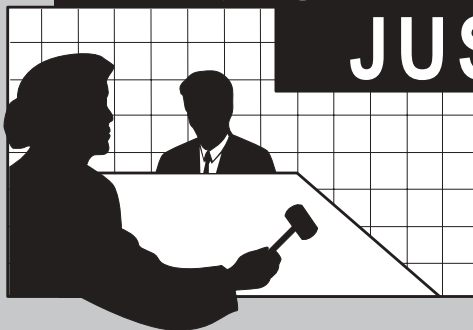


JUDICIARY & CRIMINAL JUSTICE



LAO 
60 YEARS OF SERVICE
2002-03 Analysis

MAJOR ISSUES

Judiciary and Criminal Justice



Prison Inmate Population to Drop Then Stabilize

- In a major shift from the growth of the past decade, the California Department of Corrections (CDC) is projecting that the state's inmate population will decline and stabilize for a few years before gradually beginning to increase.
- Recent prison population data suggest that the population is declining at a slightly slower rate than CDC projects. This may be due to an increase in California's crime rate or a lower than anticipated first year reduction in the prison population due to the implementation of Proposition 36, the Substance Abuse and Crime Prevention Act, enacted by the voters in 2000. Proposition 36 became effective July 1, 2001 (see page D-25).



State Could Close Women's Prison

- The female population has declined for the past two years. Between June 30, 1999 and June 30, 2000, the female population dropped by 771 inmates, or 7 percent. The CDC projects the female inmate population will decline by an additional 950 inmates by the end of the budget year. This decline provides the state the opportunity to close one of its smaller women's prisons.
- We recommend that CDC report at budget hearings on the feasibility and costs and benefits of closing the Northern California Women's Facility, as well as on other potential current and future uses for the prison facility in the event it were closed (see page D-35).

**Risky Criminal Justice and Judicial Fund Assumptions**

- The budget assumes the state will receive a \$50 million increase in federal funds for undocumented prisoners. We believe there is considerable uncertainty in this assumption given that the President's budget proposes to eliminate federal reimbursements to the states for housing undocumented felons (see page D-32).
- The budget also assumes that a proposed increase in criminal fines (20 percent) and civil filing fees (10 percent) will generate \$61 million in General Fund revenue. This is a risky assumption given the level of local discretion in setting criminal fines and the downward trend in court civil filings (see page D-18).

**CDC Budget Deficiencies Likely to Continue**

- The CDC has had several consecutive years of budget deficiencies. Although some significant efforts have been made to control spending, there continue to be ongoing budget problems that will likely result in significant General Fund deficiencies in the current and budget years (see page D-33).

**County Sliding Fee for Youth Authority Commitments Should Be Adjusted**

- Counties are currently required to share in the cost of housing wards at the Youth Authority. The amount the counties pay is based upon a sliding scale that provides counties the incentive to send the most serious juvenile offenders to the Youth Authority and retain less serious offenders in county-based services. However, the fees are capped which over time erodes the fiscal incentive built into the sliding scale fee structure.
- We recommend the enactment of legislation to adjust the sliding scale fees annually for the effects of inflation. This would maintain the fiscal incentive for counties to send their most serious offenders to the Youth Authority and partially offset the yearly inflationary cost increase incurred by the Youth Authority (see page D-48).

TABLE OF CONTENTS

Judiciary and Criminal Justice

Overview	D-7
Expenditure Proposal and Trends	D-7
Spending by Major Program	D-8
Major Budget Changes	D-8
Departmental Issues	D-13
Trial Court Funding (0450)	D-13
Department of Justice (0820)	D-20
Department of Corrections (5240)	D-24
Board of Corrections (5430)	D-40
Department of the Youth Authority (5460)	D-43
Office of Criminal Justice Planning (8100)	D-53
Payment to Counties for Costs of Homicide Trials (8180)	D-55
Military Department (8940)	D-57
Findings and Recommendations	D-59

OVERVIEW

Judiciary and Criminal Justice

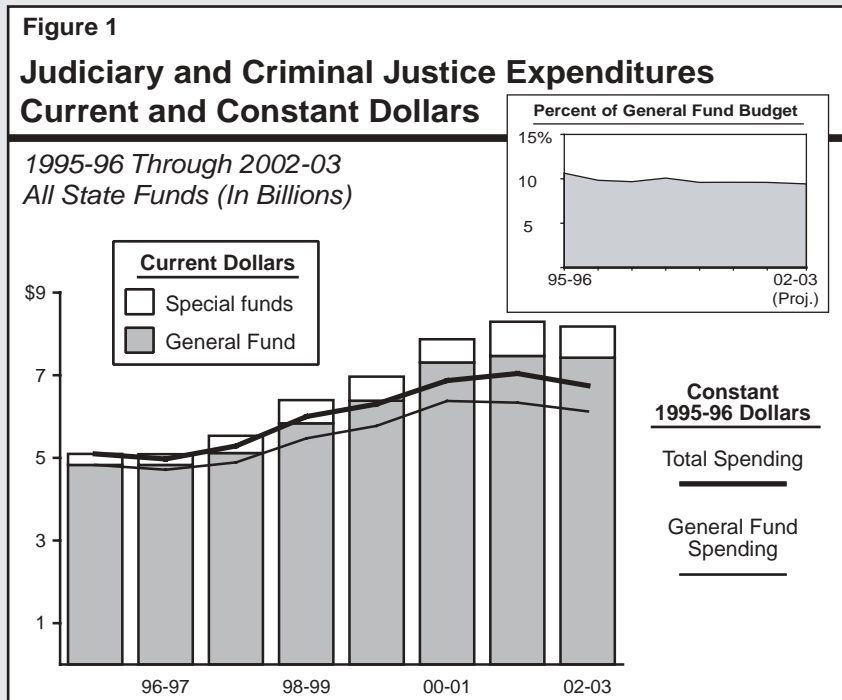
T*otal expenditures for judiciary and criminal justice programs are proposed to decrease slightly in the budget year. The principal reasons for the decrease are (1) a projected decline in the inmate and ward populations (2) a proposed shift of funding for certain programs from the General Fund to special funds, and (3) assumed growth in federal funds for incarcerated undocumented felons.*

EXPENDITURE PROPOSAL AND TRENDS

The budget proposes total expenditures of \$8.2 billion for judiciary and criminal justice programs in 2002-03. This is a decrease of \$116 million, or 1.4 percent, below estimated current-year spending. The decrease reflects a combination of factors including a projected decline in the state's inmate and ward populations, budget adjustments for one-time expenditures, proposed shifts of funding for certain programs from the General Fund to special funds—such as Workforce Investment Act funds—and assumed growth in federal funds for undocumented felons. The budget also proposes an increase in court filing fees.

General Fund expenditures total \$7.4 billion for judiciary and criminal justice programs which is a decrease of about \$46 million (less than 1 percent) below 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 1995-96. Expenditures for 1996-97 through 2002-03 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 \$3.1 billion since 1995-96, representing an average annual increase of 7.2 percent.



SPENDING BY MAJOR PROGRAM

Figure 2 shows expenditures from all sources for the major judiciary and criminal justice programs in 2000-01, 2001-02, and as proposed for 2002-03. 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 (page 10) presents the major budget changes for judiciary and criminal justice programs. These and other changes are described below:

Relatively Few Significant Program Initiatives. The budget, for the most part, continues funding for recent expansions of judicial and criminal justice programs. For example, it provides full funding in the budget year for local law enforcement grants, and continues funding for technology grants and the War on Methamphetamine. In response to the projected decline in the inmate population, the budget proposes to deactivate some of CDC's low-level offender beds for modest budget savings. The budget also proposes to substitute Federal Workforce Investment Act Funds for the General Fund (\$13 million) in CDC.

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

2000-01 Through 2002-03
(Dollars in Millions)

	Actual 2000-01	Estimated 2001-02	Proposed 2002-03	Change From 2001-02	
				Amount	Percent
Department of Corrections					
General Fund	\$4,525.6	\$4,693.3	\$4,691.1	-\$2.2	0.0%
Special funds	45.8	45.9	45.8	-0.1	-0.2
Reimbursements and federal funds	93.8	91.6	65.6	-26.0	-28.4
Totals	\$4,665.2	\$4,830.8	\$4,802.5	-\$28.3	-0.6%
Department of the Youth Authority					
General Fund	\$347.9	\$357.3	\$335.7	-\$21.6	-6.0%
Bond funds and special funds	0.9	0.9	0.8	-0.1	-11.1
Reimbursements and federal funds	78.1	78.7	79.7	1.0	1.3
Totals	\$426.9	\$436.9	\$416.2	-\$20.7	-4.7%
Federal Offset for Undocumented Felons	\$167.7	\$158.3	\$208.3	\$50.0	31.6%
Trial Court Funding					
General Fund	\$1,140.5	\$1,162.7	\$1,206.5	\$43.8	3.8%
Special funds	355.7	593.4	529.4	-64.0	-10.8
County contribution	459.5	475.1	475.1	0.0	0.0
Totals	\$1,955.7	\$2,231.2	\$2,211.0	-\$20.2	-0.9%
Judicial					
General Fund	\$263.8	\$291.6	\$294.6	\$3.0	1.0%
Other funds and reimbursements	46.6	55.3	55.2	-0.1	-0.2
Totals	\$310.4	\$346.9	\$349.8	\$2.9	0.8%
Department of Justice					
General Fund	\$294.8	\$353.6	\$323.8	-\$29.8	-8.4%
Special funds	109.2	131.1	134.1	3.0	2.3
Federal funds	38.2	31.2	28.0	-3.2	-10.3
Reimbursements	113.4	133.5	133.1	-0.4	-0.3
Totals	\$555.6	\$649.4	\$619.0	-\$30.4	-4.7%

