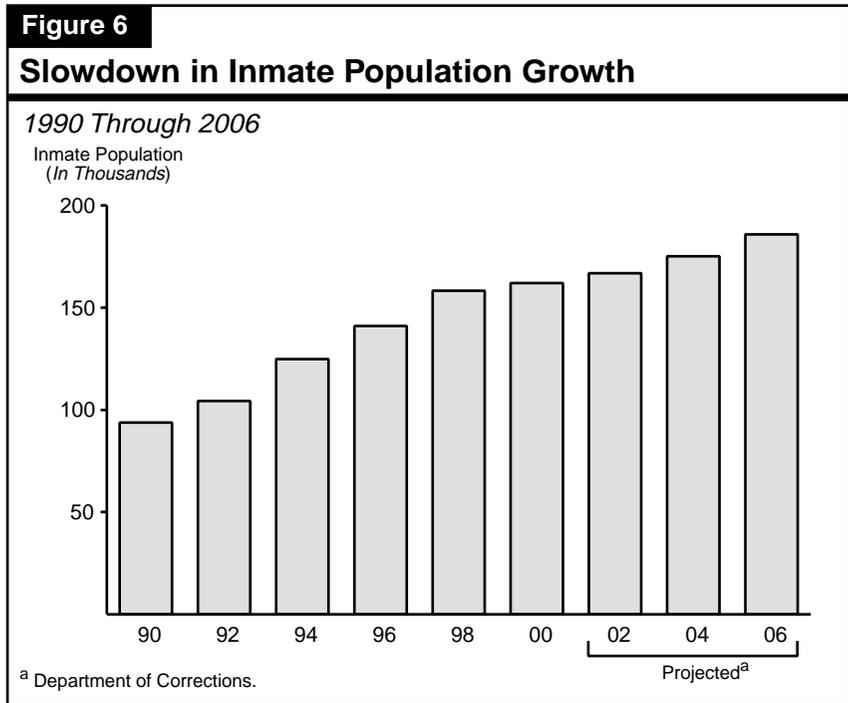


# INMATE AND PAROLE POPULATION MANAGEMENT ISSUES

## Inmate Population Projections Indicate Slower Growth

*The California Department of Corrections (CDC) is 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 185,000 by June 2006. Recent prison population data suggest, however, that the growth rate is even slower than assumed in the Governor's budget and that the population is continuing to stabilize.*

**Inmate Population Growth.** As of June 30, 2000, the CDC housed 162,000 inmates in prisons, fire and conservation camps, and community correctional facilities. Based on the fall 2000 population forecast prepared by the CDC, the inmate count would reach about 163,898 by June 30, 2001, and increase further to 166,876 by June 30, 2002. These figures represent an annual population increase of 1.2 percent in the current year and 1.8 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 10 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 185,865 inmates by June 30, 2006. This represents an average annual population increase of about 3 percent over the six-year period from 1999-00 through 2005-06.

**Parole Population Growth.** As of June 30, 2000, the CDC supervised 119,298 persons on parole. The fall 2000 projections assume that the parole population will be 122,880 as of June 30, 2001, and will increase slightly to 125,164 by June 30, 2002. These figures assume a parole population increase of 3 percent in the current year and an increase of 2 percent during the budget year.

The fall 2000 projections also assume that the population will remain fairly stable during the following four years, reaching a total of 128,391 parolees by June 30, 2006.

**Change From Prior Projections.** The fall 2000 projection of the inmate population has increased from the prior CDC forecast (spring 2000), which was the basis for the *2000-01 Budget Act*. The new fall 2000 forecast for June 30, 2001 is about 3800 inmates higher than the spring forecast. As can be seen in Figure 7, the differences between the spring 2000 and fall 2000 inmate projections generally widen with time over the projection period. By 2004-05, the difference is almost 7,500 inmates, or the equivalent of about two prisons filled to overcrowding levels.

| <b>Figure 7</b>   |                          |                  |                   |
|---|--------------------------|------------------|-------------------|
| <b>Total Inmate Population<br/>Recent CDC Projections</b> |                          |                  |                   |
| <b>June 30<br/>Population<sup>a</sup></b>                 | <b>Projection as of:</b> |                  |                   |
|   | <b>Spring 2000</b>       | <b>Fall 2000</b> | <b>Difference</b> |
| 2001  | 160,060                  | 163,898          | 3,838             |
| 2003  | 163,248                  | 170,160          | 6,912             |
| 2005  | 173,000                  | 180,445          | 7,445             |

<sup>a</sup> For selected years.

As regards the parole population, the fall 2000 projection also reflects a significant increase relative to the prior spring 2000 CDC forecast. The new fall 2000 forecast for June 30, 2001 is 2,581 parolees more than the spring forecast. As can be seen in Figure 8 (see next page), the differences between the spring 2000 and fall 2000 parole projections also widen with time over the projection period until the differential exceeds 14,700 parolees at the end of 2004-05.

| <b>Figure 8</b>   |                          |                  |                   |
|---|--------------------------|------------------|-------------------|
| <b>Total Parole Population<br/>Recent CDC Projections</b> |                          |                  |                   |
| <b>June 30<br/>Population<sup>a</sup></b>                 | <b>Projection as of:</b> |                  |                   |
|   | <b>Spring 2000</b>       | <b>Fall 2000</b> | <b>Difference</b> |
| 2001  | 120,299                  | 122,880          | 2,581             |
| 2003  | 115,559                  | 126,934          | 11,375            |
| 2005  | 113,892                  | 128,631          | 14,739            |

<sup>a</sup> For selected years.

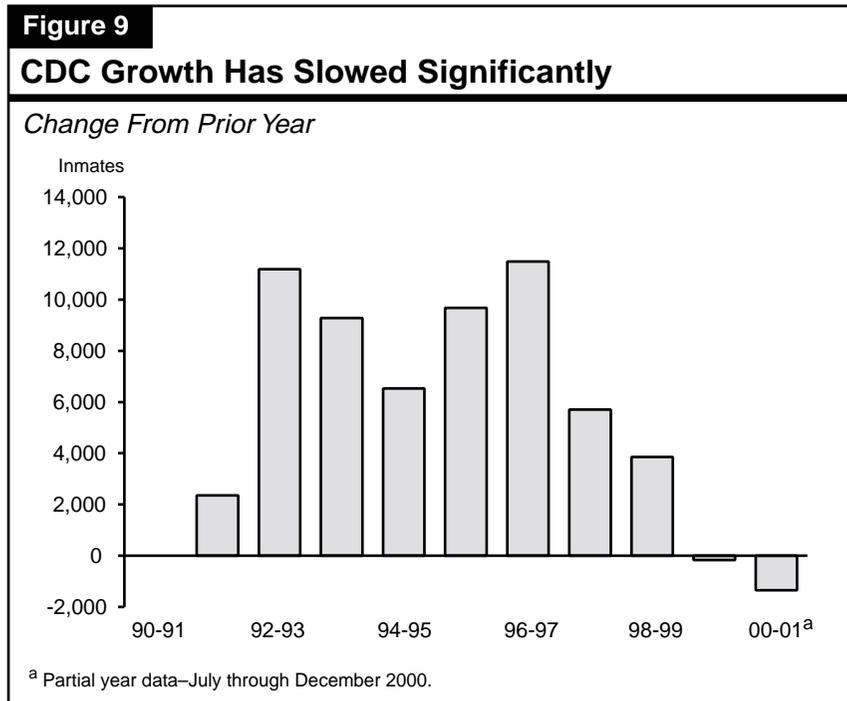
**Why the Forecasts Changed Between Spring and Fall 2000.** According to CDC, the higher projections in the inmate and parole populations are based on an increase in the rate of parole violators returned to custody and an increase in felon new admissions.

**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 significant factors. These include:

- **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 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 slowdown in prison inmate growth that has already occurred in the last two years, it is possible now that, at least in the short term, the prison population may be stabilizing.

**Actual Inmate Count Is Lower Than Fall Projections.** During the first half of 2000-01, the prison population had been projected to increase slightly by 153 inmates over the prior year. Instead, it *decreased* by about 1,300 as shown in Figure 9. Given the historical pattern of inmate population growth, it is likely that this downward trend will reverse itself in the spring of 2001, 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 appears unlikely that CDC will experience a population gain in the current year of 1,898 inmates as forecast in the fall 2000 projections. Actual growth may be less than 1,000 inmates.



Several factors appear to have caused the inmate population to drop during the latter part of 2000 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 (BPT), 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 BPT and the courts—was equal to about 66 percent of the parole population during the second half of 2000. While that failure rate is high compared to other states, the data suggests that there has been little change in California’s parole failure rate since 1999.

***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 2001-02 CDC spending plan. In preparing the budget, the Department of Finance (DOF) made fiscal adjustments to account for differences between the fall 2000 projections and actual inmate and parole population counts.

Specifically, DOF reduced caseload funding for the state prisons by the equivalent of 606 inmates for 2000-01 and by 1,501 inmates for 2001-02. The department increased caseload funding for parolee supervision by the equivalent of 80 more parolees for 2000-01 and 454 parolees for 2001-02.

Because of these inmate and parole population adjustments, DOF has estimated that about \$7 million less would be needed to handle the prison and parole caseload during 2000-01. Similarly, DOF adjustments mean that about \$16 million less in funding would be provided to handle the prison and parole caseload during 2001-02 than if the budget plan were based on CDC’s population figures.

## **Caseload Funding Requires Further Adjustment**

*We recommend that the 2001-02 budget request for inmate and parole population growth be reduced by \$61 million. This reduction reflects a continuing decrease in the inmate population, as well as the impact of Proposition 36, the drug diversion initiative recently approved by the voters, on the prison inmate and parolee population. In regard to the current year, we estimate that California Department of Corrections (CDC) caseload expenditures will be \$7 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 \$61 million.)*

As indicated earlier, CDC’s fall 2000 population projections appear to have overestimated the number of inmates who are being incarcer-

ated. The Governor’s budget, as submitted, adjusts CDC’s fall 2000 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 estimate that if current trends hold, the downward adjustments made by the Governor’s budget will be insufficient.

In addition, Proposition 36, the Substance Abuse and Crime Prevention Act, which was passed by voters on November 7, 2000, is expected to further slow growth in the prison population. Proposition 36 requires that persons convicted of nonviolent drug possession offenses be placed on probation and receive drug treatment, rather than be incarcerated in state prison. Similarly, the measure will redirect parole violators who commit nonviolent drug possession offenses into treatment rather than returning them to prison. Although Proposition 36 will go into effect on July 1, 2001, the CDC fall 2000 projections do not take into account the significant decreases in the inmate and parolee populations that will occur as a result of this measure. Furthermore, the DOF has not made fiscal adjustments to reflect the impact of Proposition 36 on caseload funding in the budget year.

Our estimates of the CDC inmate population, which take into account more recent inmate population trends as well as the impact of Proposition 36, are shown in Figure 10.

| <b>Figure 10</b>                                 |                |                |
|--|----------------|----------------|
| <b>Inmate Population Assumptions<sup>a</sup></b> |                |                |
|  | <b>2000-01</b> | <b>2001-02</b> |
| California Department of Corrections             | 162,684        | 164,826        |
| Governor’s Budget                                | 162,078        | 163,325        |
| Legislative Analyst’s Office                     | 161,548        | 158,503        |

<sup>a</sup> Average daily population.

**Current-Year Effect.** Based on the inmate population as of the end of December 2000, we estimate that the average daily population of the prison system in 2000-01 will be about 530 inmates below the caseload actually funded in the Governor’s budget plan. We further estimate that the average daily parole population will be about 480 inmates lower than the caseload funded in the Governor’s budget plan. The net effect of these two changes would be a savings in the current year of \$7 million.

**Budget-Year Effect.** We anticipate that this caseload trend will carry over into 2001-02. Based on available population counts and our projections of the impact of Proposition 36 on the CDC inmate population, we estimate that the average daily prison population in the budget year will be about 4,800 fewer inmates than the number assumed in the proposed budget. We further estimate that the average daily parole population will be about 3,100 lower than assumed in the budget plan. (These estimates include a 3,800 decrease in the inmate population and a 1,050 decrease in the parolee population due to the impact of Proposition 36.) Based on these calculations, we believe that the CDC budget for handling its inmate and parole caseloads is over budgeted by \$61 million.

The CDC will issue updated population projections in spring 2001 that form the basis of the department's May Revision proposal. The spring 2001 projections will take into account the effect of Proposition 36 on the inmate and parolee population. 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 2001-02 CDC budget be reduced by \$61 million from the General Fund primarily due to the combined effect of slower growth in the underlying CDC inmate population and the decrease in the inmate and parolee populations due to Proposition 36. The current-year budget is also likely to reflect savings of about \$7 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 California Department of Corrections' (CDC) plan for housing the projected increase in the prison population because the underlying rate of growth in the inmate population is slowing and the caseload decrease resulting from implementation of Proposition 36 have made elements of the plan obsolete. We anticipate the CDC will revise the housing plan at the time of the May Revision.*

**Prison Overcrowding to Continue.** The Governor's housing plan provides for the continuing overcrowding of day rooms, gyms, and housing units at various existing prisons. However, many existing prison bed activation proposals included in the plan are unlikely to occur because of the slowing in the rate of prison population growth and the decrease in the inmate population as a result of Proposition 36.

The housing plan assumes the state will complete construction and activate 1,000 administrative segregation beds for high-risk inmates on

the grounds of the existing state prisons, as authorized by the Legislature in 1998. The Governor's budget does not propose to construct any new state-operated prisons.

***Analyst's Recommendation.*** Because the inmate population is running below the fall 2000 projections upon which the CDC housing plan was based and because the projections do not reflect the impact of Proposition 36 on the inmate population, it is likely that the plan will change significantly by the May Revision. Thus, we withhold recommendation on the plan at this time pending receipt of CDC's revised prison inmate population projections and the updated housing plan provided in the May Revision.

## **INMATE AND PAROLE PROGRAMS**

### ***Services for Developmentally Disabled Inmates and Parolees***

*In 1996, two inmates with developmental disabilities filed a lawsuit against the California Department of Corrections (CDC) which stated that the department discriminated against them due to their disability. Prior to trial in 1998, CDC and the plaintiffs negotiated the development of a remedial plan to screen for and provide appropriate services to developmentally disabled inmates.*

*While the CDC remedial plan increases services to inmates, the plan does not address the issue of services for developmentally disabled parolees in the community. We recommend the Legislature direct CDC, in consultation with other state agencies, to evaluate the assessment process and need for services of developmentally disabled parolees and develop a plan for providing those services.*

In this section, we review the CDC plan for providing services to developmentally disabled inmates and parolees. We begin by describing the interaction between developmentally disabled offenders and the criminal justice system and how these individuals eventually become CDC inmates. Next, we discuss the implementation status of the CDC plan to screen inmates for developmental disabilities and provide appropriate services for identified inmates. We follow this with our concerns about the current remedial plan and recommendations to the Legislature based on our findings.

### **Background**

State law (Section 4521 of the Welfare and Institutions Code) defines a developmental disability for the purpose of determining eligibility for

developmental services in the community. Such a disability is defined as a mental or neurological impairment that originates before a person's eighteenth birthday, constitutes a substantial disability, and continues indefinitely. These disabilities include mental retardation, cerebral palsy, epilepsy, autism, and related conditions.