Figure 3
Judiciary and Criminal Justice
Proposed Major Changes for 2002-03
All Funds

Department of Corrections	Requested: \$4.8 billion	
	Decrease: \$28 million	(-0.6%)
<ul style="list-style-type: none"> - \$5.1 million for deactivation of five community correctional facilities - \$3.4 million for cancellation of 425 community correctional reentry center beds - \$13 million shifted from General Fund to Workforce Investment Act funds - \$3.2 million for legal staff 		
Trial Court Funding	Requested: \$2.2 billion	
	Decrease: \$20 million	(-0.9%)
<ul style="list-style-type: none"> + \$52 million for salary adjustments and other court needs + \$13 million for court security + \$14 million for increased county costs <hr style="width: 30%; margin: 10px auto;"/> <ul style="list-style-type: none"> - \$38 million (onetime) for delayed jury reform and other trial court reductions - \$28 million resulting from one-time funds transfer 		
Department of Justice	Requested: \$619 million	
	Decrease: \$30 million	(-4.7%)
<ul style="list-style-type: none"> - \$5 million for corrections related litigation - \$5 million for overtime and other expenses - \$3 million for information technology enhancements 		

The Budget Proposes to Provide Full Funding for Caseload, but Does Not Address Ongoing Deficiencies in CDC. The budget provides full funding for caseload and workload adjustments. However, it does not provide funding for ongoing problems in CDC's budget, such as overtime

and sick leave. As a result, CDC could potentially face significant General Fund deficiencies in both the current and budget years. We discuss this issue further in our analysis of the CDC budget proposal.

The Budget Assumes Unrealistic Increase in Federal Fund Reimbursements. The budget assumes the state will receive a \$50 million increase in the federal funds for undocumented felons. In order for California to receive a \$50 million augmentation, the federal fiscal year 2002-03 appropriation would have to increase by \$275 million, the largest single increase since the program's inception. This seems unlikely given that the President's 2002-03 budget proposes to eliminate the federal grant for undocumented felons.

Escalating Costs for Trial Courts. For the third consecutive year, the trial court budget proposes expanded support for court security (\$13 million), and the increased cost of county-provided services, which the state is now obligated to pay (\$14 million). The budget provides \$52 million for negotiated salary adjustments for trial court employees. In addition, the budget proposes to add a surcharge of 20 percent on all criminal fines, and a surcharge of 10 percent on civil filing fees. These surcharges are expected to generate about \$61 million in General Fund revenue.

DEPARTMENTAL ISSUES

Judiciary and Criminal Justice

TRIAL COURT FUNDING (0450)

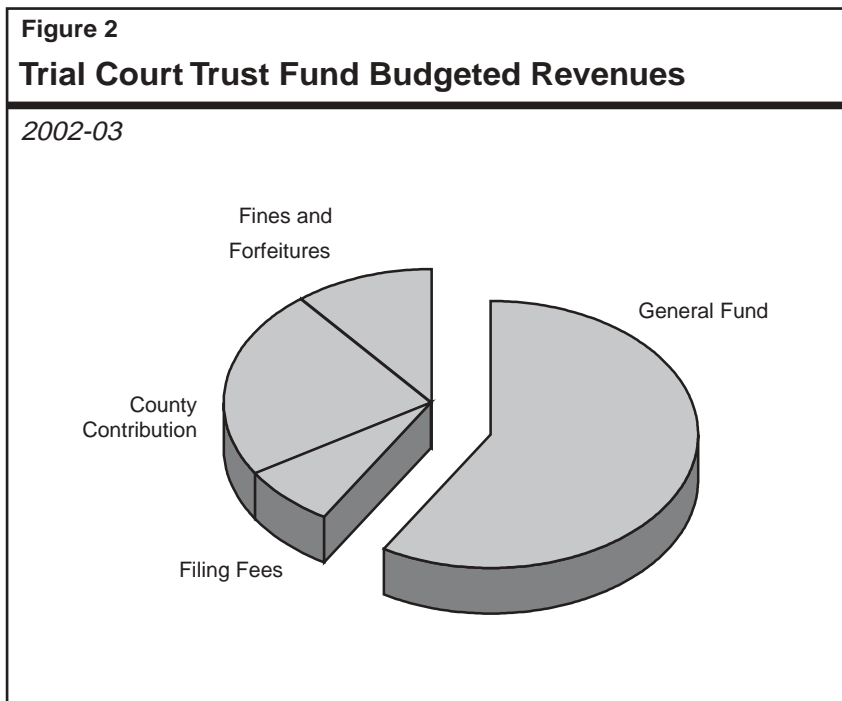
The Trial Court Funding item provides state funds for support of the state's trial courts. California has 58 trial courts, one in each county. Trial courts hear all criminal cases including felonies, misdemeanors, and traffic matters. They also have jurisdiction over all civil cases including family law, probate, juvenile, and general civil matters. About 8.5 million cases were filed in the trial courts at some 400 court locations throughout the state during 1999-00 (most recent data available), and nearly 15,000 trials were conducted. The Trial Court Trust Fund is the main funding source for trial court activities.

The budget proposes total expenditures in 2002-03 of \$2.2 billion for support of the Trial Court Funding program, a decrease of \$20.2 million or 0.9 percent compared to estimated current expenditures. General Fund support would increase by \$43 million bringing the total proposed General Fund expenditures to \$1.2 billion. Figure 1 (see next page) shows expenditures for the trial court in past, current, and budget years.

Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle)—the Lockyer-Isenberg Trial Court Funding Act of 1997—established the Trial Court Trust Fund to support the operation of the trial courts. This act shifted fiscal 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 obliga-

tions for court operations. Figure 2 shows the sources of revenue for the Trial Court Trust Fund.

Figure 1			
Trial Court Funding Program			
<i>(In Millions)</i>			
	Actual 2000-01	Estimated 2001-02	Proposed 2002-03
Trial court operations	\$1,694.9	\$1,948.1	\$1,954.8
Superior Court judges salaries	188.2	206.0	214.5
Assigned judges	18.1	19.8	19.8
Court interpreters	54.5	57.3	59.7
Unallocated reduction	—	—	-37.8
Totals	\$1,955.7	\$2,231.2	\$2,211.0



Budget Request

The Governor's budget proposes a number of changes to Trial Court Funding in 2002-03. The major General Fund augmentations include the following:

- **Trial Court Salaries—\$51.7 Million.** This request would provide full-year funding for 2001-02 salaries and health benefits (\$28.5 million), and allow for a 2.5 percent increase for salaries in 2002-03 (\$23.2 million).
- **Increased County Charges—\$14 Million.** This represents increased costs for services provided by county employees, including janitorial services, communications, and auditor/controller services.
- **Court Security—\$13 Million.** This amount will fund ongoing courthouse security costs. These costs have increased due to negotiated salary increases for contracted security personnel in 24 court systems.
- **Court Interpreter Services—\$2.3 Million.** The budget requests \$2.3 million for court interpreter services to provide for expected increases in workload. This issue is discussed in more detail below.
- **Criminal Fines and Civil Filing Fees—\$61 Million.** The Governor's budget proposes to add a surcharge of 20 percent on all criminal fines and 10 percent on civil filing fees. This change is expected to increase General Fund revenue by approximately \$61 million annually. This issue is discussed in more detail below.

Proposed Reductions. These augmentations are partially offset by \$30 million in reductions, including \$7.2 million from delaying the one day/one trial jury reforms, and \$23 million from reducing the operating budgets of each trial court by varying amounts. In addition, the budget proposes a one-time transfer of \$28 million from the Trial Court Improvement Fund to the General Fund, and to shift \$7.4 million in technology asset management costs to the Trial Court Improvement Fund from the General Fund.

Update on Court Facilities: Implementation Plan Needed

We recommend that the Judicial Council report at budget hearings on the status of its plan to transfer trial court facilities to the state.

Background. Chapter 850 established the Task Force on Court Facilities to identify and provide options for funding court facility maintenance, improvements, and expansion for all the trial courts. The legislation also 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. In October 2001, the task force submitted its final report.

Final Task Force Report. The final task force report is very similar to the interim report issued earlier in the year. It recommended that the state assume full responsibility for all existing court facilities within three years by either obtaining title to the property or leasing the property. The task force recommends enactment of legislation to formally transfer responsibility for trial court facilities to the state.