Approximately 155,000 Californians annually receive services in the state's publicly funded developmental disability service system. The state Department of Developmental Services (DDS) contracts with 21 nonprofit regional centers to coordinate educational, vocational, and residential services for this population. In addition, for individuals needing 24-hour care and supervision, DDS operates about 4,000 beds in five state developmental centers.

***Developmentally Disabled Offenders in the Criminal Justice System.***

Some research indicates that as many as 22,000, or 4 percent, of individuals in California jails and prisons have a developmental disability, the severity of which can vary greatly. Developmentally disabled offenders often do not become eligible for probation due to their limited skills and lack of employment and education prospects. They are also ineligible for diversion programs, when available, due to their condition.

## **The CDC's Approach to Dealing With Developmentally Disabled Offenders**

***No Specialized Services for Developmentally Disabled Inmates.*** Prior to 1999, inmates with developmental disabilities received no special services and were treated as part of the general prison population. Research indicates these inmates were more likely to be abused or victimized by other inmates and, due to a tendency to react physically to these situations, were also more likely to get into fights. This poor institutional behavior resulted in many inmates taking up additional staff resources and being moved to higher and more costly security levels. The limited ability of these inmates to earn credits, through education or work programs, toward the reduction of their sentence made it difficult for them to become eligible for parole as quickly as other inmates.

***Clark v. State of California.*** On April 22, 1996, two inmates with developmental disabilities who were incarcerated within CDC filed a class action suit against the State of California, the Governor, CDC, and various prison officials alleging that they had been discriminated against on the basis of their disability in violation of the Equal Protection Clause, the Americans with Disabilities Act, and the Rehabilitation Act. The inmates claimed that they did not receive adequate accommodations, protection, and services necessary for adaptation to a prison. Prior to the

trial in 1998, the parties engaged in negotiations, which resulted in a settlement agreement outlining the terms under which the state would comply with the law by providing access to its programs and services for inmates and parolees with developmental disabilities.

**Summary of the Settlement.** The remedial plan resulting from the settlement agreement, known as the Clark plan, indicated that CDC would establish a Developmental Disability Program (DDP). Under this program, CDC would screen all inmates for developmental disabilities and place identified inmates in designated institutions with the staffing and program capabilities to meet their needs. Figure 11 summarizes the key features of the agreement, many of which are discussed in more detail below.

**Figure 11**

### Key Features of the CDC Developmental Disability Program Plan



**Screening for Disabilities.** The CDC will screen all inmates for developmental disabilities.



**Housing and Staffing.** Inmates with developmental disabilities will be housed together based on level of functioning and additional staff will be provided for those housing units.



**Staff Training.** All staff will receive training on interacting with developmentally disabled inmates.



**Education and Work Assignments.** Instructors with special education credentials will be provided for each Developmental Disability Program and will develop individually tailored programs as necessary.



**Parole.** Parole agents will ensure that developmentally disabled inmates understand the terms of parole and are aware of services available in the community.

### Implementation of the Remedial Plan

In the 1999-00 Budget Act, the Legislature appropriated \$1.8 million to CDC to begin implementing the remedial plan to provide services to developmentally disabled inmates at ten institutions. The CDC estimated

that approximately 2 percent of inmates would be found to be developmentally disabled at reception and that the funding provided would be sufficient to screen all inmates and provide appropriate services. It is expected that these costs will continue and could increase in the long term.

**Screening Procedure.** Under the Clark remedial plan, all inmates must be screened at reception for developmental disabilities using a standardized screening process. In addition, CDC must screen all existing inmates for developmental disabilities.

The CDC developed a screening tool to assess an inmate's cognitive abilities and functioning skills. It appears, however, that this tool differs substantially from that used in the state developmental services system in two respects. First, the CDC process may identify an individual as having a development disability, even when it is difficult to clearly state that the disability occurred prior to age 18. Such persons may not qualify as developmentally disabled under the regional center definition. In addition, the CDC screening process captures inmates who experience mental retardation as a result of substance abuse. Because it typically takes years for the mentally disabling effects of substance abuse to be felt, these individuals often may not qualify under the regional center definition because their disability is thought to have occurred after age 18.

The second way in which CDC screening appears to differ from that used by regional centers is the extent to which a disability impacts an individual's ability to function without assistance. The Welfare and Institutions Code definition requires there to be a *substantial* disability. The CDC, on the other hand, appears to include ability to function adequately in a *correctional* environment in its definition of developmental disability. Therefore, someone with mild retardation who is classified as developmentally disabled for the purposes of receiving services in CDC may not be eligible for regional center services. Overall, CDC appears to use a broader definition of what constitutes developmental disability than DDS.

The situation that results from the use of two differing sets of screening standards is that inmates identified by CDC as being developmentally disabled and needing services within a prison may not meet the regional center eligibility requirements as provided for in existing law.

Since December 1999, CDC has been screening all new admissions and parole violators processed through the reception centers. Currently, CDC is not screening inmates in the existing population for developmental disabilities, although the department intends to begin by June 2001 and will complete all screenings by mid-2002. To date, about 1,500 or 1 percent of inmates processed through reception centers have been found to have a developmental disability, as defined by CDC, of which 85 percent have been found to have mild retardation.

**Housing and Staffing.** After determining the extent of the developmental disability, these inmates are assigned to 1 of 13 designated DDP institutions where they are housed apart from the general population. Inmates with mild retardation are housed together and inmates with moderate disabilities or at risk for victimization are housed together. If developmentally disabled inmates have additional health or psychiatric problems, they are housed at DDP facilities which are designed to address these concerns.

All DDP institutions have additional staff to provide specific services to developmentally disabled inmates. Clinical staff is augmented with correctional officers, counselors, and teachers trained to work with developmentally disabled inmates.

**Staff Training.** Under the remedial plan, CDC must provide training to all staff who screen, interact, and have responsibility for inmates and parolees designated as developmentally disabled. Currently, all required CDC staff have completed the training mandated under the plan. The training, which is provided in a self-study or two-hour classroom format, provides basic information on developmental disabilities including:

- Indicative behaviors and the screening and evaluation process.
- Available housing and support services.
- Interaction with developmentally disabled inmates and parolees.

**Education.** At designated DDP institutions, CDC provides instructors with special education credentials who will develop individual education plans for developmentally disabled inmates. Disabled inmates will also be eligible for vocational education programs, as long as they meet the same requirements as other inmates and are able to perform essential functions of the assignment.

**Parole Services.** The CDC plans to make reasonable accommodations to ensure that developmentally disabled parolees understand the terms of parole, are aware of available services in the community, and have access to attorney representation in parole revocation hearings. However, specific actions to achieve these objectives are not detailed in the remedial plan.

## LAO Concerns

The CDC has taken significant steps to improve screening and treatment services for inmates whom it has identified as developmentally disabled. While these programs and services have been beneficial to inmates in prison, *parolees* with similar disabilities generally do not receive spe-

cialized services. In addition, CDC has not collaborated with other state agencies which serve developmentally disabled parolees, such as DDS and BPT, to develop a continuum of services for this population which extends into their parole period in the community.

***Lack of Comprehensive Plan for Parole Services.*** As stated previously, the remedial plan developed under the Clark settlement includes some minor provisions for parole services. The services provided under the plan, however, do not differ very much from services already being provided to all parolees. The CDC indicates it eventually plans to provide targeted services for developmentally disabled parolees, including creating smaller specialized caseloads. A well-developed comprehensive plan, specifying program services and coordination with local service providers, does not yet exist, however.

***Lack of CDC Coordination With Other State Agencies.*** Although DDS is the primary state agency charged with providing services to the developmentally disabled, both in the community and in developmental centers, CDC has not coordinated with DDS on the development of its remedial plan or on a plan to provide specialized services to developmentally disabled parolees in the community. Currently, levels of coordination between parole agents and regional center staff vary widely by region due to a lack of a structured relationship. Inmates are advised, upon parole, of services available to them through regional centers. However, regional center staff do not assess inmates prior to release and do not provide any input in developing a parolee's discharge plan.

The BPT, which considers parole release for all persons sentenced to state prison under the indeterminate sentencing laws and is responsible for suspending and revoking parole status, was not named as a defendant in the Clark case. Due to its role in determining if developmentally disabled offenders remain on parole, BPT should be included in the development of a parole services plan which ensures that these offenders receive accommodations for their disabilities in parole hearings. Currently, however, developmentally disabled inmates are generally treated the same as higher functioning inmates and receive no additional services.

***Limited Parolee Eligibility for Regional Center Services.*** As stated previously, regional centers use standards and screening techniques which differ from those used by CDC in identifying inmates and parolees with developmental disabilities. As a result, individuals identified in the CDC screening process may not be eligible for regional center services when paroled into the community.

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## Next Steps: Services for Parolees

*We recommend the Legislature adopt supplemental report language directing the California Department of Corrections (CDC), in consultation with Department of Developmental Services, the State Council on Developmental Disabilities, and the Board of Prison Terms, to undertake a study of issues relating to parolees with developmental disabilities. This study would focus on problems relating to eligibility and screening and would require CDC to develop a plan for meeting the service needs of parolees with developmental disabilities.*

***Developing a Collaborative Parole Services Plan.*** The CDC has taken steps to provide appropriate services to inmates with developmental disabilities. The department, however, has not developed a comprehensive plan for providing services to inmates once they are released on parole. Given the high level of recidivism among this population, a plan which provides developmentally disabled parolees with appropriate services and monitoring in the community could improve public safety by assisting these offenders in reintegrating into the community. Such a plan should focus on lower specialized parole agent caseloads to allow for increased supervision, and steps for increasing coordination among CDC and other agencies, such as BPT and DDS. This would also would help ensure that developmentally disabled parolees receive necessary accommodations for their disabilities, such as assistance in accessing community services.

***Increasing Parolee Access to Regional Center Services.*** Prior to CDC undertaking such a collaborative effort, the state needs to better understand the problems of providing case management and related services to two groups of parolees with developmental disabilities. The first group consists of those who clearly meet the regional center standard of eligibility. The second group consists of those individuals who have a mental impairment, including mild retardation, but who do not meet the regional center definition, either because their disability is not “substantial,” or because the date of onset was after age 18 or is indeterminable because of the cumulative effects of substance abuse.

A number of service options exist, each with its own set of issues. One option is for regional centers to better incorporate those eligible for its services into its caseload. A second option is for regional centers to expand its services to include that segment which currently does not meet its eligibility criteria. This alternative, however, raises serious cost and equity questions relating to lack of available services to individuals with similar levels of disabilities who are not parolees. A third option is for CDC, in consultation with DDS, to contract directly with community providers to deliver services to parolees identified by CDC as having a develop-

mental disability but who are ineligible for regional center services. Prior to selecting an option more information is needed about the target population.

***Analyst's Recommendation.*** We recommend the Legislature direct CDC, in consultation with other appropriate state agencies such as DDS, the State Council on Developmental Disabilities and BPT, to undertake a study of the size, nature, and service needs of parolees with developmental disabilities. This study should include:

- A review of the assessment criteria used by both CDC and regional centers to identify developmental disabilities and an identification of differences and inconsistencies between the two systems.
- An identification of the number of parolees who meet the CDC definition and the extent to which they do or do not meet the regional center definition.
- An examination of the extent to which regional centers currently incorporate eligible parolees with developmental disabilities into their service system.
- The community service needs for those parolees who do not meet the regional center eligibility criteria, and the feasibility of providing services using the options identified above.
- A plan for addressing identified service needs and reducing the recidivism rate of developmentally disabled parolees.

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

It is the intent of the Legislature that the California Department of Corrections (CDC), in consultation with the Department of Developmental Services, the State Council on Developmental Disabilities, and the Board of Prison Terms, conduct a study of the size, nature, and service needs of parolees with developmental disabilities. The study shall include, but not be limited to, the following matters: a review of the assessment criteria used by both CDC and regional centers to identify developmental disabilities and an identification of differences and inconsistencies between the two systems, a determination of the number of parolees who meet the CDC definition and the extent to which they do or do not meet the regional center definition, an examination of the extent to which regional centers currently incorporate eligible parolees with developmental disabilities into their service system, and a plan to address identified service needs and reduce the recidivism rates of developmentally disabled parolees. The findings of this study shall be reported to the Legislature by March 1, 2002.

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## **Substance Abuse Program Expansion Justified**

*We recommend approval of the proposal to expand substance abuse treatment services to additional inmates and parolees. We also recommend a reduction of \$112,000 proposed for custodial staff overtime salaries in order to attend substance abuse training, because it duplicates compensation already being paid to correctional officers for overtime spent in training. We further recommend the adoption of supplemental report language directing the department to report on its progress in activating proposed substance abuse treatment slots. (Reduce Item 5240-001-0001 by \$112,000.)*

The budget proposes \$3.9 million from the General Fund and nine positions to add 500 substance abuse treatment slots for inmates and parolees. The proposed increase would support contracted in-custody treatment services, community-based services, drug testing, overtime costs for staff training, and general operating expenses. The new program slots will serve male felons and civil addicts at the California Rehabilitation Center (CRC) and at the Adelanto Community Correctional Facility.

Implementation of the proposal would result in ongoing costs of \$6.6 million in 2002-03 and beyond. This ongoing cost primarily reflects (1) full-year operation costs and (2) the additional community services for inmates who have completed the in-prison portion of the treatment.

**Background.** The CDC's Office of Substance Abuse Programs currently administers treatment and recovery programs, which include 15 in-prison treatment programs serving 6,650 inmates annually and parolee service networks serving about 4,000 parolees annually. Contractors provide alcohol and drug abuse treatment that emphasizes changing inmate behaviors as opposed to treating only the substance addiction.

Currently, CDC in-prison treatment programs are operating at about 93 percent of capacity. The department anticipates that an additional 1,500 slots at various institutions will be activated by the end of the current year.

**Increase in Substance Abuse Slots Is Justified.** Although the implementation of Proposition 36 will reduce the number of new admissions and parole violators, there will continue to be a need for substance abuse treatment services for the current inmate population. Currently, there is a waiting list of 260 inmates for treatment at CRC and no treatment slots available at the Adelanto facility. Providing funds to address an existing waiting list at CRC and the lack of treatment services at the Adelanto facility is consistent with the department's objective to increase treatment availability and justifies further investment.

***Overtime Salaries for Training Duplicates Existing Compensation.***

The proposal includes \$112,000 to fund overtime salaries for custodial staff to attend training in substance abuse issues. This funding duplicates existing funding since each custody officer already receives annual compensation for 52 hours of on-site training under the 7k program (a reference to Section 207 [k] of the federal Fair Labor Standards Act.). Since the proposed training could qualify for compensation under the 7k program, the additional overtime funding is not needed.

***Analyst's Recommendation.*** For the above reasons, we recommend approval of the proposal to expand substance abuse treatment slots. However, we recommend a reduction of \$112,000 for overtime spent in training because custody officers are already compensated for 52 hours of training under the 7k program.

Due to the passage of Proposition 36, there could be a reduction in the number of inmates in need of in-prison drug treatment services and an increase in the number of parolees in need of treatment or aftercare services. The Legislature should increase oversight of CDC substance abuse programs including additional treatment slots to ensure treatment resources are being allocated effectively between in-prison treatment services and parole treatment services. We, therefore, recommend the adoption of supplemental report language requiring the department to report on its progress in implementing substance abuse treatment slots. The following language is consistent with this recommendation:

The California Department of Corrections (CDC) shall report to the Legislature by January 1, 2002, on its progress in implementing substance abuse treatment slots. The report should identify the number of occupied treatment slots at each facility, the number of inmates waiting for treatment, the number of parolees in each type of community care, the commitment offense for each program participant, and annual expenditures for each facility and program contractor. In addition, the department should report on the status of any ongoing evaluations of CDC substance abuse programs.

***Violence Control Program Should Be Modified***

***We recommend approval of the request for \$5.1 million for additional security equipment. We further recommend modifying the proposal to eliminate changes to operational policies in the Security Housing Unit and Administrative Segregation Unit because these changes may have unintended consequences and result in increased costs.***

***Background.*** The CDC currently provides the following types of inmate housing:

- Traditional General Population (TGP) comprises the majority of the inmate population and provides inmates with the fewest restrictions and the most privileges, such as additional recreation time and visiting time.
- Administrative Segregation Units (ASU) include inmates who have had disciplinary problems in TGP and impose additional restrictions such as closer guard supervision and less time out of the cell. Inmates generally are assigned to an ASU on a temporary basis until it is determined that they are not likely to have disciplinary problems if returned to the TGP.
- Security Housing Units (SHU) house inmates who have committed certain violent offenses, such as murder or a serious assault while in prison. Inmates in SHU receive privileges similar to ASU, but with increased supervision. However, inmates generally serve a determinate sentence in SHU that can range from 9 months to 48 months, depending on the offense.

**Budget Proposal.** The budget proposes \$8.4 million to implement the Violence Control Pilot Program (VCP), a continuum of housing and program settings for male inmates. This continuum includes reduced privileges in both SHU and ASU, and a new Basic General Population (BGP) program for inmates being released from SHU. The purpose of this program is to create an interim setting between SHU/ASU and TGP. The program would include a system of incentives and penalties designed to discourage inmates from violent behavior so inmates can leave SHU or ASU and transition back to the TGP.

According to the proposal, BGP inmates would enter the program with fewer privileges than inmates in the existing TGP. The program would provide BGP inmates with increased supervision and life skills training, such as anger management and conflict resolution classes. Inmates would earn additional privileges by participating in prescribed programs and refraining from violent behavior. The program, which consists of five steps of progressively increasing privileges, would transition inmates into the TGP in about 18 months. Concurrently, inmates in SHU and ASU would have fewer privileges than are currently provided and would receive basic levels of care mandated by law, including housing, food, education, and medical care.

In addition to providing support for the VCP, the proposal includes \$5.1 million for security equipment for all correctional officers at maximum security prisons.

**Program May Have Unintended Effects.** The proposal indicates that the main purpose of the VCP is to reduce the level of violence in TGP

caused by inmates released from SHU. However, the proposal also includes two significant policy changes to the operation of the SHU and ASU units which could potentially increase the level of inmate violence in those housing units for reasons discussed below. The first policy change would be to shift SHU lengths of stay from determinate to indeterminate time frames. This would mean that, regardless of the SHU offense, each inmate would require a review at each minimum eligibility release date. The second policy change is the curtailment of already reduced privileges, such as telephone calls and canteen purchases.

The proposal indicates that these policy changes will create a disincentive for SHU and ASU inmates to engage in violent behavior. The department, however, has not provided any evidence to support the claim that inmates engage in less violent behavior when privileges are reduced. For example, the department could provide no evidence that inmates in housing units with fewer privileges, such as SHU and ASU, are involved in fewer violent incidents than inmates in the TGP. In fact, past departmental budget proposals for additional resources for restrictive housing units have indicated that SHU and ASU inmates are involved in more violent incidents than TGP inmates. Therefore, it is possible that a further reduction in privileges could have no change or even increase violent inmate behavior in these restrictive housing units, resulting in a need for additional security resources in the future. In addition, the conversion of terms for inmates in SHU from determinate to indeterminate time frames could cause inmates to be housed at a higher security level for longer than necessary, thereby adding to the existing shortage of SHU and ASU housing.

***Analyst's Recommendation.*** We recommend the Legislature approve the request for \$5.1 million to provide correctional officers with additional security equipment. However, we recommend modifying the proposal to eliminate the reduction of privileges in SHU and ASU and the conversion of SHU terms to indeterminate time frames to avoid unintended program consequences and potential higher costs. This modification will not affect the operation of the BGP portion of the proposal.

## **CORRECTIONAL MEDICAL CARE**

### **Department Continues to Have High Medical Costs**

*We recommend the California Department of Corrections report to the Legislature prior to budget hearings on how the department can implement reforms to improve service delivery and reduce costs associated with pharmacy services and medical contracting.*

*We recommend approval of \$16 million proposed to increase inmate access to medical care at four prisons, as well as \$8 million proposed to allow the department to use an outside contractor to procure mental health staff.*

*We withhold recommendation on the proposed \$82.8 million augmentation for pharmaceuticals and medical contracting pending a report at budget hearings on how the department intends to reduce costs associated with pharmacy services and medical contracting. We also withhold recommendation on a proposal to increase mental health crisis beds and psychiatric services unit beds at California State Prison, Sacramento pending receipt of a report from the department explaining discrepancies in the budget proposal regarding the number of needed beds.*

**Budget Proposal.** The budget proposes several augmentations to the CDC Health Care Services Division (HCSD) programs. The augmentations total over \$117 million, which is almost three times the increase approved in the 2000-01 Budget Act. About 70 percent, or \$82.8 million, of this amount is for pharmacy and contract medical services. The remaining \$34 million is for proposals to do the following.

- Improve inmate outpatient health delivery, including telemedicine services and screening for chronic and serious medical conditions at reception centers.
- Provide consultants to review various aspects of health care delivery and provide recommendations for improvement.
- Expand the Mental Health Services Delivery System, including a pilot program to reduce mental health staff vacancies by contracting for mental health staff at three prisons and increasing the availability of various mental health services throughout CDC.
- Augment mental health staff to address an increased workload in evaluating Mentally Disordered Offenders.

**Background.** The HCSD is responsible for the management and provision of medical care for state prison inmates. In January 2000, a Bureau of State Audits (BSA) report commissioned by the Legislature found that the department did not adequately use many standard managed care practices that could help hold down CDC's medical costs.

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

The 2000-01 *Budget Act* appropriated over \$41 million to help CDC move closer to compliance with the findings of the BSA audit and a federal court order to improve mental health services to inmates requiring higher security. Specifically, CDC reforms included establishing a team to audit the quality of care at each prison, implementing a system to track inmate appeals on health care issues, removing barriers to medical delivery through policy changes, and conducting a feasibility study to determine if an outside entity would be able to direct and operate a correctional managed health care system. The budget act also appropriated funds for increased medical contracting and supply costs and to improve the health care utilization management unit.

***Analyst's Recommendations.*** Below, we summarize our recommendations for CDC's budget proposals for its medical operations.

- ***Pharmacy and Contract Medical Costs.*** We withhold recommendation on the proposal for \$82.8 million for pharmaceuticals and outside medical contracting because CDC received funds to hire a consultant to develop a report on correctional health care systems in other states. This report was to include information on reducing costs in pharmacy management and medical contracting. Because this report may assist the department in identifying ways to improve its own operations, we recommend that CDC report at budget hearings on the report's findings. We further recommend the department report on how HCSD intends to use these findings to reduce CDC's pharmacy and medical contracting costs.
- ***Improvement in Health Care Operations.*** We recommend approval of \$16 million proposed to continue improving inmate access to medical services support at four institutions and to improve reception center screening for chronic and serious medical conditions. This will move CDC closer to compliance with the BSA report findings. We recommend, however, that CDC report at budget hearings on the implementation status of its initial proposal to increase inmate access to medical care, which was approved by the Legislature last year.
- ***Mental Health Services Delivery System.*** We recommend approval of the request for \$8 million to implement a pilot program which would use an outside contractor to procure mental health staff at three prisons. This pilot program is consistent with a court order to reduce mental health staff vacancy rates. We withhold recommendation on a proposal to increase mental health crisis and psychiatric services unit beds at California State Prison, Sacramento pending a report from the department explaining dis-

crepancies in the number of needed beds stated in the related support proposal and the capital outlay proposal. Specifically, the support proposal requests an increase of 24 psychiatric services unit beds and the capital outlay proposal requests an increase of 64 beds.

## CORRECTIONAL ADMINISTRATION

### The CDC Personnel Management Problems Continue

*We recommend the Legislature approve a request for \$21.8 million to fund the California Department of Correction's (CDC) increased workers' compensation costs.*

*We withhold recommendation on \$36.6 million proposed for relief staffing pending a report from CDC at budget hearings on how the department plans to reduce high levels of accumulated staff leave and ensure that posted staff will utilize sufficient leave time to justify full relief staffing.*

The Governor's budget proposes \$58.4 million to address several of CDC's personnel management issues, some of which were highlighted by two BSA reports on CDC's personnel management practices. In this analysis, we provide an update on the department's progress in implementing reforms, discuss the personnel management proposals in the Governor's budget, and make recommendations for legislative action.

**Background.** In recent years, we have pointed out that CDC has had significant problems in effectively managing its prison staff personnel. Most recently, in the *Analysis of the 2000-01 Budget Bill*, we discussed the findings of the BSA reports which indicated that poor prison personnel management practices were costing the state as much as \$35 million annually and building up a state financial liability to compensate for leave time accrued by departmental staff. We estimate this liability could amount to \$127 million by 2004.

The first BSA audit, released in July 1999, found that CDC improperly authorized overtime for its employees. The most recent audit, released in late January 2000, concluded that CDC had failed to effectively manage sick leave usage and its holiday and leave programs. As a result, the department was incurring high overtime costs primarily as a result of some custodial staff having to backfill for other custodial staff who were out on sick leave. Both audits recommended reforms for CDC personnel management practices.

Recent information from CDC indicates it has taken steps to improve its personnel management practices. The department, however, continues to experience significant amounts of leave liability and as well as increases in workers' compensation expenditures, as we discuss below.

***The CDC Personnel Management Practices Update.*** Although CDC has started to implement some of the reforms proposed in the BSA audit, the department has not experienced significant reductions in personnel costs. In this section, we provide an update on the department's progress in implementing various personnel reforms and identify areas which continue to need improvement.

- ***Potential Sick Leave Abuse.*** The BSA audit found that CDC expenditures to temporarily replace staff who had called in sick were so substantial as to suggest the possibility of abuse. The report recommended ways to control costs related to sick leave absences. To date, CDC has taken steps to develop more complete information regarding sick leave use through the use of a computerized sick leave tracking system. This tracking system indicates that monthly sick leave use has increased during the current year. In addition, the department found that 25 percent of sick leave was unavoidable, due to employees on long-term sick leave and leave taken under the Family Medical Leave Act. The remainder, however, could potentially be reduced through management oversight. The CDC has used this data to develop revised projections for estimating the appropriate number of relief staff needed to cover these absences. Despite improvements in tracking data, however, CDC has not experienced significant decreases in sick leave use.
- ***Leave Balance Liability.*** The BSA report called attention to the fact that CDC staff have built up large balances of unused holiday, vacation, and annual leave. This accumulation could prove costly to the state in the event the department had to pay employees cash for their unused leave (for example, employees who leave the department). Such a liability grows, for example, 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 for accrued leave also increases. To date, CDC has developed new leave policies which may enable CDC staff to use more of their earned leave. There is limited information, however, regarding the extent to which this policy is actually being enforced and/or has resulted in lower leave balances.

- **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. Instead, prisons too often use overtime to fill a post that is vacant due to sick leave usage or other reasons. The department has created "Overtime Avoidance Pools" (OTAP), made up of permanent full-time officers to address this issue. While OTAP has resulted in a small reduction in overtime use, its ability to significantly reduce overtime use has been limited by difficulties in recruiting correctional officers overall.

At the time this analysis was prepared, CDC's new overtime management policies seemed to have had limited, if any, impact. Available data indicate that overtime use continues to increase and the department expects current overtime expenditures to increase to \$217 million, which represents a 35 percent increase during the two-year period since 1999-00.

- **Increased Workers' Compensation Costs.** Since 1997, CDC workers' compensation expenditures have increased at an average annual rate of about 19 percent and have resulted in increasing annual workers' compensation shortfalls of over \$31 million. Despite these significant increases, the department has not implemented any significant cost containment or safety measures to reduce these expenditures. The existing workers' compensation unit has focused primarily on processing claims, with limited resources directed at screening applications for possible fraud.

**Several Components to Personnel Augmentations.** The most significant increase in the personnel budget is \$36.6 million to maintain sufficient relief staff levels, allowing regular custody staff to use all earned vacation and sick leave. This augmentation is intended to prevent staffing deficiencies resulting from staff taking earned leave and minimize the department's use of overtime to fully staff all posted positions.

The Governor's budget also proposes \$21.8 million to fund prior-year budget shortfalls in the workers' compensation budget. In addition to this augmentation, the department proposes to redirect two positions to impose cost control measures on the program by tracking, monitoring, and analyzing workers' compensation data.

**The CDC Proposals Have Some Weaknesses.** Our analysis of the CDC personnel management proposals identifies several problems that could weaken their effectiveness in reducing and/or controlling personnel costs.

- **Limited Cost Containment Measures.** The budget proposal does not contain significant cost control measures. The BSA recommended CDC take progressively aggressive disciplinary action

against employees it believes use sick leave excessively. Although CDC is maintaining a list of employees who use excessive sick leave, the department has taken adverse actions against few employees in 2000. In addition, although CDC plans to redirect staff to review workers' compensation claims for possible fraud, the total level of resources proposed for this effort may not be sufficient to significantly reduce costs in this area.

- **No Plan to Reduce Leave Liability.** As stated previously, the budget proposes to increase CDC relief staff. This proposal would ensure that all posted positions would be covered if the regular staff were to use all the vacation leave earned during the budget year and continued to use the same level of sick leave. The purpose of this proposal is to allow staff to take more vacation and holiday time, thereby reducing the department's high leave liability. We recognize the goal of this proposal. It is not clear, however, that custody staff have an incentive to use significantly more vacation leave in the budget year than in the current year. Our review indicates CDC has not developed and enforced specific policies, such as mandatory days off, to ensure that staff actually use their vacation and holiday leave during the year in which it is earned. Although managers and supervisors are able to participate in a leave buy back plan at current salary levels, this option is not available to all staff.

**Analyst's Recommendation.** Despite the concerns raised by the BSA audits regarding mismanagement of personnel operations at state prisons, it appears that corrective action taken by CDC during the current year has not resulted in significant improvement or cost reduction. Accordingly, we recommend that the Legislature:

- Withhold action on the \$36.6 million to realign the budgeted relief pattern for posted positions, pending a report from CDC at budget hearings regarding how the department plans to appreciably reduce its significant liability for accumulated holiday and excess vacation and annual leave balances. Specifically, CDC should address how it will ensure that staff use enough leave to justify full relief staffing at all institutions.
- Approve CDC's budget request for \$21.8 million to address the workers' compensation budget shortfall. We also recommend the approval of two positions proposed to be redirected to investigate workers' compensation fraud.

## Various Proposals Need Modification

*We recommend a reduction of \$3.1 million requested in the California Department of Corrections' budget for cadet and parole agent academy salary increases, information technology backlog maintenance, training simulation staff, the headquarters consolidation project, and facility planning. (Reduce Item 5240-001-0001 by \$3.1 million.)*

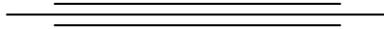
The CDC budget proposes funding increases relating to cadet and parole agent academy salary increases, information technology backlog maintenance, training simulation staff, the headquarter's consolidation project, and facility planning.