Potential Fiscal Impact. As we noted in the *Analysis of the 2001-02 Budget Bill*, state assumption of responsibility for court facilities is potentially very costly. According to the final task force report, estimated annual costs for court facilities is currently \$140 million. This amount would be partially offset by county contributions pursuant to negotiated Maintenance of Effort (MOE) agreements. The MOEs would be based on historical funding levels. According to the task force, the county contribution is estimated to yield about \$80 million to \$90 million annually. Beyond this, the task force has identified future funding needs in the multibillion dollar range over the next 20 years.

Facility Transfer Process Needs to Be Streamlined. The final task force report chose not to adopt a single plan approach to the transfer and management of all facilities. Instead, the report recommended that the Judicial Council and the counties negotiate the transfer of facilities responsibilities on a building-by-building basis. Our main concern with this proposal is that it means there are likely to be 58 separate negotiations involving hundreds of individual buildings before the transfer of responsibility is fully implemented. This would be administratively difficult and could take a long time.

Developing an implementation plan that groups the facilities into logical categories and phases in the transition is one approach that may prevent some of these practical implementation problems. The buildings or courtrooms in question can be grouped according to identified priorities, thereby creating a more timely and efficient plan for transition to the state. The Judicial Council is working on legislation and a plan to transfer trial court facilities to the state. We believe that such a plan should (1) address the timing for state assumption of responsibility for these facilities, (2) streamline the facility transfer process, (3) include court facilities in the state's existing capital outlay planning process, and (4) include court facility funding as fiscal relief in the context of the state-county fiscal relationship.

Analyst's Recommendation. In view of the fiscal implications of state assumption of responsibilities for court facilities, we recommend that Ju-

dicial Council report at budget hearings on the status of its plan to transfer trial court facilities to the state.

Court Interpreter Request Not Justified

We recommend the Legislature deny the Judicial Council's request for \$2.3 million to augment the Court Interpreters program because the Judicial Council has not justified a projected increase in workload. (Reduce Item 0450-101-001 by \$2.3 million.)

Background. The Court Interpreter program provides interpreters to non-English-speaking persons who are involved in court proceedings. Under the program, non-English-speaking defendants are provided interpreter services for all court-related proceedings, including pretrial hearings, the trial itself, and post-trial proceedings. The Judicial Council administers the program. The Governor's budget proposes an increase of \$2.3 million for the Court Interpreter program.

No Evidence of Caseload Growth. According to the Judicial Council, the additional funding is required to meet anticipated caseload growth. As support for the projected growth in caseload, the council points to (1) program expenditure growth in recent years and (2) U.S. Census data on the number of California residents who speak a language other than English. At the time this analysis was prepared, the council could not provide data on the actual number of persons seeking court interpreter services, or the number of trials requiring interpreter services for the past few years.

We have several concerns with this proposal. First, while we would agree that program expenditures have grown, we would note that this spending growth appears to have been driven by recent increases in the reimbursement rate paid to court interpreters, and not necessarily by caseload growth. The Judicial Council has not indicated that it plans to further increase the court interpreter reimbursement rate in the budget year. Second, the census data do not demonstrate that non-English speakers represent a growing proportion of court defendants/filings. Third, based upon our review of the number of court filings in the past two years, we could find no reason to believe that additional resources will be needed for caseload growth in the budget year. According to the council, in 1998-99 and 1999-00, the latest years for which data are available, court filings were about the same.

Analyst Recommendation. For the reasons stated above, we recommend reducing the request by \$2.3 million.

Fee and Assessment Increases May Not Generate Projected Revenues

The Governor's budget assumes that increasing civil filing fees and criminal fines by 10 percent and 20 percent, respectively, will generate \$61 million in General Fund revenue. There is considerable uncertainty regarding this assumption given the level of local discretion in setting criminal fines, and past shortfalls in civil filing fee revenue.

The Governor's budget proposes legislation to add a 10 percent surcharge on civil filing fees and a 20 percent surcharge on criminal fines with the revenues to be deposited in the General Fund. The budget assumes these surcharges will generate General Fund revenues totaling \$61 million in the budget year, including \$45.8 million from criminal fines and \$15.2 million from civil filing fees. A civil filing fee is a fee charged by the court to file documents relating to civil cases. While criminal fines can be levied for a wide variety of criminal offenses, they consist primarily of fines for traffic violations.

Under current law, the state assesses a penalty equal to the amount of the criminal fine imposed by the counties. Of the total state penalty assessments, 30 percent is retained by counties to support trial courts and 70 percent is deposited in the State Penalty Fund, which is used to support various state programs. Revenues from court filing fees are deposited in the Trial Court Trust Fund, which is also used to support trial court operations. As indicated above, the Governor's budget proposes to deposit the revenue from the proposed surcharges in the General Fund rather than special funds.

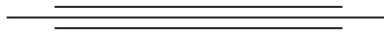
Revenue May Be Overstated. In projecting the General Fund revenue that would be generated in the budget year by the proposed surcharges, the Department of Finance (DOF) assumed that the state revenues collected under current law by civil filing fees and criminal fines would increase by 10 percent and 20 percent, respectively. We have some concerns with this methodology.

As regards criminal fines, due to the manner in which the fines are levied, we believe that the DOF approach tends to overstate the potential General Fund revenue. This is because counties retain full discretion in setting the actual fine levied for criminal violations. In addition, in cases where a judge levies the fine for a criminal violation, the amount levied is often based upon the individual's ability to pay. As such, judges may lower the base fines in order to keep the final amount within the individual's ability to pay. Therefore, the projected level of additional revenues from the surcharge may not materialize.

The approach used by the administration also assumes that the collection rate on criminal fines will remain unchanged. In other words, the budget assumes that individuals will continue to pay their fines at about the same rate despite the added 20 percent surcharge. We believe that it would be more reasonable to assume that the collection rate on criminal fines would go down slightly because of the magnitude of the increase.

As regards the civil filing fee proposal, we believe the projected revenue increase may also be overstated. The latest Judicial Council report on court statistics shows a trend of declining civil filings. Between 1995-96 and 1998-99 (the latest year for which data are available), there was an average annual decrease of about 5 percent in civil filings. We would also note that past projections of revenue from increases in filing fees have been overstated. In 1997, civil court filing fees were increased as a result of Chapter 850. Despite projections that revenues would increase from the new fees, the state's Trial Court Trust Fund sustained several years of revenue shortfalls. The Judicial Council indicates that this occurred because of (1) a decline in civil filings and (2) inaccurate revenue projections for the new filing fees.

Given the recent history of filing fee increases and the level of local discretion in setting criminal fines, we caution the Legislature that receipt of the additional revenue of \$61 million is uncertain.



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 \$620 million for support of the DOJ in the budget year. This amount is \$29 million, or about 4 percent, less than estimated current-year expenditures. The requested amount includes \$324 million from the General Fund (a decrease of \$30 million, or 8.4 percent), \$135 million from special funds, \$28 million from federal funds, and \$133 million from reimbursements.

DIVISION OF GAMBLING CONTROL

Chapter 867, Statutes of 1997 (SB 8, Lockyer), established the Division of Gambling Control to enforce gambling regulations (mainly cardrooms) throughout the state. With the passage of Proposition 1A (March 2000), which legalized Las Vegas-style gaming on Indian lands, the division, along with the California Gambling Control Commission, assumed the state's regulatory responsibility for tribal gambling. For 2001-02, the division is authorized 158 enforcement agents, auditors, and support staff. Of these, approximately 67 positions are used to support cardroom regulatory actions with the remaining 91 positions engaged in tribal regulatory activities.

The budget proposes expenditures of \$14.6 million for support of the Division of Gambling Control. This represents a \$1.8 million, or 14 percent, increase over current-year spending. Almost 60 percent of the 2002-03 expenditures will come from the Indian Gaming Special Distribution Fund, and about 33 percent will be from the Gambling Control Fund. The re-

maining expenditures will be funded from fines, penalties, and reimbursements. Of the proposed increase, \$1.3 million is requested to implement "License 2000," a data system to track the licensing of certain groups of individuals employed in, or connected to, gambling facilities.

The Division Is Slow in Processing Tribal Applications Of Key Personnel

We recommend the enactment of legislation requiring the division to complete the background reviews for tribal license applications within 180 days. Background reviews not completed within the 180 days should be forwarded to the Gambling Control Commission with an explanation as to why the review has not been completed.

The division is responsible for investigating the qualifications of individuals who, under current law, must apply for state (cardroom) or tribal (Indian casino) gambling licenses. These individuals include: (1) those who have a financial interest in the gambling establishment; (2) key employees of the gambling establishment, primarily management and those who handle money; (3) other employees of the gambling establishment; and (4) suppliers of gambling equipment and resources.

Background investigations for cardroom and tribal license applications are similar. A significant difference, however, is that during the background investigation process cardroom applicants do not work while awaiting approval of their application, but tribal employees may begin work immediately upon receiving a license from the tribal gaming agency. The agency then sends the employees' applications to the division for review of background checks. Upon completion of the review, the division forwards the applications to the Gambling Control Commission with recommendations for action. The commission may then notify the tribe of a "finding of unsuitability" for an applicant and request the employee be dismissed. However, up to that point the employee is allowed to work inside the gambling establishment.