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

- ***Cadet and Parole Agent Academy Salary Increases.*** We recommend a reduction of \$250,000 for the cadet salary increase. We also recommend a reduction of \$430,000 for the parole agent academy salary increase. The proposed increases are bargaining issues that should be addressed in future Bargaining Unit 6 contract negotiations and funded through legislation at that time.
- ***Information Technology Backlog Maintenance.*** We recommend the Legislature delete \$531,000 for limited-term contracted programming services, and instead increase CDC's authorized positions by seven personnel-years and \$500,000. Since proposed updating activities are ongoing in nature, they deserve the attention of permanent departmental staff who are able to build a body of expertise in this area and prevent future backlogs.
- ***Simulation Technology Staffing.*** We recommend a reduction of \$770,000 and the deletion of 12 additional limited-term positions to operate the Enhanced Peace Officer Training Multimedia and Simulation Technology pilot program at each of the prisons. The 1999-00 Budget Act provided funds for 33 correctional sergeants (one per state prison) to run facility training programs. Additional full-time sergeants to operate this single program at each facility have not been justified.
- ***Headquarters Consolidation Project.*** We recommend deletion of \$1.5 million to begin consolidation of CDC headquarters locations because a funding source already is available. Chapter 782, Statutes of 1998 (SB 1934, Johnston), authorized this consolidation and also provided a funding mechanism for this project. Specifically, Chapter 782 authorized the State Public Works Board to issue revenue bonds or notes to finance all costs associated

with the acquisition, design, and construction of CDC office facilities.

- ***Facility Planning and Support.*** We recommend a deletion of \$156,000 for expanded development of a five-year capital outlay plan. Chapter 606, Statutes of 1999 (AB 1473, Hertzberg), requires the submission of a statewide five-year capital infrastructure plan to be used to develop the Governor's capital outlay policies and funding priorities. The CDC budget already includes staff and funding for the department to develop five-year capital outlay plans, and the department currently prepares these plans annually. Although the budget proposal indicates that the plans required by the new legislation are broader in scope than existing plans, our analysis indicates the department should be able to restructure the capital outlay plans within existing resources.



## 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, 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 2001-02 Governor's Budget proposes \$28 million from the General Fund for the support of the BPT. This is an increase of \$979,000, or 3 percent, above estimated expenditures for the current year. The proposed budget-year increase is primarily due to a projected increase in the life prisoner and parole revocation hearing workload and the establishment of a Domestic Violence Unit to investigate potential Battered Woman Syndrome cases.

### **Workload Adjustments Are Overstated**

*We withhold recommendation on an \$863,382 increase from the General Fund for projected ward and parolee changes, pending receipt of a revised budget proposal and workload projections to be contained in the May Revision.*

The Governor's budget includes an additional \$863,382 and 7.5 positions to enable BPT to process a projected increase in the number of parole cases. The BPT projects it will have to increase its number of hearings for inmates with life sentences who request release on parole. The BPT also projects a workload increase due to the number of parolees taken into custody for parole violation by the California Department of Correc-

tions (CDC) parole agents. In such cases, BPT is required to determine whether these parolees should be returned to prison.

***Request for Funding and Positions Are Overstated.*** The proposal to increase funding for support of BPT workload increases is based on CDC projections of inmate and parolee populations made in fall 2000. As stated in our analysis of the CDC budget, however, we believe that the CDC population projections overstate the budget year population of inmates and parolees by anticipating a higher growth rate than more recent data would support.

In addition, the CDC population projections do not reflect any potential reductions in parolee population due to the implementation of Proposition 36, the Substance Abuse and Crime Prevention Act, which was passed by voters on November 7, 2000. Proposition 36 is expected to further slow growth in the prison population by requiring that persons convicted of nonviolent drug possession offenses be placed on probation and receive drug treatment, rather than be incarcerated in state prison. Similarly, the measure will redirect parole violators who commit nonviolent drug possession offenses into treatment rather than return them to prison. Each of these factors has the potential to reduce BPT's hearing workload in the budget year.

***Analyst's Recommendation.*** We withhold recommendation on the BPT proposal for an augmentation for workload increases pending receipt of the CDC's updated spring population projections. Once CDC's population projections are available, we anticipate that BPT will issue an updated proposal which will take into account the effect of Proposition 36 on the inmate and parolee population as reflected in the May Revision. At that time, we will assess whether adjustments to BPT's workload request are warranted and make a recommendation.

## **Creation of Domestic Violence Unit Justified**

***We recommend the Legislature approve \$281,000 to form a Domestic Violence Unit to investigate Battered Woman Syndrome (BWS) cases. We further recommend the Legislature provide oversight for this program by adopting supplemental report language directing the board to report on its progress in investigating BWS cases.***

The Governor's budget proposes \$281,000 for the formation of a Domestic Violence Unit to identify, investigate, and monitor cases of inmates who are incarcerated for killing their abusive partners.

***Background.*** In 1991, state law expanded the basis on which an inmate could obtain a pardon or a commuted sentence to include "evidence of Battered Woman Syndrome (BWS)." This included evidence that the

criminal behavior of the inmate was the result of physical, emotional, or mental abuse. Chapter 652, Statutes of 1999 (SB 499, Burton), further required the BPT, in reviewing an inmate's suitability for parole, to consider evidence that the inmate had suffered from BWS at the time of the commission of the crime.

***Workload Justifies Additional Staff.*** Since 1991, BPT has received 75 BWS clemency requests. Due to a lack of resources, however, many of these requests were closed after minimal investigation. Currently, there are eight open BWS investigations, but this workload is likely to increase due to the passage of Chapter 652. The BPT estimates that 30 new cases will require investigation in the budget year, in addition to investigations of previously closed cases and ongoing cases.

***Analyst's Recommendation.*** Our review of the proposal indicates it is justified, given the number of women convicted of killing their partners and the number of pending requests for clemency attributed to BWS. However, the department has not indicated how the Domestic Violence Unit workload will be monitored. Because of the Legislature's interest in this issue, we believe the Legislature should be kept informed of the department's progress in responding to the increased BWS cases. We therefore recommend the adoption of supplemental report language requiring the board to report on the progress of its investigations. The following language is consistent with this recommendation:

The Board of Prison Terms shall report to the Legislature annually, beginning March 1, 2002, on its progress in investigating Battered Woman's Syndrome cases. The report shall identify information regarding the number of cases investigated; the length and staff time for each investigation; and the number of cases in which evidence of Battered Woman's Syndrome led to granted parole, commuted sentences or pardons.

## **Positions to Conduct Parolee Screening Remain Unfilled**

***We recommend the board report to the Legislature at budget hearings on the status of its compliance with the permanent injunction related to a class-action lawsuit, including reasons why it has not filled the parole agent positions needed to comply with the injunction.***

***Background.*** On December 23, 1999, a U.S. district court issued a permanent injunction, originating from a 1994 class-action lawsuit, brought by inmates against the CDC and BPT. The injunction concluded that BPT had not complied with sections of the Americans with Disabilities Act and the Rehabilitation Act of 1973. Specifically, it stated BPT had not provided "equal access" for disabled inmates and parolees in the hearing process. The court required BPT corrective action to identify and accom-

modate inmates and parolees with hearing, speech, vision, mobility, learning, or developmental disabilities.

In the 2000-01 *Budget Act*, the Legislature appropriated \$7.5 million to BPT for increased workload associated with complying with the injunction. Among other components, the augmentation included \$1.8 million to hire 29 Board Coordinating Parole Agents (BCPA) who would conduct "face to face" screenings of parolees to ensure that they were fully aware of their rights in the parole hearing process.

***High BCPA Vacancy Rate.*** Currently, the BPT has filled 4 of the 29 BCPA positions approved for 2000-01. The cause of the high vacancy rate for these positions is unclear. One possible reason is that BPT is experiencing a smaller workload than previously anticipated. A second possible reason is that the BPT has not been conducting face to face screening reviews for parolees, which would mean the department may be out of compliance with the court-issued injunction.

***Analyst's Recommendation.*** We recommend that the department report at budget hearings on the status of the BPT's compliance with the terms of the recent court injunction, and address why the department has not filled the approved BCPA positions.

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## **DEPARTMENT OF THE YOUTH AUTHORITY (5460)**

The Department of the Youth Authority is responsible for the protection of society from the criminal and delinquent behavior of young people (generally ages 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 \$431 million for the Youth Authority in 2001-02. This is \$15.8 million, or about 4 percent, above estimated current-year expenditures. General Fund expenditures are proposed to total \$348 million in the budget year, an increase of \$13.7 million, or 4 percent, above expenditures in 2000-01. The department's proposed General Fund expenditures include \$39.7 million in Proposition 98 education funds. The Youth Authority also estimates that it will receive about \$80.9 million in reimbursements in 2001-02. These reimbursements primarily come from county fees for wards sent to the Youth Authority.

The primary reason for the increase in General Fund spending for the budget year is that the Governor has proposed a number of modest policy initiatives to remedy persistent problems within Youth Authority institutions and parole programs.

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. Of the remaining 13 percent of total funds, 12 percent is for the Youth Authority's education program, and the remainder for general administration.

## WARD POPULATION

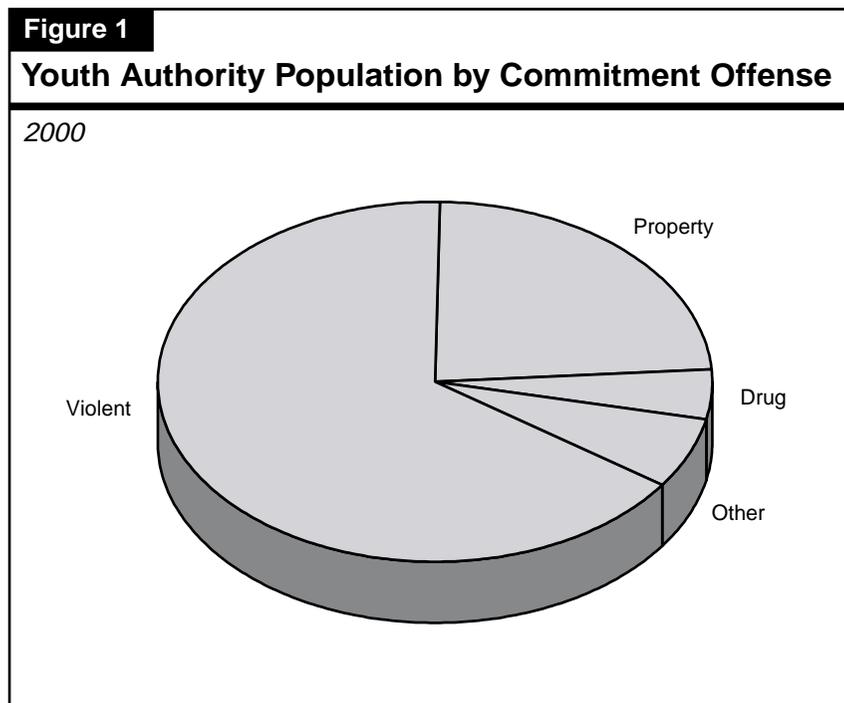
### Who Is in the Youth Authority?

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 31, 2000, 95.2 percent of the institutional population was committed by the juvenile courts and included 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, 2000, 3.4 percent of the institutional population was juveniles committed by criminal courts.
- **Corrections Inmates.** This segment of the Youth Authority population—1.4 percent of the population in December 2000—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 Youth Authority commitment for 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 21<sup>st</sup> 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 ethnic group in Youth Authority institutions, accounting for 48 percent of the total population. African Americans make up 29 percent of the population, whites are 16 percent, and Asians and others are approximately 7 percent.

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



As of December 2000, 65 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 45 percent of CDC's population has been incarcerated for violent offenses.

In 2000, 24 percent of the total ward population was incarcerated for property offenses, such as burglary and auto theft; 4 percent for drug offenses; and the remaining 6 percent for various other offenses. 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 shifted incentives by implementing a sliding fee schedule that charges counties a lower fee to commit more serious offenders to the Youth Authority while charging a higher fee for less serious offenders. As a result, a higher proportion of less serious offenders will remain at the local level.

***Average Period of Incarceration Is Expected to Stabilize.*** 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 has increased in recent years, but is expected to stabilize for reasons discussed below. As a result, the Youth

Authority estimates that, on average, wards who are first paroled in 2000-01 will have spent 34.1 months in a Youth Authority institution compared to 34.2 months for a ward paroled in 1999-00 and 26.9 months in 1996-97. The Youth Authority projects that length of stay for first parolees will continue to drop somewhat to 33.5 months in 2004-05, a 2 percent decrease.

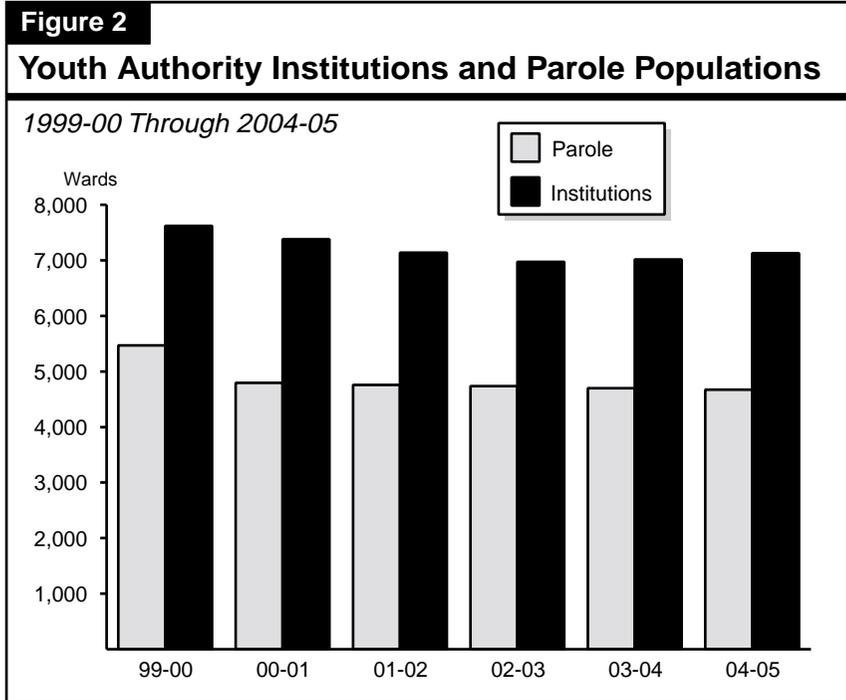
The increases in lengths of stay that occurred prior to 2000-01 are explained in part by the fact that wards committed by the juvenile court serve “indeterminate” rather than specific periods of incarceration. Wards receive a parole consideration date (PCD) when they are first admitted to the Youth Authority, based on their commitment offense. The Youthful Offender Parole Board (YOPB) can add or reduce time based on the ward’s behavior and whether the ward has completed rehabilitation programs. In contrast, juveniles and most adults sentenced by criminal courts serve “determinate” sentences—generally a fixed number of years—that can be reduced by “work” credits and time served prior to sentencing. Increases in PCDs and time added for behavioral problems have resulted in longer institutional stays. The most recent information on PCDs, however, shows a decline. As a result, the Youth Authority is projecting a stabilization in length of stay.

### **Ward and Parolee Populations Relatively Flat**

*We anticipate the Youth Authority’s institutional population will flatten throughout 2001-02, and remain relatively stable thereafter. The Youth Authority forecasts 6,975 wards at the end of the budget year and 7,370 wards in 2004-05. Youth Authority parolee populations are expected to decrease in the from 4,735 parolees in the budget year to about 4,645 parolees by the end of 2004-05.*

The Youth Authority’s September 2000 ward population projections (which form the basis for the Youth Authority’s 2000-01 budget) indicate that the institutional population will remain relatively flat through the budget year. For the budget year through 2003-04, the Youth Authority projects that its incarcerated population will stabilize and then increase by about 6 percent, reaching 7,370 wards on June 30, 2005.

The number of parolees is also expected to decrease slowly through 2004. Figure 2 shows the Youth Authority’s institutional and parolee populations from 1999-00 through 2003-04.



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

*We withhold recommendation on a proposed \$3.7 million decrease from the General Fund based on projected ward and parolee population changes, pending receipt of the May Revision budget proposal and population projections.*

*Ward and Parolee Population in the Budget Year.* The Youth Authority's total population is projected to decrease somewhat, declining by 165 wards from the end of the current year to the end of the budget year. As a result, the department's caseload budget will decrease by \$3.7 million. This decrease will result from unit closures at a number of institutions where population has declined. These reductions are not distributed proportionally across institutions, but were made with the intent of making resources available to meet the growing mental health needs of Youth Authority wards. As a result, some Youth Authority institutions will have populations significantly in excess of their design capacity while others will fall below that level.

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 June 30, 2001 institu-

tional population projection dropped by 160 wards from 7,300 in the spring 2000 projections to 7140 in the current projections.

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.

## **YOUTH AUTHORITY INSTITUTIONS OPERATIONAL QUALITY ASSURANCE PROJECT**

### ***Background***

In February 2000, the Youth and Adult Correctional Agency (YACA) directed the Board of Corrections (BOC) to create a Technical Assistance Plan (TAP) to aid the Youth Authority in improving conditions of confinement within its institutions. To achieve this objective, the BOC established a comprehensive review process designed to solicit input from experts inside and outside the Youth Authority, which they termed the Youth Authority Institutional Operational Quality Assurance Project (IOQA).

After convening an Independent Steering Committee (ISC) to oversee the process, the BOC also assembled a multidisciplinary team to analyze operations in five representative institutions. Each team member spent about 30 hours at each institution. Based on their observations, the team put together a report to the ISC identifying areas where the Youth Authority could benefit from technical assistance.

The ISC referred these issues to eight subject matter work groups, as shown in Figure 3. The work groups met in August and September to work on the assigned issues, generate recommendations, and propose policy changes. The ISC then reviewed and commented on the recommendations and regulations that emerged from these work groups and submitted a final report to YACA and the Youth Authority at the end of October. Since that time the Youth Authority has been working internally to develop a recommended response to the report, using a process we describe further below.

In the following section we summarize the major findings contained in the report, describe the Youth Authority's response to date, and make recommendations for legislative action pursuant to the report. Because the process employed to develop the TAP was very thorough and involved input from all the major stakeholders concerned with Youth Authority institutions, we believe that the final report is a valuable tool for

**Figure 3**

### **Youth Authority Institutions Operational Quality Assurance Project Work Groups**

- Management, Personnel, and Training
- Classification, Discipline, and Grievance
- Education
- Programs
- Medical and Mental Health
- Nutrition and Environmental Health
- Physical Plant

the department as it seeks to improve the quality of its operations. As a result, the Legislature may wish to give close attention to the substance of the recommendations as well as the agency and department's actions in response to them.

## ***The TAP Recommendations***

### **Making the Youth Authority's Statutory Mission The Basis for Strategic Planning**

The mission of the Youth Authority, as found in Welfare and Institutions Code Section 1700 states:

The purpose of this chapter is to protect society from the consequences of criminal activity and to that purpose community restoration, victim restoration, and offender training and treatment shall be substituted for retributive punishment and shall be directed toward the correction and rehabilitation of young persons who have committed public offenses.

Thus, the department's mission focuses on treatment, offender rehabilitation, and restorative justice rather than punishment. The TAP recommended the department maintain the mission statement and base its strategic planning around its emphases on treatment, training, and victim and community restoration. They noted this mission could not be fulfilled without adequate resources, and concluded that current resources are insufficient. Finally, the TAP recommended the Youth Authority as-

sess current academic and vocational programs to insure that wards have sufficient opportunities to develop their skills.

### **Providing Adequate Staffing to Meet the Department's Mission**

The TAP recommended that the department have adequate personnel to meet its responsibilities and accomplish its mission. To determine the necessary level of personnel, it recommended that each institution's superintendent be required to prepare a staffing plan. This plan would be based on the findings of a "comprehensive, professional analysis of the number of positions required to provide security, treatment, programs and services, and to ensure the safety of wards and staff." In the report, the work group concluded there was insufficient staffing at each of the department's institutions. We note that currently juvenile halls and camps have standard personnel ratios that significantly exceed the staffing patterns in Youth Authority institutions. Institutional differences may explain a portion of these staffing differences. Because the work group did not identify a staffing standard ratio, it is difficult to assess whether, and to what extent, the department is understaffed. We concur that based on these disparities, the department would benefit by conducting an analysis to determine minimum staffing levels.

### **Revising Disciplinary Policy Recommendations**

*Restructure the Current Policy to Include More Graduated Sanctions.* Prior to convening the IOQA process, the Youth Authority was the subject of a number of unfavorable press stories, most of which involved questionable disciplinary policies within its institutions. As a result, disciplinary policies were an important focal point of the IOQA process. The TAP recommends that the Director of the Youth Authority develop policies and procedures for discipline administration to include:

- The personnel authorized to impose disciplinary sanctions.
- Definitions of minor and major violations, including an identification of which levels of violations must be reported to the YOPB.
- Due process requirements.
- Distinctions in the levels of punishment, documentation, and review that are appropriate for minor and major violations.

The TAP placed particular emphasis on insuring that the disciplinary system provide a continuum of graduated sanctions appropriate to each level of violation.

***Disciplinary Segregation Issues.*** Two specific areas of concern regarding disciplinary policies discussed within the TAP were the use of disciplinary segregation and the use of “special program areas.” Disciplinary segregation, often referred to as “lockdown,” involves the placement of a ward in a locked single room, typically for the majority of the day (often 23 hours in a 24 hour period). The work group agreed that the use of this sanction requires some kind of due process review within 24 hours of its use. Currently, it appears that as many as 30 days can pass without any formal review. Special program areas, described as “cages” in the TAP report, are small areas surrounded by chain link fencing where wards in disciplinary segregation receive their programming services, such as education and counseling, and recreation. While the work group was unable to reach a consensus that these devices should be eliminated, it recommended that the Youth Authority immediately convene a committee to examine safe alternatives to these caged areas for indoor and outdoor programming.

## **Providing Adequate Medical and Mental Health Services**

***Insure Appropriate Training for Clinical Health Care Staff.*** The work group on medical and mental health focused particular attention on insuring that all clinical health staff possess appropriate training and experience, known as “core competencies,” required to serve the ward population at each institution. As an example, they noted that health care staff working with the female wards at Ventura need some expertise and training in women’s health issues such as obstetrics and gynecology. To achieve this objective, the work group proposed a regulation that would require central office health administrators to develop minimum standards for the education, training, and experience necessary to meet the ward population’s needs. Furthermore, it also recommended that the department establish policies and procedures to insure that licenses and certifications for clinical staff are appropriate for their work within the institution, a process known as “privileging,” and that they be periodically updated and verified.

***Health Care Quality Assessment and Improvement.*** The work group recommended implementation of a formal process for health care quality assessment and improvement. This process would require the creation of a written plan for service improvement, the development of regular mechanisms for internal and external peer review of health care delivery, and annual reports from the medical staff to the superintendents and the Director concerning current services, problems, and recommended actions to improve care.

***Mental Health Service Improvement.*** The issue of mental health services in the Youth Authority has become very prominent recently as the

ward population has come to include many more offenders with serious mental health problems. The TAP included a recommendation directing the Youth Authority to develop policies for providing services to mentally ill wards. The work group included a requirement that the policy developed incorporate the provision of the following services:

- Mental health screening at intake, crisis intervention and stabilization of mentally ill wards, to prevent any deterioration in their mental condition.
- Medication support.
- Provisions for the referral of acutely ill wards to a licensed mental health facility and assurance that any seriously ill wards will be assessed by licensed mental health clinicians.
- Elective therapy and prevention services as resources permit.

***Providing Licensed Care for Acutely Mentally Ill Wards.*** In its discussion of this issue, the work group focused on the question of serving acutely mentally ill wards. The work group reached consensus that these wards need to be served in a setting licensed to provide psychiatric hospital services. In fact, the Youth Authority itself has been pursuing the establishment of Correctional Treatment Centers (CTCs)—which would be licensed psychiatric hospitals within the Youth Authority. Nevertheless, the work group expressed concern that this particular solution would divert too many resources away from more routine mental health care, while serving only a very small number of wards. This issue is now further complicated by a recent court order, currently being appealed, that would require the Youth Authority to establish CTCs at all of its institutions. While the work group reached no final conclusion, it suggested that it would be preferable to serve these acutely ill wards by contracting out to private or state hospitals.

***Improving Staff Recruitment and Retention for Medical and Mental Health Care Positions.*** One persistent barrier to the provision of adequate health and mental health services for Youth Authority wards identified by the TAP has been the difficulty in recruiting and retaining qualified professional staff. A key element of this problem has been the relatively low salaries for these positions relative to the private sector as well as other state agencies. While the Youth Authority is authorized to provide recruitment and retention bonuses to some of these classifications to improve this situation, it has not received funds specifically for this purpose. The work group on medical and mental health recommended that adequate resources be dedicated to this sector to meet statutory and constitutional obligations.

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## Developing a Comprehensive Gang Strategy

Gang affiliations among wards in Youth Authority institutions is a pervasive problem. Yet management of gang problems varies from institution to institution and has included techniques which have received negative media coverage. One ongoing issue has been whether to segregate wards by gang affiliation or to put members of rival gangs within the same units. Some institution superintendents prefer to segregate to prevent hostilities from flaring up, while others feel it is important not to legitimize these divisions by basing institutional decisions around them. The work groups noted that the Youth Authority has been relatively successful in identifying gang members and activity, but has not developed sufficient ways to intervene and manage gang-related problems. As a result, the TAP recommended that the Youth Authority establish a multidisciplinary task force to develop a department-wide strategy to address the gang problem within institutions.

## Improving Relationship Between The Youth Authority and the Counties

*Improvement in State-County Relations Is Needed.* In recent years, the relationship between the Youth Authority and the counties, particularly county probation departments, has deteriorated to the extent that there is little communication between the two groups. There are a number of reasons for this including elimination of the Youth Authority's role in monitoring county juvenile detention facilities, and implementation of a sliding scale fee structure which requires the Youth Authority to regularly bill the counties for the wards they commit. The TAP contained a number of recommendations to remedy this problem, some of which focused specifically on relationship building and some which looked to mitigate the effects on counties of the sliding scale fee changes.

The sliding scale legislation, Chapter 6, Statutes of 1996 (SB 681, Hurtt), made counties responsible for paying a share of the cost of housing wards at the Youth Authority when those wards are committed for less serious offenses. In our discussion of the Youth Authority budget in the *Analysis of the 1999-00 Budget Bill*, we explored the rationale for the fees, the effects of their enactment, and recommendations for mitigating the negative consequences for counties. Overall, we concluded the fees had succeeded in spurring counties to create more local service options for less serious offenders, thereby diminishing their dependence on the Youth Authority. We noted, however, that counties were incurring higher costs for those categories of wards who continued to be committed to the Youth Authority facilities because their lengths of stay were increasing. As a result, we recommended that the Youth Authority develop some shorter-term pro-

gramming options for these offenders, and that the counties be given more input into length-of-stay decisions. The focus of these recommendations were echoed in the TAP recommendations.

***Establish Shorter-Term Programming.*** First, the work group recommended that the Youth Authority establish short-term programs with intensive aftercare components to increase the available options for counties who are working with less serious offenders. Research suggests that shorter institutional stays, combined with aftercare, can be just as effective as long commitments. The Legislature adopted supplemental report language in 1999 requiring the Youth Authority to report to the Legislature on the feasibility of implementing such programming but at the time this analysis was prepared the report had not been submitted. This report would provide a good starting point for discussion.

***Authorize a Pilot Project.*** In addition to recommending shorter-term programming, the work group recommended the development of legislation to authorize a pilot project to allow counties more input and involvement in programming and length-of-stay decisions. As proposed in the TAP, the pilot would involve three counties (large, medium, and small) and would include the following elements:

- The originating juvenile court sets the institutional length of stay and, in consultation with the department, determines the most appropriate custody and treatment plan.
- The local probation department, in consultation with the Youth Authority, determines who will be responsible for parole supervision.
- An outside evaluation is conducted to determine the efficacy of the pilot in meeting treatment and public safety goals.

***Work to Improve the Day-to-Day Relationships Between the Counties and the Youth Authority From the Director Down to the Staff Level.*** Finally, the work group recommended a number of steps the Director and the Youth Authority could take to rebuild the relationship with the county probation departments. These included:

- Encouraging the Youth Authority to serve as an information resource for local agencies on the best practices used with juvenile offenders nationally. This transfer could be accomplished through the reinstatement of so-called Transfer of Knowledge workshops for counties.
- Encouraging community parole agents to develop relationships with the probation departments in their area.

- Creating community liaison positions within the department to work with local agencies.
- Encouraging the Director to participate in meetings of the Chief Probation Officers' Association.

## Changing the Role of the YOPB

Under current law, the YOPB is charged with overseeing a number of decisions regarding Youth Authority wards, including length of stay and readiness to parole, handling certain disciplinary matters, revoking parole, and required programming. The work group on the future of the Youth Authority concluded it would be preferable in the long run to eliminate the YOPB and move to a system where the originating juvenile court makes these types of decisions. It therefore recommended that legislation be developed to eliminate the YOPB and replace it with a system where the juvenile court sets the initial length of stay and determines readiness to parole. It reasoned that this system has been successfully implemented in other states, promotes greater continuity of case management, and avoids some of the political pressure on YOPB appointees to continually increase length of stay.

***Length of Stay Increasing.*** The work group appropriately focused its concern on the increase in Youth Authority lengths of stay which have grown significantly in recent years. For example, in 1996 the average length of stay for a first commitment to the Youth Authority (which excludes parole violators and other returns) was 26.4 months. In 1999, that figure had risen to 34 months, a 30 percent increase. By comparison, in 1999 felons being released to parole in CDC served 23.5 months on average. (It is noteworthy that sentencing decisions for inmates are made by the courts.) This steady upward growth in length of stay suggests an increase in punishment levels which may not be appropriate given the statutory mission of the Youth Authority.

***Intermediate Recommendations Also Made.*** While the TAP report made a long-term recommendation to eliminate the YOPB, it also included some intermediate steps to improve the existing process. These included:

- Enactment of legislation to clarify the statutory qualifications for YOPB members and require that they represent a diversity of expertise within the juvenile justice system.
- Enactment of legislation to require the Director of the Youth Authority to serve as Chair of the YOPB.
- Colocation of the YOPB and the Youth Authority headquarters offices.