Application Reviews Have Exceeded Normal Processing Time. The division began receiving applications from tribal gaming agencies in October 2000. The division received its first 16 applications for key employees by the end of December 2000, and an additional 137 by June 30, 2001. As of January 1, 2002, no completed tribal key employee applications with recommendations from the division have been delivered to the commission. The first 16 applications are now over 1 year old and have not been acted on by the commission. This means that tribal casinos have employed individuals in their casinos, whose background may ultimately be found to be unsuitable, for over a year without the commission being

able to determine if they are suitable for employment in a gambling establishment.

For the current year, 245 license applications have been received to date. The division anticipates receipt of a substantial number of applications before the end of 2001-02 and the number to be even greater in 2002-03. The division estimates that for most license applications, it takes 25 hours or less to complete the background investigations. Some licenses, most notably those for suppliers of equipment and resources for casinos, may take up to 120 hours to complete.

Current law sets a limit on the length of time the division may take to complete the background investigations for state-licensed gaming (card-room) employees at 180 days. Under current compacts between the state, the federal government, and gaming Indian tribes in the state, it is the role of the state to shield the tribes from "organized crime and other corrupting influences." We believe it is essential that the state process all gaming applications in a timely manner so as to ensure the protection of the tribes and gaming patrons from employees whose background may be found to be unsuitable. Accordingly, we recommend that the Legislature enact legislation to set a limit of 180 days for background investigations for tribal gaming employees. This would be consistent with current requirements regarding cardroom employee background checks. Further, we recommend that if the division has not completed its investigation within this time period, it turn over the application to the commission with an explanation as to why the investigation has not been completed.

Feasibility Study Report Must Complete Review Process

We withhold recommendation on \$1.3 million and two permanent positions for the division and \$73,000 for the California Gambling Control Commission (including \$58,000 in Item 0855-001-0367 and \$15,000 in Item 0855-001-0567) for the License 2000 database project until the Department of Information Technology and the Department of Finance have completed their reviews of the project's feasibility study report.

License 2000 is a database management system that will aid the division in tracking gaming license information. The database system is intended to support a variety of gambling oversight functions including: (1) background investigations for initial license applications and renewals; (2) enforcement and compliance activities; (3) audits; and (4) tracking gaming devices (slot machines) in gambling facilities. The system will also be used for division staff workload time and expense reporting. The division is requesting \$1.3 million to develop and establish the database in 2002-03. In addition, the Gambling Control Commission has requested

\$73,000 to provide equipment and software that will allow it to access the database.

According to the division, the project feasibility study report has been submitted to the Department of Information Technology and the Department of Finance for review. Pending the completion of that review, we withhold recommendation on the request for the project's funding.

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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 non-felon 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 2002-03. This is \$28 million, or about 1 percent, below the revised estimate for current-year expenditures. The primary causes of this decrease are a projected decline in the inmate population and a proposed shift of funding for certain programs from the General Fund to special funds.

General Fund Expenditures. Proposed General Fund expenditures for the budget year total almost \$4.7 billion, a decrease of \$2.2 million, or less than 1 percent, below the revised current-year estimate.

Federal Fund Expenditures. The Governor's budget assumes that the state will receive about \$208 million from the federal government during 2002-03 as partial reimbursement of CDC's costs (estimated to be \$567 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 \$50 million higher 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 161,483 as of June 30, 2001. About 93 percent of the population is male. The charts show:

- About 55 percent of inmates are incarcerated for nonviolent offenses (Figure 1, page 26).
- 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 11 percent of prison commitments (Figure 2, page 26).
- About 50 percent of all inmates are between 20 and 34 years of age, with the number of inmates falling dramatically starting at age 45 (Figure 3, page 27).
- The prison population is divided relatively evenly among whites, blacks, and Hispanics (Figure 4, page 27).
- 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, page 28).

INMATE AND PAROLE POPULATION MANAGEMENT ISSUES

Inmate Population Projected to Drop Then Stabilize

In a major shift from the prison growth experienced in the past two decades, the California Department of Corrections is projecting that the prison population will decline in the current year and stabilize for a few years before resuming its gradual climb upward.

Inmate Population Decline. As of June 30, 2001, the CDC housed 161,500 inmates in prisons, fire and conservation camps, and community correctional facilities. Based on the fall 2001 population forecast prepared by CDC, the inmate count will drop to 156,400 by June 30, 2002, a decline of approximately 5,000 inmates, or 4 percent, from a year ago. The inmate population is expected to stabilize at about 156,000 through 2004 then gradually increase to 165,000 inmates by 2007.

Figure 1
Prison Population by Type of Offense

June 30, 2001

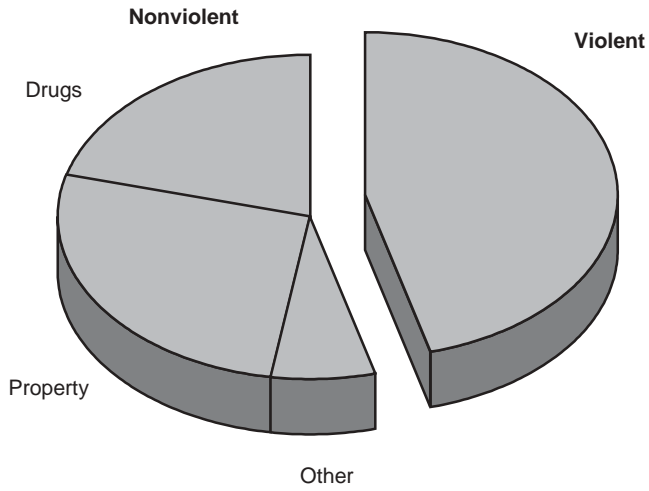


Figure 2
Prison Population by Area of Commitment

June 30, 2001

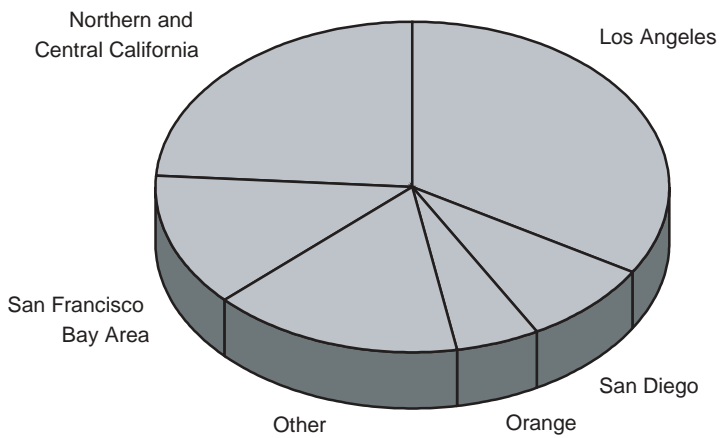


Figure 3
Prison Population by Age Group

June 30, 2001

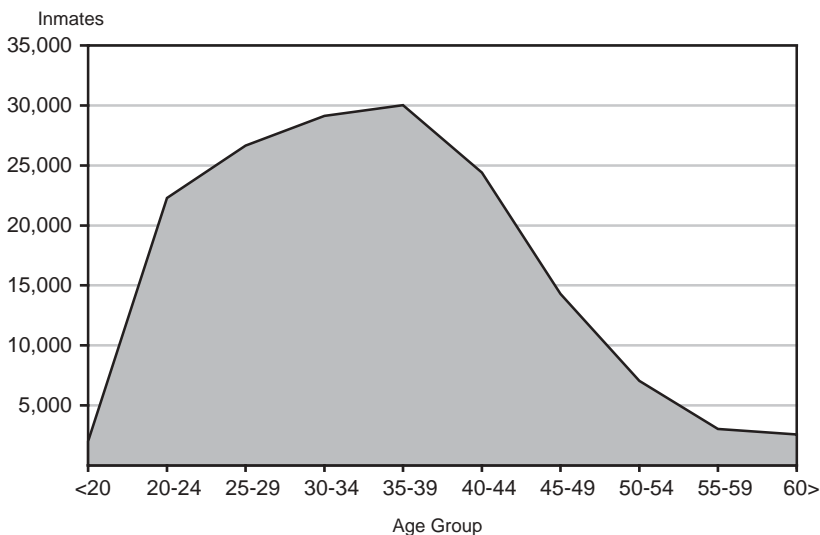
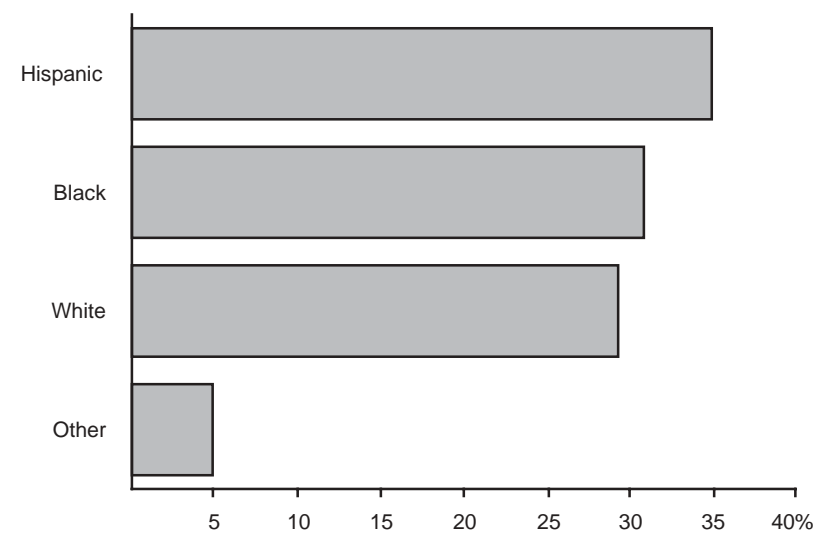
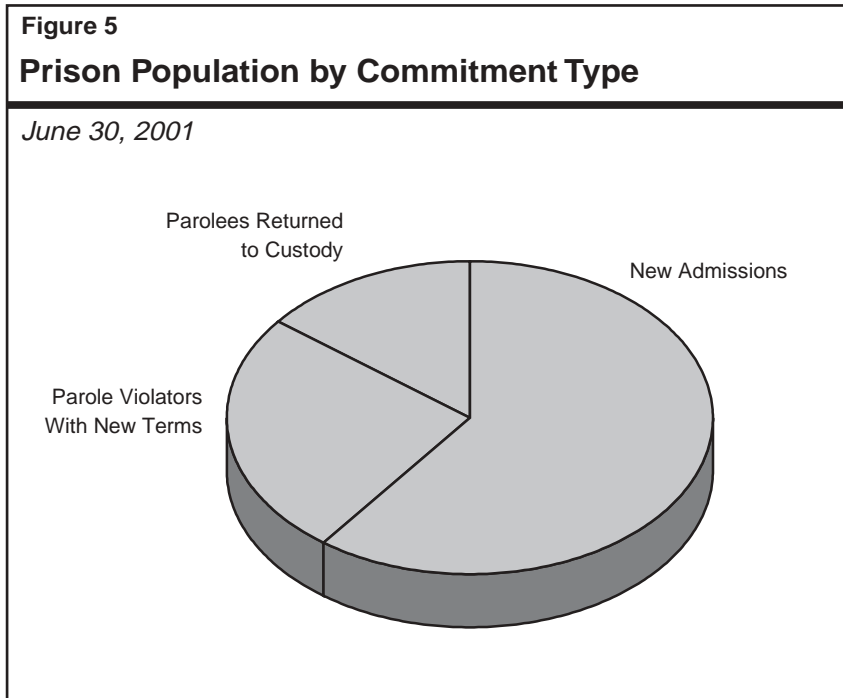