## **Improving the Quality and Continuity of Leadership At All Levels Within the Youth Authority**

The frequent turnover of directors in recent years has led to concern about the possibility of leadership problems at the Youth Authority. To address this issue the TAP made a number of recommendations. First, it recommended that the administration encourage directors to maintain longer tenures than in the recent past. Second, it suggested that the department improve management training for Youth Authority staff. Third, it proposed widening the recruitment pool for management positions to include outside juvenile justice agencies. Finally, to improve the ability of the Director to lead, the TAP recommended that the Director develop an external communications plan to enhance the understanding of the department's mission among local officials, state policymakers, the public, and the media.

## ***The Youth Authority's Internal Response to the TAP***

### **Formulating Responses to the Recommendations**

The Youth Authority adopted a process for generating a response to the TAP recommendations that included the following steps. First, it held an executive level meeting and assigned each recommendation to a staff person best situated to prepare a response. These staff are currently preparing position papers responding to the recommendation which include background on the underlying issue, their assessment of the content of the recommendation, and a proposed departmental action plan based on their analysis. The Director and executive staff are reviewing these responses as they are completed. Once they reach consensus on the content of the responses they are forwarding those reports to YACA for review. At the time this analysis was prepared, the department had submitted one group of responses and was planning to continue to send these reports as they were completed.

### **Budget Proposals Address Many Mental Health Concerns Raised in TAP**

The Governor's budget proposes a number of new initiatives that would improve mental health services for wards in institutions and move the department in the directions recommended by the TAP. The new proposals include:

- \$1.1 million to establish a 50-bed sex offender treatment unit at the N.A. Chaderjian Youth Correctional Facility in Stockton.

- \$3 million to establish 75 additional mental health treatment beds at the Preston Youth Correctional Facility.
- \$180,000 to develop a contract-based pilot program for institutional substance abuse treatment.

In addition to these new programs, the budget includes funds for two one-time assessments that address TAP recommendations. One would review current best practices in mental health treatment for juvenile offenders with recommendations for the Youth Authority to improve its existing services. The other would support a quality assessment for health and mental health care service delivery in the institutions.

## **LAO Recommendations**

### **Department Should Report on Its Proposed Response to TAP**

*We recommend that the department advise the Legislature during budget hearings on the status of its responses to the Technical Assistance Plan, and highlight any areas where resources are needed to implement recommended changes during 2001-02.*

By the time budget subcommittee hearings are underway, the department should have made some important decisions about what actions to take with regard to the TAP recommendations. We recommend that the Legislature carefully monitor this process to insure that the department maximizes its use of the many volunteer experts who compiled the TAP. While we do not know which TAP recommendations the department will view as its most important priorities, we can identify several that call for a significant investment of time and resources to evaluate current practices and identify possible alternatives. In each of these cases, the department may need additional one-time resources to complete these assessments. The most notable of these are:

- **Staffing Analysis.** Although the work group reached a consensus that Youth Authority institutions are understaffed, it did not have enough information to recommend a standard. As a result, the department may need to contract with a consultant experienced in juvenile institution issues to determine what appropriate staffing levels would be if it were to fulfill its statutory mission.
- **Comprehensive Gang Strategy.** Given the current lack of consistency with regard to its gang policy, the department would benefit from a comprehensive analysis of its current gang problem, as well as recommendations for the best practices nationally in managing gangs within institutions. Such a process may involve

an outside consultant, as well as an advisory committee of state and local representatives who are familiar with gang issues.

- ***Academic and Vocational Opportunities Assessment.*** The TAP identifies a need for an internal assessment of the academic and vocational programming within the Youth Authority to determine whether ward needs are being met consistent with the statutory mission. The general sentiment within the work group was that academic programs generally are more plentiful than vocational ones, and that both areas must remain up-to-date to be effective. The department may be able to complete this assessment using existing staff and resources, but it is worthwhile to identify the scope of its assessment and whether additional resources are necessary.
- ***Mental Health Treatment Services.*** The department's current leadership has focused particular attention on mental health treatment. As a result, it may not need further assessments as much as additional resources to implement the department's strategies. The Governor's budget includes a number of proposals to improve mental health services, but even with these new initiatives, many wards with serious mental health needs may not be served. (We discuss the Governor's proposals as well as the potential unmet need later in this chapter.)

In summary, the TAP can be a powerful tool for the Youth Authority to use as it works to improve the quality of its institutions. It can also serve the Legislature as it exercises its oversight role with regard to the department and its policies.

### **Direct the Youth Authority to Submit Its Report On Shorter-Term Programming**

*We recommend that prior to budget hearings the Youth Authority submit to the Legislature the report already required in the Supplemental Report of the 1999 Budget Act and due April 1, 2000 relating to the feasibility of implementing shorter-term programming for less serious offenders.*

As discussed above, the Legislature directed the Youth Authority to report on the feasibility of implementing shorter-term institutional programming such as education and counseling for less serious offenders as well as additional community services for wards on parole. The supplemental report language required the Youth Authority to do the following:

- Identify the core services and programming that are best delivered to wards in the institutions as well as those that can be delivered successfully to wards on parole.
- Develop proposals for delivering those services in a sequence that minimizes required institutional time and maximizes the value of aftercare services.
- Estimate the costs per ward to deliver such programming.
- Discuss the advantages and disadvantages of adopting new programming in terms of ward rehabilitation, public safety, and cost effectiveness.

Given that the TAP has recommended the Youth Authority establish such shorter-term programming, the issuance of this report (due to the Legislature April 1, 2000) would help the Legislature evaluate the value of the TAP recommendation as well as strategies for implementing it. Therefore, we recommend that the department submit this report to the Legislature prior to budget hearings.

## DEPARTMENTAL ISSUES

### **New Specialized Treatment and Ward Grievance Proposals Reflect Past Legislative Priorities**

*We recommend approval of \$8.1 million to expand or establish mental health, sex offender, and substance abuse treatment programs and partially restore wards' rights coordinator positions. Each of the proposals represents a modest effort to expand programs which the Legislature had significantly augmented in last year's budget bill but which the Governor subsequently vetoed. In the event the Legislature decides to again augment funding for these programs, we recommend it give priority to sex offender treatment and ward grievance procedures since the Youth Authority is most likely to be able to expand services in these areas within the budget year.*

**Background.** During the budget process last year, the Legislature augmented the Youth Authority's budget for mental health, sex offender, and substance abuse treatment services; and additional staff to manage the ward grievance process. These augmentations were vetoed by the Governor. In his veto message, the Governor indicated that while he supported the underlying objectives behind the augmentations, he was not certain that they were well focused to the actual needs of the Youth Authority. The Governor, therefore, expressed his willingness to consider future proposals to address these issues.

**Budget Proposals.** The Governor's budget proposes a number of new programs, positions, and activities consistent with last year's legislative priorities for the Youth Authority budget. These proposals cover specialized treatment for sex offenders, mentally ill wards, wards with substance abuse problems, as well as a proposal to improve the ward grievance system. Figure 4 highlights the budget proposals and compares them with last year's legislative augmentations which were subsequently vetoed. Each budget proposal is also discussed in greater detail below. Generally, the Governor's proposals are more modest than the extensive reforms that the Legislature amended into last year's budget bill.

**Figure 4**

### **Governor's Budget Proposals Versus 2000-01 Legislative Augmentations**

|                                     | <b>Legislative Augmentations<br/>To 2000-01 Budget Bill<br/>Vetoed by Governor</b>   | <b>Governor's 2001-02<br/>Budget Proposals</b>   |
|-------------------------------------|--|--|
| Sex Offender Treatment              | \$1.1 million partial-year funding to begin phase-in of (a) 767 treatment slots, and (b) a 120 day minimum community based aftercare program.              | \$2.8 million to (a) create a 50-bed specialized treatment unit and (b) establish 35 transitional aftercare beds.  |
| Mental Health Treatment             | \$688,000 partial-year funding to phase-in (a) 1000 mental health treatment slots and (b) community based aftercare.                                       | \$3.9 million to (a) add 75 specialized counseling beds, (b) provide aftercare counseling for 325 parolees, and (c) establish 20 residential aftercare beds. |
| Substance Abuse Treatment           | \$542,000 for partial-year funding to phase-in (a) 1,944 slots of drug treatment programming, and (b) a 150 day minimum community based aftercare program. | \$720,000 to implement (a) 100 contract-based institutional substance abuse treatment slots and (b) 25 contract-based aftercare slots.                       |
| Treatment Needs Assessment and Plan | \$400,000 for a treatment needs assessment and programming plan for substance abuse, sex offender, and mental health treatment.                            | Same   |
| Ward Grievance Procedure            | \$1.5 million partial-year funding for 20 ward right's coordinators plus support staff.  | \$252,000 for 2 ward right's coordinators and a program administrator at headquarters.   |

**Sex Offender Treatment.** To improve specialized treatment services for sex offenders, the Governor's budget proposes \$2.8 million to create a 50-bed sex offender treatment program at the N.A. Chaderjian Youth Correctional Facility (NACYCF) in Stockton and provide 35 residential aftercare beds for parolees requiring sex offender treatment. By contrast, last year the Legislature augmented the *2000-01 Budget Bill* to provide partial-year funding to phase-in 767 slots for sex offender treatment, with 200 slots implemented by January 1, 2001. The budget bill language also called for community-based aftercare services of at least 120 days for at least 50 percent of the graduates of the treatment program. The Governor subsequently vetoed the funding and the language. The budget proposal is based on information from April 2000 which shows that 802 sex offenders in Youth Authority institutions and 337 parolees currently are not receiving any specialized sex offender treatment services. In addition, more than 300 sex offenders who are required to receive sex offender treatment pursuant to Welfare and Institutions Code Section 727.6 currently are receiving no treatment. The Youth Authority recognizes that this proposal would only partially address these needs.

**Mental Health Services.** To improve mental health services for wards with serious mental health problems, the budget proposes \$4.3 million for (1) 75 mental health treatment beds at the Preston Youth Correctional Facility, (2) contract services for weekly counseling for 325 parolees, (3) 20 beds for contract residential aftercare for mentally ill parolees, and (4) a contract study to assess the Youth Authority's mental health treatment needs and recommend a strategy for meeting those needs based on best practices nationwide. The *2000-01 Budget Bill* language vetoed by the Governor also would have provided \$400,000 for an assessment study, but included partial-year funding for a provision to phase-in 1000 specialized mental health treatment slots.

**Substance Abuse Treatment.** The Governor's budget would provide \$720,000 to contract with an outside substance abuse treatment program for institution-based treatment and provide 25 residential aftercare slots for parolees. The budget bill language vetoed by the Governor would have provided partial-year funding to phase-in 1,944 drug treatment slots, and required a 150-day community-based aftercare program for at least 50 percent of the institution-based program graduates.

**Ward Grievance Procedure Enhancements.** The Governor's budget proposes to add three positions at a cost of \$252,000 to begin to reestablish permanent staffing to handle ward rights procedures. Budget cuts in the early 1990s eliminated dedicated ward rights coordinator positions and reassigned these duties to staff with other responsibilities. As a result of this change, the Youth Authority had difficulty managing ward grievances and, as a result, many wards felt their grievances were not

being handled fairly and expeditiously. The Governor's proposal would create a program administrator located at the headquarters office and two ward rights coordinator positions—one at Heman G. Stark Youth Correctional Facility (the largest Youth Authority institution) and one coordinator to provide field monitoring for all of the other institutions. The legislative augmentation vetoed by the Governor would have provided \$1.5 million partial-year funding for one ward rights coordinator for every 400 wards, as well as investigative and clerical support staff.

***Department Proposes a Phased-In Approach.*** The Youth Authority refers to each of the recommended strategies as the beginning of a phased-in approach. Thus, it recognizes that these proposals will not fully meet existing needs in these four areas. The approach taken by the Legislature last year was to provide comprehensive solutions, but fund only those steps that the Youth Authority believed could be accomplished in the budget year. The treatment slot numbers proposed by the Legislature were designed to fully address unmet needs as identified in the Youth Authority's 1998 Treatment Needs Assessment. Recognizing that an update of that assessment was needed in light of changes in Youth Authority population characteristics, the Legislature included \$400,000 for a new and more comprehensive treatment needs assessment. This assessment was to be used to update the numbers of slots referenced in the budget bill language.

The budget proposes to begin addressing these unmet needs more incrementally without committing to future year expenditures. While it is unlikely that the department could implement all of the program changes needed to meet their ward treatment requirements in the budget year, it appears likely based on prior planning and development work that it could do more than is proposed by the Governor's budget.

***Sex Offender Treatment and Ward Rights Ready for Additional Augmentation.*** If the Legislature determines that it wants to take more comprehensive steps to address these treatment issues, we recommend that it give first priority to the sex offender treatment and ward grievance procedure proposals, as the department is most likely to have the ability to expand these services based on preliminary assessment and planning work already completed in this area.

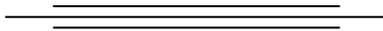
***Proposed Study Should Guide Future Increases for Treatment Initiatives.*** We recommend approval of the mental health and substance abuse proposals because they move towards addressing current ward treatment needs. Currently, the department has received funds to thoroughly assess and plan for mental health services. This report would cover sex offender, substance abuse, and mental health treatment. The results of

the assessment should guide any future funding increases for treatment services.

### **Long-Range Plan for Juvenile Justice Data Collection In California Long Overdue**

*We recommend that the Youth Authority report to the budget committees, prior to budget hearings, on the status of its long-range plan for juvenile justice data collection and analysis in California.*

The Legislature appropriated \$300,000 to the Youth Authority in the 1996-97 *Budget Bill* to contract for the development of a long-range plan for juvenile justice data collection and analysis on a statewide basis. The contractor submitted an initial draft of the plan in April 1998 and a revised plan in June 1999. A final draft of the report, however, has yet to be issued by the Youth Authority. The lack of good statewide data on juvenile justice issues has frustrated policy makers in this area for some time. Yet there has been little action to resolve the problem because the long-range plan appeared to be the best place to begin the discussion. While no due date was specified in the bill, it is clear that the Legislature intended for the plan to be completed by now. As a result, we recommend that the Youth Authority report to the budget committees, prior to budget hearings, on the status of the plan and its time frame for releasing a final plan.



## COMMISSION ON CORRECTIONAL PEACE OFFICER STANDARDS AND TRAINING (5480)

The Commission on Correctional Peace Officers' Standards and Training (CPOST) 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.

The budget proposes \$2.4 million in expenditures from the General Fund, which is an increase of \$52,000, or 2 percent, over estimated current-year spending. The increase is due to a proposal to expand support for facility costs.

### **No Basis for Augmentation for Facilities Increase**

*We recommend deletion of a proposed augmentation of \$142,000 for facility costs because the department received a substantial augmentation for facility needs for new positions in the current year. In addition, the department is not requesting any additional positions which would justify a facility increase nor has it identified any specific rent increases. (Reduce Item 5480-001-0001 by \$142,000.)*

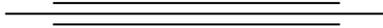
Each year, the CPOST budget contains a base allocation for facility rents, known as the "base facility allocation." This allocation is based on a formula used to calculate the cost of additional facility space, including rent, for existing and proposed positions. In the current year, the ongoing amount for the base facility allocation is \$122,000. This amount includes

an increase of \$82,000 provided in the 2000-01 Budget Act to support the facility space needs of 17 new positions.

**Budget Proposal.** The Governor's budget proposes an ongoing increase in the base allocation of \$142,000. This would bring the allocation to \$264,000, which is an increase of 116 percent over current-year expenditures.