Figure 4
Prison Population by Ethnicity

June 30, 2001





Parole Population Decline. As of June 30, 2001, the CDC supervised 119,600 persons on parole. The fall 2001 projections assume that the parole population will increase slightly to 120,500 as of June 30, 2002, and then will decline to 116,800 by June 30, 2003. These figures assume a parole population increase of 1 percent in the current year and a decrease of 3 percent during the budget year. The fall 2001 projections also assume that the parole population will continue to drop during the following four years, reaching a low of 105,000 parolees by June 30, 2007.

Change From Prior Projections. The fall 2001 projection of the inmate population has decreased from the prior CDC forecast (spring 2001), which was the basis for the *2001-02 Budget Act*. The new fall 2001 forecast for June 30, 2002 is about 1,250 inmates lower than the spring 2001 forecast. As can be seen in Figure 6, the differences between the spring 2001 and fall 2001 inmate projections generally widen with time over the projection period. By 2005-06, the difference is about 6,800 inmates.

As regards the parole population, the fall 2001 projection reflects a significant decrease relative to the prior spring 2001 CDC forecast. The new fall 2001 forecast for June 30, 2002 is 5,600 parolees fewer than the spring forecast. As can be seen in Figure 7, the differences between the spring 2001 and fall 2001 parole projections also widen with time over

the projection period until the differential exceeds 8,800 parolees at the end of 2005-06.

Figure 6			
Total Inmate Population			
Recent CDC Projections			
June 30 Population	Projection as of:		Difference
	Spring 2001	Fall 2001	
2002	157,660	156,409	-1,251
2004	161,211	156,337	-4,874
2006	168,010	161,159	-6,851

Why the Forecasts Changed Between Spring and Fall 2000. According to CDC, several factors appear to have caused the inmate population to drop during the latter part of 2001. The CDC data indicate that fewer parole violators than projected are being returned to prison by administrative actions of the Board of Prison Terms, and that they are serving slightly less time in prison than had been expected. Moreover, fewer parolees than anticipated are being returned to state prison by the courts.

Figure 7			
Total Parole Population			
Recent CDC Projections			
June 30 Population	Projection as of:		Difference
	Spring 2001	Fall 2001	
2002	126,149	120,523	-5,626
2004	120,170	112,301	-7,869
2006	115,763	106,882	-8,881

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.

Caseload May Require Further Adjustment

We withhold recommendation on the 2002-03 budget request for caseload funding. Although more recent data indicate that population is trending slightly higher than the department's projection, we see no reason to adjust the budget request at this time. We will continue to monitor the caseload and recommend further changes, if necessary, following our review of the May Revision.

Actual Inmate Count Is Slightly Higher Than Fall Projections. During the first half of 2001-02, the prison population had been projected to decrease by about 5,300 inmates relative to the prior year. Instead, it decreased by about 4,300. The CDC data indicate that there have been more new admissions than anticipated. A number of factors have probably contributed to this result, including the downturn in the economy and the resulting increase in crime rates. An additional factor is a lower than anticipated decline in admissions attributable to Proposition 36. This measure changed state law so that certain adult offenders who use or possess illegal drugs would receive drug treatment and supervision in the community rather than be sent to state prison.

Current-Year Effect. Based on the inmate population as of the end of December 2001, we estimate that the average daily population of the prison system in 2001-02 will be about 518 inmates above the caseload actually funded in the Governor's budget plan. We further estimate that the average daily parole population will be about 435 inmates lower than the caseload funded in the Governor's budget plan. The net effect of these two changes would be an increase in current-year costs of about \$6 million.

Budget-Year Effect. The CDC forecast assumes that new admissions will remain relatively flat between the current and budget years rather

than drop as they have for the past four years. The recent data appear to support this assumption. However, it is unclear whether this trend will in fact continue in the budget year. Part of the uncertainty lies in the lack of information about what is actually causing the decline in new admissions to slow down. For example, we cannot determine whether this is largely the result of larger factors such as the increasing crime rate, or more reflective of a slower than anticipated implementation of Proposition 36.

The CDC will issue updated population projections in spring 2002 that form the basis of the department's May Revision proposal. At that time, we will review whether further adjustments to CDC's funding for inmate and parole caseloads are warranted.

Analyst's Recommendation. We withhold recommendation on the 2002-03 caseload funding request. We will continue to monitor CDC population, and make recommendations as appropriate at the time of the May Revision.

Prison Overcrowding Continues

We withhold recommendation on the California Department of Corrections' (CDC's) inmate housing plan because the inmate population is trending slightly higher than projected, thus making the housing plan obsolete. We anticipate the CDC will revise the housing plan at the time of the May Revision.

Despite the fact that the inmate population is declining in the current year, the prisons will generally continue to be overcrowded. Under the housing plan, some of the beds that were projected to no longer be needed in the budget year would be filled with low-level offenders from the community correctional facilities (CCFs) and the community correctional re-entry centers (CCRCs). This is the result of the Governor's budget proposal to deactivate some of the CCFs and CCRCs. While this proposal would result in higher crowding levels in the budget year, the prisons will be generally less crowded than they were in the prior fiscal year.

Analyst's Recommendation. Because the inmate population is running slightly above the fall 2001 projections upon which the CDC housing plan was based, it is likely that the plan will change somewhat 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.

Increased Federal Funds Assumption Presents Fiscal Risk

The Governor's budget assumes that the state will receive an additional \$50 million from the federal government for the costs of incarcerating undocumented felons. There is considerable uncertainty regarding this assumption given that the President's 2002-03 budget proposes to eliminate the grant program.

The Governor's budget assumes that the state will receive about \$208 million from the federal government during 2002-03 as partial reimbursement of CDC's costs of incarcerating inmates in prison and supervising felons on parole who are illegally in the United States and have committed crimes in California. We believe there is considerable uncertainty regarding the budget's assumption of increased federal funds. In order for California to receive the assumed level of federal funds, the national appropriation in federal fiscal year 2002-03 would have to increase by approximately \$265 million. This would be the single largest increase in funding for this program since its inception. At this point, there is no information that would lead us to expect this level of funding. We would note that the President's 2002-03 budget proposes to eliminate funding for this grant.

Deactivation Savings Overstated

The budget proposes to deactivate five community correctional facilities and 425 community correctional reentry center beds for a net savings of \$8.5 million. Our review finds that these savings are overstated by \$4 million because the estimate is based on a current year rather than a budget year estimate of costs.

The CDC currently contracts with public and private entities for the operation of 15 CCFs throughout the state. The CCFs are essentially small prisons that house low-risk inmates. The Governor's budget proposes to deactivate five CCFs in the budget year and transfer approximately 1,435 inmates to other prison facilities for a net General Fund savings of \$5.1 million in 2002-03.

The budget-year savings estimate was calculated using the estimated inmate-overcrowding rate for the current year (\$13,476), rather than the more appropriate rate for the budget year (\$14,797). Using the budget-year rate, we estimate that the net savings would be about \$2.8 million, not \$5.1 million as included in the Governor's budget.

A similar technical adjustment is required to calculate the net savings of the proposed deactivation of 425 community correctional center reentry CCRC beds. The budget assumes that this action will result in net savings of \$3.4 million in the budget year. Using the budget-year over-

crowding rate, we estimate this would instead result in net savings of about \$1.7 million.

Budget Deficiencies Likely to Continue

We recommend that the Department of Corrections report prior to budget hearings on its efforts to address its structural budget problems, and how these problems will impact the department's revised budget for 2001-02 and the proposed budget for 2002-03. We further recommend that the department be required to provide, at the time of the May Revision, a detailed analysis of the fiscal impact of the new Memorandum of Understanding between the state and Bargaining Unit 6.

Background. The CDC has had General Fund deficiencies for several consecutive years. These deficiencies have ranged from several tens of millions of dollars to hundreds of millions of dollars. This is due largely to ongoing structural problems with the department's budget. According to the department, the budget deficits are the result of unfunded merit salary adjustments (MSAs), court orders that drive program expansions and, most notably, the high vacancy rate for correctional officers, which necessitates the use of overtime to maintain prison security. It may also be due, to a lesser extent, to ineffective budgeting practices. We would note that—unlike most departments, CDC has received funding to address the need for MSAs; however, this has been irregular.

2000-01 Budget Deficiency. In 2000-01, the department submitted a deficiency request to the Legislature totaling \$52 million. The deficiency level would have been approximately \$136 million, but one-time savings in other areas of the budget offset part of this amount. According to the department, this deficiency was driven largely by the factors discussed below.

- ***Personal Services.*** Approximately 75 percent of the overall deficiency was due to overspending in the personal services budget. According to the department, this resulted primarily from higher than budgeted use of overtime, which continues to be driven by excessive vacancies, employee use of sick leave, and administrative segregation overflow. Other contributing factors included higher than anticipated workers' compensation and unfunded merit salary adjustments.
- ***Operating Expenses.*** The remaining 25 percent of the 2000-01 budget shortfall was in the area of operating expenses. The shortfall here, according to CDC, was the result of a combination of factors, including unfunded annual price increases, increased costs for utilities, and increased costs for pharmacy and contract medical services.

Departmental Efforts at Controlling Spending. In response to past legislative efforts and audit reports, the department has implemented some strategies that could ultimately allow it to better control spending. These strategies include the development and implementation of information management processes that enable the department to better track institution expenditures on a monthly basis, as well as track employee use of overtime and sick leave. In addition, the department has implemented an aggressive correctional officer recruitment plan. The Legislature also recently provided funding for CDC to expand the cadet training academy.

Additional Spending Control Efforts Needed. While we agree that these are significant efforts, it is likely that the department will have to take additional steps in order to live within its budgeted appropriation. A recent Bureau of State Audits (BSA) report, for example, found that CDC continues to have problems implementing basic strategies that would allow it to contain pharmacy and contract medical costs. According to the BSA report, the CDC's current system of procuring, dispensing, and monitoring prescription drugs use is antiquated. Another recent BSA report found that the department's fiscal practices and internal controls are inadequate to ensure fiscal responsibility. This report also found that the standard cost factors used by the department to determine the budget for inmate and staff operating expenditures are outdated and do not reflect the department's true needs. (We discussed the CDC's difficulties in managing health care and personnel expenditures in more detail on page D-49 and D-51 of the *Analysis of the 2000-01 Budget Bill*.)

We do not believe that the strategies implemented by the department to date, will have a significant impact on the department's budget in the near term. This is because some of the department's plans, such as the recently approved financial management system redesign, have not yet been fully implemented. In addition, the department still continues to have a high number of correctional officer vacancies. As of November 30, 2001, the department had approximately 1,400 correctional officer vacancies, a 7 percent vacancy rate. This compares to 1,374 correctional officer vacancies (or 7 percent) a year earlier. We have no reason to believe that the department will be able to fill most of these positions within the year. Therefore, related overtime and sick leave costs will likely continue. As regards medical care costs, the department continues to lack the information system necessary to control medical and pharmacy costs. According to the department, it does not expect such an information system to be operational until 2006.

The recent enactment of the new memorandum of understanding (MOU) between the state and Bargaining Unit 6 (the California Correctional Peace Officers Association) may contribute to the department's

budget problems if it is not fully funded. At the time this analysis was prepared, the CDC was still working with the Department of Finance to develop a more comprehensive estimate of the fiscal impact of the new MOU.

In view of the above, we expect that the CDC will continue to face major budget deficiencies. Based upon our analysis of past-year deficiencies and our discussions with CDC, we believe the deficiency could potentially be in the range of \$100 million in both the current and budget years.

Analyst's Recommendation. We recommend that CDC report prior to budget hearings on its efforts to address its ongoing budget problems, identifying factors that are likely to continue to drive costs and discuss the potential impact of these factors on its proposed budget for 2001-02 and 2002-03. We further recommend that the department be required to provide, at the time of the May Revision, a detailed analysis of the fiscal impact of the new MOU between the state and Bargaining Unit 6.

State Could Close Women's Prison

The decline in the female inmate population provides the state the opportunity to close one of the women's prisons. We recommend that the California Department of Corrections report at budget hearings on the feasibility, costs, and benefits of closing the Northern California Women's Facility, as well as on other potential current and future uses for the prison facility in the event it were closed.

Background. The state currently operates five women's prisons. These prisons are located in central and southern California, including two in Madera County, one in San Joaquin County, one in Riverside County, and one in Orange County. The oldest women's institution, the California Institution for Women, opened in 1952. The newest, the Valley State Prison for Women, opened in 1995. In total, these five prisons are designed to house approximately 5,900 female inmates, assuming one inmate per cell. However, for the past decade, the actual population has been such that many cells contain two inmates rather than one. Such cells are considered "double-bunked."

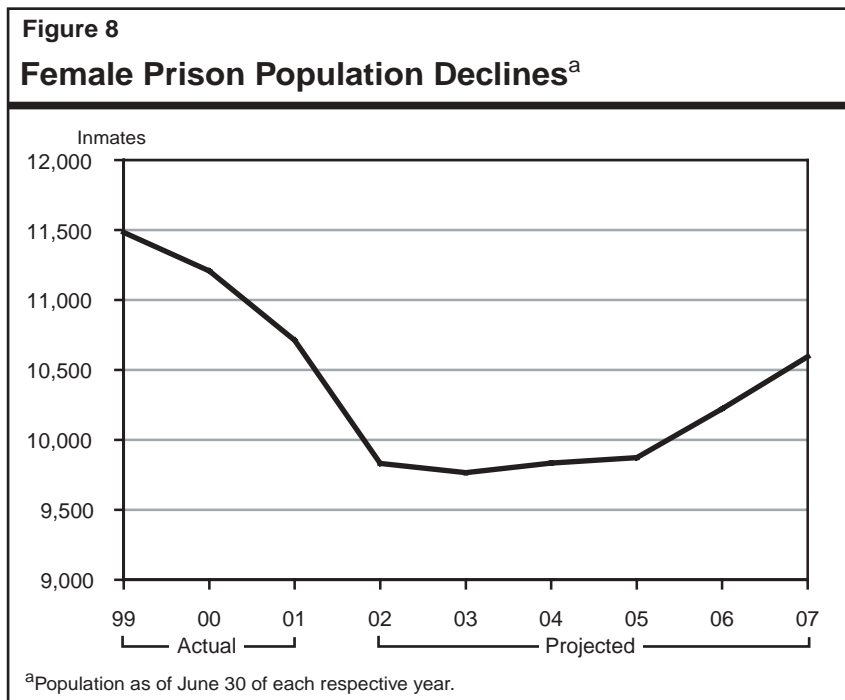
Decline in Female Population. The female inmate population grew steadily during the 1990s, going from 6,400 in 1990 to a high of about 11,500 in 1999. However, this trend appears to have reversed, as the population has declined for two consecutive years. Between June 30, 1999 and June 30, 2001, the female population dropped by 771 inmates, or about 7 percent. Based on CDC's most recent projections (fall 2001), the female inmate population is expected to drop by another 950 inmates, or 9 percent, by the end of the budget year. We would note that recent data show that the

actual number of female prisoners is trending slightly lower than CDC’s estimate for the current year, so the decline may be greater than CDC suggests.

Similar to the overall inmate population trend discussed earlier, CDC projects that the female population will level off in the budget year, stabilize at about 9,800 inmates through 2005, and then gradually increase to about 10,600 by the end of 2007. The CDC projects that between 2005 and 2007 the number of female inmates will grow by about 800.

Figure 8 below shows the actual and projected change in the female inmate population for the period June 1999 through June 2007.

Benefits and Costs of Closing a Prison. Given the major shift in the female population, the state now has the opportunity to consider closing one or more of its women’s institutions. The major benefit of closing one or more prisons is the savings to the state and its taxpayers. This benefit, however, should be weighed against the costs associated with double-bunking a greater number of female inmates (also known as “overcrowding”). Generally, these costs involve the greater likelihood of prison incidents due to overcrowding. These issues are discussed in detail below.