Our primary concern with this proposal is that the department received a facilities augmentation in the current year to accommodate the space needs of budgeted new positions. The department now is asking for a sizeable augmentation for its base facility allocation in spite of the fact that it is not requesting any additional positions in the budget year. According to the department, this increase is necessary because the estimates on which its allocation is based failed to take into account all of its facility needs and increased leasing costs. The department, however, has not demonstrated specific rent increases for individual facilities. In the absence of an identified need for increased facility funding that is tied to new positions or specific rent increases, we find the augmentation unjustified.

**Analyst's Recommendation.** We recommend the Legislature delete the requested increase of \$142,000 for an ongoing facilities augmentation because the department already received a facilities augmentation in conjunction with last year's staffing increase and has not identified specific facility rent increases.



## **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 of \$319 million for OCJP in 2001-02, including \$128 million from the General Fund. The total budget reflects a net decrease of \$71.2 million, or about 18 percent, below estimated current-year expenditures. This decrease reflects a baseline reduction of \$96 million for a one-time grant in the current year for a crime lab in Los Angeles. Despite this overall decrease, the budget proposes two significant new local assistance programs—\$40 million to establish the War on Methamphetamine and \$30 million for grants to local crime labs. The budget also proposes an \$11 million expansion in the High Technology Theft Apprehension and Prosecution Program. We discuss each of these proposals in more detail below.

### **Expansion of State Role in Antimethamphetamine Efforts Not Justified**

*We recommend that the Legislature delete \$40 million requested to establish the War on Methamphetamine program because (1) the state has already made a major commitment of resources to this area through the Department of Justice's California Methamphetamine Strategy, (2) the Office of Criminal Justice Planning has not provided sufficient information to assess this proposal, including a clear basis for distributing funds, and (3) federal funds are available for this purpose, and the state has made funds available through the Citizen's Option for*

***Public Safety and high technology equipment programs that could be used for this purpose. (Reduce Item 8100-001-0001 by \$40 million.)***

***Background.*** California state government has taken a number of steps to combat methamphetamine production and trafficking. For example, the Department of Justice (DOJ) has established the California Methamphetamine Strategy (CALMS) which is run by the department's Bureau of Narcotics Enforcement. This effort has been largely federally-funded, but in the budget year, the administration proposes to permanently shift the positions created in CALMS to the General Fund. Agents assigned to CALMS perform a variety of tasks, many of which involve assistance to local law enforcement agencies. (For a more detailed description of CALMS, see the "Department of Justice" section in this chapter).

In addition, the 1999-00 *Budget Act* appropriated \$300,000 to OCJP to fund administrative support for the Central Valley Methamphetamine Task Force. The OCJP supported this task force in order to further its designation as a High Intensity Drug Trafficking Area (HIDTA) by the federal Office of National Drug Control Policy. Designation as a HIDTA makes the task force eligible to receive additional federal funds and resources for its drug enforcement activities. The HIDTA area consists of Fresno, Kern, Kings, Madera, Merced, Sacramento, San Joaquin, Stanislaus, and Tulare Counties. During the 2001 federal fiscal year (FFY) (October 2000 through September 2001), the Central Valley HIDTA is expected to receive \$1.5 million in federal funds to combat methamphetamine trafficking.

***Budget Proposal.*** The Governor's budget proposes \$40 million from the General Fund to establish the War on Methamphetamine program within OCJP. These funds would provide local assistance grants to local law enforcement agencies, primarily within the Central Valley HIDTA. The proposal earmarks \$25 million for noncompetitive grants for a variety of one-time costs including equipment purchase, training, and leasing of office space. The other \$15 million would be for annual noncompetitive grants to establish and expand multijurisdictional task forces that will investigate and prosecute methamphetamine-related crime.

***Antimethamphetamine Proposal Lacks Sufficient Detail.*** During our review of this proposal, OCJP was unable to provide an assessment of task force funding requirements that would provide a basis for the \$40 million request. For example, the proposal does not provide any justification, breakdown, or detail on the \$25 million in proposed one-time funding for training, equipment, and leasing of office space. Moreover, the proposal fails to describe the basis for allocating these funds. Similarly, the proposal indicates the \$15 million in ongoing funding is intended to establish and expand multijurisdictional task forces. Yet there is no detail

on categories of expenditures, funding priorities (for example, sworn personnel, prosecutorial staff, administrative costs), or allocation criteria.

Finally, the proposal suggests OCJP would use a noncompetitive allocation process based on criteria that emphasize need and the existing HIDTA strategy. There is little information, however, on how need would be determined, nor is it clear whether each agency's allocation would vary from year-to-year. In the absence of this information, the Legislature cannot determine if the requested resources will be targeted effectively. In addition, if the funding allocations vary from year-to-year, this could cause problems for local agencies. This is because agencies which may wish to use these funds for personnel will be reluctant to do so without an ongoing funding commitment. Based on these considerations, we conclude that this proposal is not sufficiently detailed to allow the Legislature to assess its costs and benefits.

*State and Federal Resources are Already Available to Local Agencies to Fight Methamphetamine.* As previously mentioned, DOJ is engaged in a major effort to combat trafficking in methamphetamine. The CALMS program involves 84 sworn DOJ personnel, and 59 support personnel throughout the state. Currently two CALMS teams are assigned to the Central Valley with 13 special agents and 6 forensic support personnel. These personnel work in tandem with local law enforcement agencies to investigate and prosecute methamphetamine crimes, and eradicate clandestine methamphetamine labs. In addition, the state provided \$300,000 in funding to the Central Valley Methamphetamine Task Force to facilitate its designation as a HIDTA. The state funded this designation with the expectation that it would lead to increased federal funding for the Central Valley's campaign against methamphetamine production and distribution.

The task force received its HIDTA designation in 1999, and the area received \$800,000 from the federal government. In the federal fiscal year 2000 (October 1999-September 2000), the Central Valley HIDTA received \$1.5 million, and is expected to receive the same amount in FFY 2001. While this represents a fairly modest infusion of resources, historical experience with other HIDTAs indicates that funding tends to grow a few years after the initial designation. For example, the average HIDTA budget is \$6.3 million. Of those HIDTAs established prior to 1999, the average budget is \$7.3 million. Based on these figures, we believe that the agencies involved in the Central Valley HIDTA should be able to successfully pursue additional federal resources.

In addition to the HIDTA resources, the 2001 Appropriations Bill for the U.S. Department of Justice includes \$48.5 million nationwide for the federal Community Oriented Policing Services (COPS) office for methamphetamine-related state and local law enforcement activities. The con-

ference agreement adopted by the House and Senate specifically instructs the federal COPS office to consider requests from Merced County (one of the counties funded under the Governor's proposal) and provide a grant if warranted.

Added to these methamphetamine-specific resources, local law enforcement agencies also have access to discretionary state funds for equipment and personnel through a number of state initiatives. The Citizens' Option for Public Safety (COPS) program provides \$121.3 million annually for front line law enforcement, district attorneys, and jails. The law enforcement agencies in the HIDTA receive a total of \$15.1 million from this program. In addition, in both the current and the budget years, the budget includes \$75 million for law enforcement equipment purchases, which is allocated so that each jurisdiction receives a minimum grant of \$100,000, plus a per capita based distribution. The law enforcement agencies in the HIDTA counties will receive a total of \$19.4 million in the current and budget years for equipment. Both of these local assistance funding sources can be used to support the activities of the Central Valley multijurisdictional task forces.

**Recommendation.** Given the significant commitment to methamphetamine enforcement already in place through DOJ, the significant discretionary public safety resources available to local governments through the state COPS program, and the high technology equipment grants, further expenditure of funds in this area seems unwarranted. Local law enforcement strategies and priorities should be set locally, with the state providing the kind of intelligence, investigatory, and prosecutorial assistance currently available through CALMS. As a result, we recommend that the proposal be deleted for a General Fund savings of \$40 million.

### **More Information Needed on Local Forensic Laboratory Improvement Program**

*We recommend that the Legislature take no budget action on the local forensic laboratory program until the Office of Criminal Justice Planning provides more detailed information on how the competitive grant funds would be distributed and what kinds of projects could be funded. In addition, if the Legislature approves these funds, we recommend that it require competitive grants and incorporate any future funding for capital outlay grants into the state's capital outlay planning process.*

**Background.** There are currently 19 forensic laboratories operated by local law enforcement agencies in California. These labs serve approximately 77 percent of the state's population. Chapter 931, Statutes of 1997 (AB 920, Davis) required the Bureau of State Audits (BSA) to examine the

condition of these laboratories, and determine what resources were necessary for them to obtain accreditation from the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB). The BSA report concluded that the 14 crime labs which did not meet the ASCLD/LAB standards would require \$221 million in construction money to meet the accreditation standards for square footage. In response to this finding, the Legislature placed a \$220 million bond act on the March 2000 primary election ballot, which was defeated by the voters. With bond funds unavailable, the *2000-01 Budget Act* included \$96 million in OCJP's local assistance budget to build a new crime lab to serve the Los Angeles Police and County Sheriff Departments.

***Budget Proposal.*** The Governor's budget proposes \$30 million from the General Fund for OCJP grants to local governments to improve their forensic laboratories. All local labs, except for the two Los Angeles labs, would be eligible for the funds. Funds would be available in undesignated amounts for any of the following purposes: (1) construction and renovation, (2) purchase of new equipment, and (3) replacement or upgrade of existing equipment.

***Criteria for Awarding Grants Are Not Sufficiently Developed.*** The budget proposal describes the distribution scheme for these grants as "a competitive basis based on demonstrated need." In response to our request for additional information, OCJP indicated a portion of the funds would be distributed to all 17 of the eligible labs, each of which would receive some unspecified amount. The remainder would be distributed based upon demonstrated need, crime rate, and population served. Rather than emphasizing competitive based grants, the proposal appears to be based on a formula award process with a minimum guarantee. In either case OCJP has not provided sufficient information on the specific allocation method and criteria that will be used to award these grant funds for our office to recommend approval. In the event the Legislature approves the funds, we recommend it require OCJP to establish a competitive grant program that will fund the proposals with the most merit, rather than distribute an amount to all labs that is insufficient to meet any of their needs.

***Incorporate Future Funding for Local Labs Into the State's Existing Capital Outlay Planning and Budgeting Process.*** The recent passage of Chapter 606, Statutes of 1999 (AB2473, Hertzberg) emphasized the Legislature's intent that the state establish and annually update a five-year plan for identifying and establishing priorities for all state infrastructure needs including capital outlay. This process starts with the 2002-03 budget. If the Legislature wishes to fund capital needs, as opposed to equipment, for local forensic laboratories beyond the budget year, it is important that any permanent process developed by OCJP be conducted within the context of the process set forth in Chapter 606.

**Summary.** It is not possible to adequately assess the merits of this proposal without more detailed information on the method and criteria for awarding the proposed grants. As a result, we recommend that the Legislature take no action until OCJP provides more detailed information on this proposal. In addition, we recommend that in the event the Legislature approves these funds, it employ a competitive grant process and incorporate any future funding for local lab construction into the state's existing capital outlay planning process pursuant to Chapter 606.

## **High Technology Crime Program Expansion Not Justified**

*We recommend that the Legislature reduce the proposed augmentation of the High Technology Theft Apprehension and Prosecution Program by \$6.9 million because current baseline expenditures are sufficient to encourage and enhance local efforts in this area. In addition, we recommend approval of \$750,000 for the development of a high technology crime training course for law enforcement because it would be cost efficient to do so. (Reduce Item 8100-101-0001 by \$6.9 million.)*

**Background.** Chapter 906, Statutes of 1997 (SB 438, Johnston) established the High Technology Theft Apprehension and Prosecution Program (HTTAP) to support regional task forces dedicated to the investigation and prosecution of high technology crimes. In addition, Chapter 906 established a steering committee, which ultimately became the High Technology Crime Advisory Committee (HTCAC). This committee has members from 15 organizations representing law enforcement and the high technology industry who oversee the HTTAP program. The 1998-99 *Budget Act* appropriated \$1.25 million to OCJP to fund the program. These initial funds were used to support three regional High Technology Task Forces (HTTF) covering the Sacramento Valley, the Silicon Valley, and the Los Angeles/Orange County area, and to establish a high technology crime database at the DOJ. The 1999-00 *Budget Act* further provided \$4.9 million to add two additional task forces covering the San Diego/Riverside/Imperial Valley area, and the North Bay (Marin). In 2000-01 the program was funded at \$5.3 million, with \$3.2 million from the General Fund and \$2.1 million in federal funds.

**Budget Proposal.** The Governor's budget proposes a \$7.6 million increase for HTTAP which would result in a total program appropriation of \$12.9 million. The additional money would be used to (1) provide each of the five HTTFs with \$2 million in annual funding (currently they receive \$800,000 to \$1.2 million depending on their circumstances), (2) develop training for computer crime and computer forensics, and (3) establish an exempt position at OCJP to provide statewide oversight and coordination.

We have the following two concerns with the this proposal.

***No Justification for Further State Involvement in Local Law Enforcement Activity.*** This proposal significantly expands the state's role in the HTTAP program beyond what was originally envisioned. The HTTAP program was designed to enhance and assist local agencies in their efforts to meet the new and growing challenges posed by high technology crime. It has succeeded in establishing the five HTTFs, and supports local agency efforts to dedicate personnel to this crime area. Now that this infrastructure is in place, it is the responsibility of local governments, rather than the state, to identify and target resources to meet the demands of high technology crime. This proposal would inappropriately expand the state's role in funding these local priorities.

***Lack of Financial Support From Program Beneficiaries.*** There has been a lack of willingness on the part of private industry to financially support this activity. When the HTTAP program was established it was assumed that private industry would support the program because it was directly experiencing many of the costs of high technology crime. As a result, a HTTAP Trust Fund (HTTAPTF) was created to make it easier to solicit and use donations from private industry to support these programs. It was assumed that if industry considered this program to be a valuable resource it would be willing to contribute to its expansion. To date, however, no industry contributions have been made to the HTTAPTF. If the HTTAP program is effective in reducing high technology crime, then OCJP and the HTCAC should be able to solicit additional funds from the high technology industry to expand the program.

***Training and Database Support Are Important State Contributions.*** For its part, the state will continue to provide important intelligence support through the high technology crime database. Training is another legitimate state activity in this area, and it is most efficient for it to be developed centrally. As a result, we recommend that the Legislature approve the \$750,000 proposed to develop a training regimen on computer crime. We further recommend that the Legislature deny the request for the exempt position at OCJP, as the current HTCAC structure, which includes an OCJP representative, is sufficient to provide coordination and oversight for high technology crime.

***Recommendation.*** We recommend that the Legislature approve \$5.3 million for HTTAP's ongoing budget and an increase of \$750,000 for the cost of developing a computer crime training regimen, and reduce the proposed funding expansion by \$6.9 million.

## State Funding for High Technology Identity Theft Efforts Should Be Directed to Areas of State Expertise

*We recommend the Legislature reduce the High Technology Identity Theft program by \$2.8 million and approve \$500,000 for the development of a training course for law enforcement on identity theft issues because local agencies already receive grants to combat high technology crime, and can use those funds for identity theft if it is a local priority. (Reduce 8100-101-0001 by \$2.8 million.)*

**Budget Proposal.** The Governor's budget proposes to spend \$3.3 million from the General Fund to establish a program to combat high technology identity theft in California. The money would be used for the following three efforts:

- \$2.3 million to establish High Tech-Identity Theft (HiT-IT) units in each HTTF that participates in the HTTAP program. (For more on HTTAP see our analysis of the program earlier in this section.)
- \$500,000 to develop and implement a training course for law enforcement identity theft issues.
- \$450,000 to allow the DOJ to provide investigatory and prosecutorial support to local governments.