Prison Closure Savings. Although the female prisons are currently operating above design capacity, as indicated above, there continue to be

“excess beds” systemwide that could be used if needed. This is because many prison cells currently house only one inmate. The CDC estimates that there are currently over 2,600 excess beds in the women’s institutions.

The Double-Bunking (or Overcrowding) Trade-Off. Closing a prison would require that inmates residing in that institution be transferred to other facilities, thereby increasing the inmate population at the receiving institution(s). These inmates generally would be absorbed in the other facilities by placing an additional inmate in a cell that currently has one inmate, or double bunking. Since the design capacity of prisons assumes one inmate per cell, this has also been referred to as overcrowding. In this sense, there has always been some level of overcrowding. Currently, it is estimated that approximately 57 percent of the prison cells in women’s institutions house two inmates, which equates to an overcrowding rate of 157 percent. This figure has been as high as 90 percent (or 190 percent overcrowding) in the past.

It has been argued that increasing the number of inmates in a given prison reduces the level of safety for both the inmates and employees. This is because with the higher number of inmates comes a potentially increased number of dangerous incidents. We would note, however, that the potential for an increased number of dangerous incidents is not equally distributed across all prisoners. For example, data show that male inmates tend to be more violent than female inmates. In addition, according to CDC, female inmates generally tend to do better in a shared cell situation than male inmates. We would also note that female prisons have a higher percentage of low-level offenders than male prisons, thus making them generally safer for both the employees and the inmates.

Which Women’s Prison Could the State Close? If the Legislature decided to close a women’s prison, the choice of which prison to close would depend on several factors. These factors include the per capita costs of operating the prison, the proximity of the prison to other prisons, and the ability of other prisons to absorb the inmates and employees from the closed prison. Applying these criteria, Northern California Women’s Facility (NCWF) would be the most likely candidate for closure. First, it is one of the most costly prisons to operate. This is because the NCWF population is small (630 inmates), yet like other prisons it has relatively high operating costs. Second, NCWF is one of the easiest prisons to close. Because this is a relatively small facility, other institutions can more easily absorb the inmate population and with less overcrowding. In addition, there would be fewer employees who need to relocate because of the proposed closure.

The proximity of NCWF to other CDC facilities would make it easier and less costly to relocate NCWF employees. Based upon information

provided by the State Controller's Office, there were 238 filled positions at NCWF as of October 31, 2001. We would note that there are currently enough vacant positions at nearby CDC institutions—within 35 miles of NCWF—to absorb approximately 200 of these employees.

The CDC estimates that closure of NCWF would result in net savings of \$8.7 million in the budget year and \$10.3 million annually thereafter. This is a net figure because it already accounts for costs associated with transporting the inmates to the other facilities and relocating employees. This estimate assumes that CDC begins to implement the closure plan by July 2002.

Where Would the Inmates be Transferred? Based on information provided by CDC, the two largest women's prisons, the Central California Women's Facility (CCWF) and the Valley State Prison for Women (VSPW) both located in Chowchilla (Madera County), would be the best place to transfer inmates from NCWF. The size of these prisons makes it easier to absorb the inmates from NCWF. These prisons are expected to have a sufficient number of excess beds. Based upon CDC's recent population estimates, after June 2003, there will be about 2,400 surplus general population and reception center beds between CCWF and VSPW, so there is more than enough capacity to absorb the NCWF population.

As we indicated earlier, CDC projects the female population will begin to increase starting in 2005. Between 2005 and 2007 (the end of the projection period), the department projects the population will rise by about 800 inmates. We would note that, even after the prison closure, there would continue to be approximately 1,800 excess beds between CCWF and VSPW—far more than enough to handle the projected systemwide increase in female inmates over the next five years.

How Would NCWF Closure Impact Overcrowding at CCWF and VSPW? Under the Governor's proposed budget, CCWF and VSPW would have an overcrowding rate of 158 percent and 159 percent, respectively. It is estimated that closing NCWF and transferring the inmates to these facilities would raise the rates to 166 percent and 167 percent respectively, which while higher than the level proposed in the Governor's budget, continues to be lower than the 175 percent to 177 percent overcrowding rates experienced in 1998-99.

Potential Future Use of NCWF. We would note that closure of the prison as a women's facility provides the opportunity to use it for other correctional purposes. For example, should the male population increase to a level that requires the activation of new prison beds, the NCWF facility could be retrofitted for males instead of activating a new prison. This would cost significantly less than construction and activation of a new prison facility.

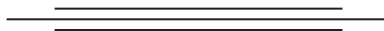
Conclusion. The decline in the female inmate population provides the state the opportunity to close one of its smaller women's prisons. Should the state decide to close a facility, we recommend closing the NCWF, and transferring its inmates to the CCWF and the VSPW. We also note that closure of the NCWF would provide an opportunity for the state to find alternative uses for the prison facility. We recommend that the CDC report at budget hearings on the feasibility, costs and benefits of closing NCWF, as well as on other potential current and future uses for the prison facility in the event it were closed.

Hospital Caseload Probably Overbudgeted

We recommend that the Legislature reduce the Department of Corrections (CDC) General Fund budget by \$7.1 million because it is likely to use fewer beds than projected in state mental hospitals operated by the Department of Mental Health. We further recommend denial of a \$427,000 General Fund augmentation to CDC for additional security at Patton State Hospital because a slowdown in hospital population growth means that these additional beds are not needed in 2002-03. Finally, we recommend that the CDC budget be adjusted if activation of a new mental health facility at Salinas Valley State Prison is delayed. (Reduce Item 5240-001-0001 by \$7.5 million.)

In our analysis of the 2002-03 budget request for the Department of Mental Health (DMH), we examine several issues that would affect the level of funding budgeted for CDC. These issues relate to (1) the number of hospital beds provided for CDC inmates receiving treatment in state mental hospitals; (2) a proposal to activate additional state hospital beds at Patton State Hospital, for which CDC provides perimeter security; and (3) a potential delay in the activation of a new DMH-staffed mental health facility at Salinas Valley State Prison.

We discuss our findings and recommendations in regard to these issues in our analysis of the DMH budget, which can be found in the "Health and Social Services" chapter of this *Analysis*.



BOARD OF CORRECTIONS (5430)

The state's Board of Corrections oversees the operations of the state's 460 local jails by establishing jail standards, inspecting facilities biennially, administering jail bond and federal construction funds, establishing staff training standards, and reimbursing local law enforcement agencies for the costs of training. In addition, the board maintains data on the state's jails. The board also sets standards for, and inspects, local juvenile detention facilities. The board is also responsible for the administration of juvenile justice grant programs.

The budget proposes expenditures of \$168 million in 2002-03, including \$88.6 million from the General Fund. This is about \$71.9 million, or 75 percent, more than estimated current-year expenditures. The General Fund increase is due to implementation of law enforcement and juvenile justice local assistance grant programs. Almost all of the funds for these programs were appropriated in previous years and are available for expenditure in the budget year. The budget also includes an additional \$59 million in federal funds for distribution to local governments for construction and expansion of jails and juvenile detention facilities.

No CLEAR Justification

We recommend deletion of \$3 million requested from the General Fund for the Community Law Enforcement and Recovery (CLEAR) program because the administration has not justified the need for the funds or provided sufficient information that the program is effective. (Delete Item 5430-128-0001 and \$3 million.)

Background. The CLEAR program was established by Chapter 506, Statutes of 1997 (AB 853, Hertzberg) as a two-year demonstration project to reduce criminal gang activities. The CLEAR program is designed to draw upon resources from various law enforcement agencies in Los Angeles to share gang intelligence and develop coordinated responses to

gang problem areas. Chapter 653, Statutes of 2000 (SB 865, Hughes) extended the sunset of the CLEAR program until January 1, 2004.

The Board of Corrections indicates that the state has provided CLEAR with \$14.2 million in General Fund monies since its inception. The program has received annual General Fund appropriations in every year except 1999-00. The funding level has fluctuated from a high of \$9 million in 1998-99 to a low of \$1 million in the current year. The *2002-03 Governor's Budget* proposes \$3 million for the CLEAR program which is an augmentation of \$2 million from the current year.

Program Effectiveness Inconclusive. In January 2000, the Board of Corrections funded an evaluation study of the CLEAR demonstration project by an outside evaluator. The study analyzed the impact of the CLEAR project on such crime measures as changes in (1) gang-related crime, (2) the resolution of gang-related homicides, and (3) the overall level of violence and nuisance activities. The study showed that there was a reduction in the crime rate in the CLEAR target area. However, based upon our review of the study, this reduction in crime could not be directly linked to the CLEAR project. This is because there was a similar reduction in crime in comparison areas where the CLEAR project did not operate.

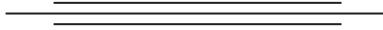
No Information Regarding Program Expenditures. Currently, there are no requirements that the local law enforcement agencies report to the Board of Corrections on their CLEAR expenditures. Without this information, the state has no way of knowing how the state funds are being used. For example, it is not known if funds are being used to support additional front line officers or to purchase more equipment.