**Concerns with Proposal.** We have the following three concerns with this proposal. First, it seems counterproductive for the state to try to determine local priorities for fighting technology crime by earmarking funds for particular technology crimes like identity theft. Now that the five HTTFs are operational, and receive annual state funding to support their efforts, they are in the best position to determine their own law enforcement priorities. The state can effectively assist local governments as they address identity theft by providing appropriate training.

Second, the state provides \$121.3 million in discretionary funds for local law enforcement through the state COPS program, much of which could be used to fight high technology identity theft if that is a local law enforcement priority. Third, the HTTFs have the ability to use their existing HTTAP funding from the state to concentrate on identity theft if they believe it is a high priority. Finally, if the Legislature decides the state needs additional resources to assist local governments with these investigations and prosecutions, we believe it would be more appropriate for DOJ, rather than OCJP, to develop a proposal for this purpose, given DOJ's history and expertise in this area.

**Training Component Justified.** We recommend that the Legislature provide additional funding to OCJP for the identity theft training component only. Law enforcement training currently receives significant state

funding, and development of new training programs is most efficient if done on a statewide basis.

**Recommendation.** We recommend that the Legislature reduce the HiT-IT proposal by \$2.9 million and approve \$500,000 for the law enforcement training component.

## **Criminal Justice Information Clearinghouse Duplicates Similar Effort in DOJ**

*We recommend that the Legislature delete \$106,000 proposed to establish a Criminal Justice Information Clearinghouse, because it duplicates a more effective proposal in the Department of Justice budget. (Reduce Item 8100-001-0001 by \$106,000.)*

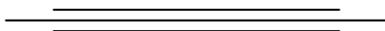
**Budget Proposal.** The Governor's budget proposes a \$106,000 General Fund expenditure and one librarian position to establish a Criminal Justice Information Clearinghouse within OCJP. This office would be responsible for gathering and disseminating information relevant to public safety and victim services to other state and local agencies and to the public. Its information focus would be to aid existing local assistance programs and grantees which provide domestic violence, juvenile justice, child abuse, and victims services.

**The DOJ Proposal More Likely to Produce Desired Results.** Criminal justice programs in California would benefit from the creation of an office that could collect and disseminate the latest research and information on promising and tested approaches to criminal justice issues. In our recent report, *Crime Prevention in California: Building Successful Programs*, we recommended that the state establish a crime prevention office that would have this role as one of its responsibilities. In addition to the OCJP proposal, the DOJ budget contains a similar proposal that appears more likely to meet the key objectives for a state criminal justice clearinghouse.

We recognize OCJP has some natural advantages in acquiring information that identifies effective criminal justice programs. This is because of its contacts with the local agencies and community-based organizations to whom it distributes grant funds. Nevertheless, the DOJ proposal has a number of other key advantages making it preferable to the OCJP initiative. First, DOJ proposes to expand an existing Community Policing Clearinghouse that it has been operating since 1998 in partnership with the Sacramento Police Department's Regional Community Policing Institute. The experience and infrastructure developed from this program would provide a stronger foundation for expansion to cover a wider array of criminal justice topics.

Second, DOJ currently houses and analyzes all of the state's crime data, and publishes the most comprehensive reports on crime in California through its Criminal Justice Statistics Center (CJSC). Coordination between the CJSC and the proposed information clearinghouse would amplify the value of this resource to the public and other governmental agencies. Finally, the proposal submitted by DOJ has a more realistic commitment of resources (DOJ proposes adding 4.5 positions to establish its clearinghouse, while OCJP proposes only 1 position) and clearer goals and objectives than the OCJP proposal.

*One Centralized Clearinghouse Would Avoid Fragmentation.* The OCJP and DOJ have emphasized different kinds of criminal justice topics in describing their proposed clearinghouses. The OCJP refers to public safety and victims services and DOJ to crime prevention and community policing. However, the kinds of tasks that each department proposes to undertake are very similar, such as identifying best practices, gathering relevant research, and identifying funding resources for local governments and community-based organizations. Given this similarity, it seems likely that establishment of two offices would result in significant duplication of effort. Because of the relative advantages of the DOJ proposal, we recommend deleting the \$106,000 proposed for the OCJP clearinghouse.





# FINDINGS AND RECOMMENDATIONS

## *Judiciary and Criminal Justice*

Analysis  
Page

### Judicial

- D-14 ■ **Current Budget Display Understates Assistance to the Trial Courts.** Recommend that the Judicial Council report to the Legislature on the amount of local assistance funding provided to trial courts and that the local assistance funding located in the Judicial budget item be transferred to the item for Trial Court Funding.
- D-15 ■ **Reporting Requirements Needed for Model Self-Help Pilot Programs.** Recommend that the Legislature adopt proposal and adopt supplemental report language requiring the Judicial Council to report on the effectiveness of the pilot programs.

### Trial Court Funding

- D-20 ■ **Preliminary Task Force Report Targets Court Facilities.** Recommend enactment of legislation that transfers responsibility for court facilities to the state and does the following: (1) provides authority for the state to assume responsibility in a timely manner, (2) includes court facilities in the state's existing capital outlay planning process, (3) establishes a streamlined facility transfer process, (4) establishes a funding mechanism that recognizes those counties which have made a good-faith effort to maintain their court facilities, and (5) counts court facility funding as fiscal relief in the context of the state-county fiscal relationship.

## Analysis

### Page

- D-24 ■ **Clarification Needed on Undesignated Court-Related Fees.** Recommend that the Legislature request the Bureau of State Audits to perform an audit of the trial courts and counties to determine the total amount of revenues generated by undesignated court-related fees, which entity is receiving the revenues, and how these revenues currently are being used.
- D-26 ■ **Mechanism Needed for Funding Trial Court Salary Increases.** Recommend that the Judicial Council present to the Legislature, prior to budget hearings, its recommendation for funding the costs of negotiated salary increases for trial court staff and court security personnel.
- D-27 ■ **Courts Face Changes in County-Provided Services.** Recommend Legislature adopt supplemental report language directing Judicial Council to examine ways to control escalating costs of state-funded trial court services and report on the following: (1) ways to provide courts with authority and flexibility to purchase court services in a cost-effective manner, (2) an incentive plan for use by Administrative Offices of the Court in review of court budget proposals to encourage local courts to reduce costs and achieve efficiencies in their operations, (3) feasibility of Judicial Council and courts having a role in negotiating the costs of court services provided by counties but funded by the state, and (4) statutory changes needed to implement its recommendations.
- D-31 ■ **Funding to Implement Trial Court Employment Protection and Governance Act Premature.** Withhold recommendation on the request for \$3.5 million for the trial courts to implement the Trial Court Employment Protection and Governance Act pending receipt of a detailed proposal by the Judicial Council.

**Analysis**  
**Page**

**Youth and Adult Correctional Agency**

- D-33     ■   **Substance Abuse Coordinator Position Not Justified. Reduce 0550-001-0001 by \$127,000.** Recommend denial of request because position is not needed and duplicates existing resources.

**Office of the Inspector General**

- D-36     ■   **Facilities Augmentation Not Justified. Reduce Item 0552-001-0001 by \$339,000.** Recommend the deletion of \$339,000 from the facilities augmentation proposal because the office continues to have a large number of vacancies and has not requested additional positions to justify the augmentation.

**Department of Justice**

- D-39     ■   **California Methamphetamine Strategy Fund Shift Premature.** Withhold recommendation pending further information regarding availability of continued federal funding for the California Methamphetamine Strategy.

**Department of Corrections**

***Inmate and Parole Population Management Issues***

- D-46     ■   **Inmate and Parole Population Trends.** The California Department of Corrections (CDC) projects slower growth in the prison populations than the state experienced through much of the 1990s. Recent data suggests, however, that the growth rate is even slower than projections would indicate.
- D-50     ■   **Budget Adjustments for Caseload Growth. Reduce Item 5240-001-0001 by \$61 million.** Recommend CDC funding

**Analysis**  
**Page**

reductions because inmate population growth is lagging below projections. Projections also do not include projected impact of Proposition 36. Further adjustments should be considered at the time of the May Revision.

- D-52 ■ **2001-02 Housing Plan.** Withhold recommendation on CDC's plan for housing the projected increase in the prison population because actual population growth is slower than projected and the plan does not reflect population decreases that will occur due to the impact of Proposition 36.

***Correctional Programs***

- D-59 ■ **Services for Inmates and Parolees With Developmental Disabilities.** Recommend CDC undertake a study of the size, nature, and service needs of parolees with developmental disabilities.
- D-61 ■ **Substance Abuse Program Expansion. Reduce Item 5240-001-0001 by \$112,000.** Recommend reduction of \$112,000 because proposal duplicates existing funds to compensate correctional officers for training overtime. Recommend approval of the remainder of the proposal because the request for additional treatment spaces is justified based on inmate need. Recommend adoption of supplemental report language directing the department to report on its progress in activating proposed treatment slots.
- D-62 ■ **Violence Control Pilot Program.** Recommend approval of the request for \$5.1 million for additional security equipment. Recommend modifying the proposal to eliminate the changes to restrictive housing unit policies because these changes may have unintended effects which could result in increased violence and higher future costs.

***Correctional Medical Care***

- D-64 ■ **Department Continues to Have High Medical Costs.** Withhold recommendation on the proposal for \$82.8 mil-

## Analysis Page

lion for pharmaceuticals and outside medical contracting, pending report prior to budget hearings on how the department plans to reduce CDC's pharmacy and medical contracting costs.

- D-65 ■ **Inmate Access to Medical Services.** Recommend approval of the \$16 million proposal to continue improving inmate access to medical services.
- D-65 ■ **Mental Health Services Delivery System.** Recommend approval of the proposal for \$8 million to implement a pilot program which would use an outside contractor to procure mental health staff. Withhold recommendation on a proposal to increase mental health crisis beds and psychiatric services unit beds at California State Prison, Sacramento pending receipt of a report from the department explaining discrepancies in the stated number of needed beds between the related support budget proposal and the capital outlay proposal.

### **Correctional Administration**

- D-67 ■ **Personnel Management Problems Continue.** Withhold recommendation on \$36.6 million to realign the budgeted relief pattern for posted positions pending a report from CDC at budget hearings on how the department plans to eliminate its significant liability for accumulated holiday and excess vacation and annual leave balances. Recommend approval of \$21.8 million to address workers' compensation shortfall and recommend approval of two redirected positions to investigate workers' compensation fraud cases.
- D-71 ■ **Various Administrative Proposals Need Modification. Reduce Item 5240-001-0001 by \$3.1 million.** Recommend reductions for cadet and parole agent academy salary increases, information technology backlog maintenance, training simulation staff, the headquarters consolidation project, and facility planning.

## Analysis

### Page

## Board of Prison Terms

- D-73 ■ **Hearing Workload May Be Overstated.** Withhold recommendation on a proposal to fund hearing workload increases until the Board of Prison Terms (BPT) submits an updated proposal at the May Revision.
- D-74 ■ **Funding for Domestic Violence Unit Is Justified.** Recommend adoption of supplemental report language directing the BPT to provide progress reports on its investigations of Battered Woman's Syndrome cases.
- D-75 ■ **Positions to Conduct Parolee Screenings Remain Unfilled.** Recommend the department report on compliance with recent court injunction related to parolee screenings and high staff vacancy rate.

## Youth Authority

### *Ward Population*

- D-80 ■ **Ward and Parolee Populations Remain Flat.** The Department of the Youth Authority's institutional population declined in the current year. It is projected to continue to decline slowly in the budget year to 6,975 and then increase somewhat to 7,370 wards in 2004-05. Youth Authority parole populations are expected to decline in the budget year to 4735 and continue to decline to 4,645 parolees in 2004-05.
- D-81 ■ **Ward and Parolee Population Projections Will Be Updated in May.** Withhold recommendation on a \$3.7 million decrease from the General Fund based on projected ward and parolee population changes, pending receipt and analysis of the revised budget proposal and population projections to be contained in the May Revision.

**Analysis**  
**Page****Youth Authority Institutions Operational Quality Assurance Project**

- D-82 ■ **Youth Authority Institutions Operational Quality Assurance Project Technical Assistance Plan an Important Tool for Youth Authority Improvement.** The Youth Authority Institutions Operational Quality Assurance Project, convened by the Board of Corrections, resulted in a Technical Assistance Plan (TAP) drafted by experts from a variety of fields. This plan can provide a road map for the Legislature and the Youth Authority as they work to meet the department's mission.
- D-91 ■ **Department Should Report on Its Actions in Response to the TAP Report.** Recommend that the department report at budget hearings on the actions it is taking in response to the recommendations in the TAP and highlight areas where additional resources may be needed to implement the recommendations.
- D-92 ■ **Youth Authority Should Submit Report on Shorter-term Programming.** Recommend that the Youth Authority submit a report on the feasibility of implementing shorter-term programming for less serious offenders as required in the *Supplemental Report of the 1999 Budget Act*. It is important for the Legislature to have an opportunity to review this report since its focus is similar to the programming changes recommended in the TAP.

**Departmental Issues**

- D-93 ■ **Specialized Treatment and Ward Grievance Initiatives More Modest Than Prior Legislative Proposals.** Governor's budget proposes new sex offender, mental health, and substance abuse treatment program expansions and ward grievance procedure enhancements that echo more comprehensive legislative augmentations vetoed out of the *2000-01 Budget Bill*. If Legislature wants to consider additional funding increases, recommend priority to sex offender treatment and ward grievance proposals because department is prepared to expand programs in these areas.

## Analysis

### Page

- D-97      ■    **Long-Range Plan for Juvenile Justice Data Collection Overdue.** Recommend that department submit report on plan for long-range juvenile justice data collection funded in 1996-97 *Budget Act*.

## Commission on Correctional Peace Officer Standards and Training

- D-98      ■    **No Basis for Augmentation. Reduce Item 5480-001-0001 by \$142,000.** Recommend deletion of augmentation for facilities operations, because the department received an augmentation in the current year and has not requested additional staff in the budget year to justify an additional augmentation.

## Office of Criminal Justice Planning

- D-100     ■    **War on Methamphetamine Not Justified. Reduce Item 8100-101-0001 by \$40 Million.** Recommend the Legislature delete the funding because the state already provides sufficient support to local law enforcement with regard to antimethamphetamine activity.
- D-103     ■    **Local Forensic Lab Proposal Needs More Detail.** Recommend the Legislature require the Office of Criminal Justice Planning to provide more detailed information on the method for awarding improvement grants to local forensic labs.
- D-105     ■    **High Technology Theft Apprehension and Prosecution Program Augmentation Not Justified. Reduce Item 8100-101-0001 by \$6.9 Million.** Recommend the Legislature reduce the proposed augmentation to fund only the computer crime training component.
- D-107     ■    **High Technology Identity Theft Program Not Justified. Reduce Item 8100-101-0001 by \$2.8 Million.** Recommend the Legislature reduce the proposed funding to cover only the identity theft training component.

**Analysis**

**Page**

- D-108 ■ **Criminal Justice Information Clearinghouse Duplicates Department of Justice (DOJ) Proposal. Reduce Item 8100-001-0001 by \$106,000.** Recommend the Legislature deny new position for clearinghouse because similar DOJ proposal is more likely to achieve desired results.