Local Funding Doubles Funding Necessary for Minimum Program. The study funded by the Board of Corrections of the CLEAR program concluded that a minimal CLEAR program could be sustained for less than \$500,000 per site. The program currently has six sites which means a minimal program could be supported by \$3 million. However, according to the Board of Corrections, local law enforcement agencies are allocating \$7 million of their own funds for continuation of the CLEAR program. Therefore, local funding already reaches two times the amount necessary for a minimal program.

Analyst's Recommendation. We recommend deletion of the \$3 million requested from the General Fund for the CLEAR program because it is not clear whether the program reduces crime and there is no information as to how the funds are being used. Furthermore, as we discuss below, other state funding sources can be used for this program.

Law Enforcement Agencies Have Other Funding Sources Available. If local law enforcement agencies determine that local funding does not

provide the level of service necessary, there are existing state funds that could be directed towards this program. Through the state's Citizens' Option for Public Safety/juvenile justice grant funding programs, the County of Los Angeles received a total of \$62 million in the current year for law enforcement activities. This funding is distributed to the Los Angeles County Sheriff's Office, the District Attorney's Office, the Los Angeles Police Department, and the Los Angeles County Probation Department, all participating agencies in the CLEAR program. This funding could be used to support gang violence prevention programs, such as CLEAR, as well as other activities.



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 \$416 million for the Youth Authority in 2002-03. This is \$20.7 million, or about 5 percent, below estimated current-year expenditures. General Fund expenditures are proposed to total \$336 million in the budget year, a decrease of \$21.6 million, or 6 percent, below expenditures in 2001-02. The department's proposed General Fund expenditures include \$38.1 million in Proposition 98 education funds. The Youth Authority also estimates that it will receive about \$78.3 million in reimbursements in 2002-03. These reimbursements primarily come from fees paid by counties for wards sent to the Youth Authority.

The primary reason for the decrease in General Fund spending for the budget year is decreases in the institution and parole populations.

Approximately 74 percent of the total funds requested for the department is for operation of the department's institutions and camps and 13 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.

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:

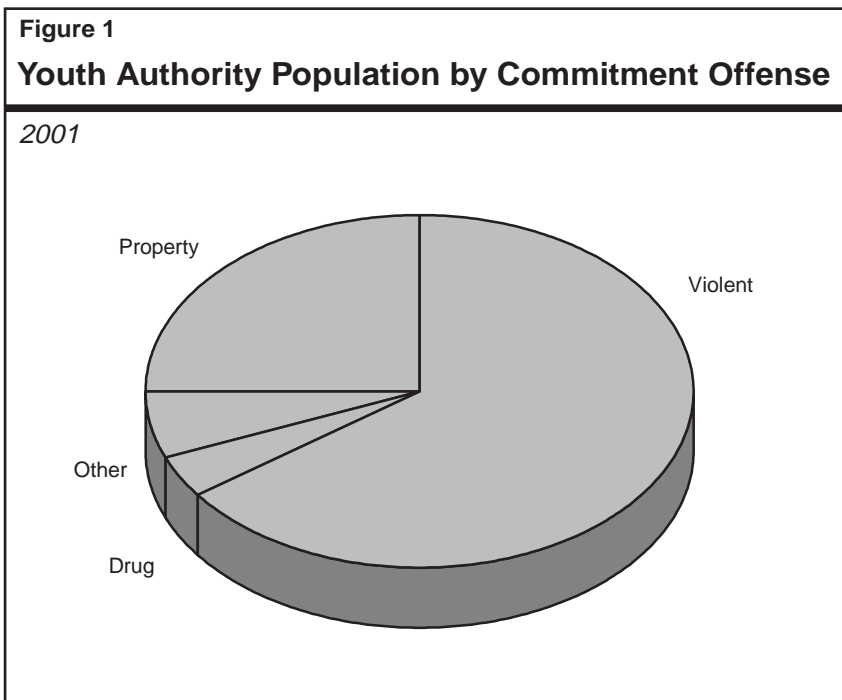
- **Juvenile Court Admissions.** Most first-time admissions to the Youth Authority are made by juvenile courts. As of December 31, 2001, 96.3 percent of the institutional population was committed by the juvenile courts and included offenders who have committed both misdemeanors and felonies.
- **Criminal Court Commitments.** These courts send juveniles who were tried and convicted as adults to the Youth Authority. On December 31, 2001, 3.7 percent of the institutional population was juveniles committed by criminal courts.
- **Corrections Inmates.** This segment of the Youth Authority population—1.3 percent of the population in December 2001—is comprised of inmates from the California Department of Corrections (CDC). (This percentage of the population is a portion of the criminal court commitments identified above.) 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 commitments for future M cases to only those CDC inmates who are under the age of 18 at the time of sentencing. This law requires that M cases be transferred to the CDC at age 18, unless their earliest possible release date comes before their 21st birthday.
- **Parole Violators.** These are parolees who violate a condition of parole and are returned to the Youth Authority. In addition, some parolees are recommitted to the Youth Authority if they commit a new offense while on parole.

Characteristics of the Youth Authority Wards. Wards in Youth Authority institutions are predominately male, 19 years old on average, and come primarily from Southern California. Hispanics make up the largest ethnic group in Youth Authority institutions, accounting for 48 percent of the total population. African Americans make up 30 percent of the population, whites are 17 percent, and Asians and others are approximately 6 percent.

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

As of December 2001, 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 46 per-

cent of CDC's population has been incarcerated for violent 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 counties have an incentive to retain less serious offenders while sending more serious offenders to the Youth Authority. Specifically, the state 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. Of the remaining wards, 25 percent 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.



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 2001-02 will have spent 34.8 months in a Youth Authority institution com-

pared to almost 26.9 months for a ward paroled in 1996-97. The Youth Authority projects that length of stay for first parolees will drop somewhat to 34.3 months in 2005-06, a 1 percent decrease.

The increases in lengths of stay that occurred up to 2001-02 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 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 2002-03, and remain relatively stable thereafter. The Youth Authority forecasts 6,100 wards at the end of the budget year and 6,400 wards in 2005-06. Youth Authority parole populations are expected to decrease from 4,290 parolees in the budget year to about 3,990 parolees by the end of 2005-06.

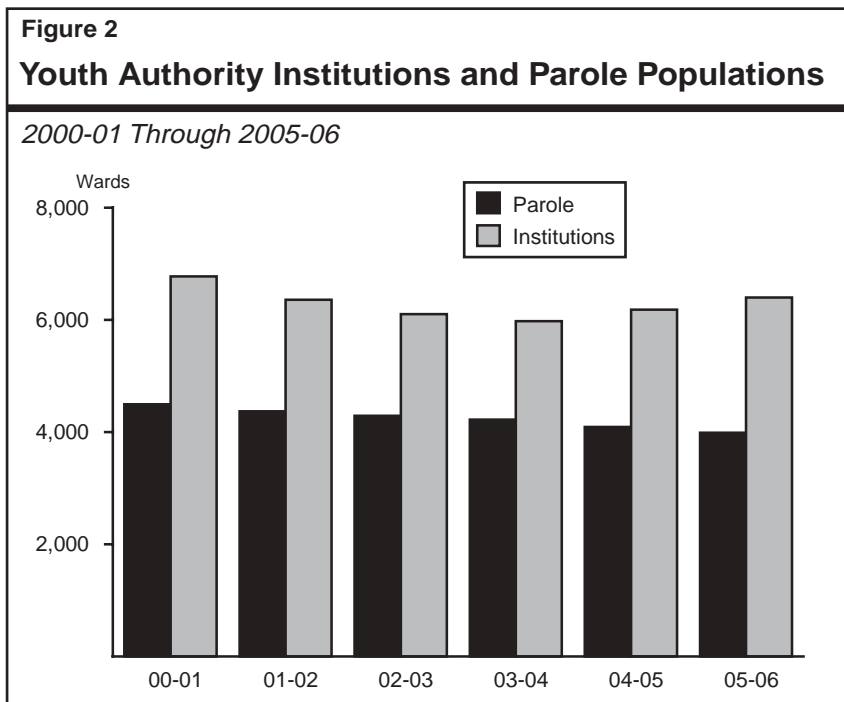
The Youth Authority’s September 2001 ward population projections (which form the basis for the Youth Authority’s 2002-03 budget) indicate that the institutional population will decline modestly through the budget year. For the budget year and 2003-04, the Youth Authority projects that its incarcerated population will stabilize and then increase by about 5 percent, reaching 6,400 wards on June 30, 2006.

The number of parolees is expected to decrease slowly through 2006. Figure 2 shows the Youth Authority’s institutional and parolee populations from 2000-01 through 2005-06.

Ward and Parolee Population Projections Will Be Updated in May

We withhold recommendation on a proposed \$7.3 million decrease from the General Fund based on projected ward and parolee population changes, pending receipt of the May Revision and updated population projections.

Ward and Parolee Population in the Budget Year. The Youth Authority’s total population is projected to decrease modestly, declining by 260 wards, or 5 percent, 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 \$7.3 million. This decrease will result from housing unit closures at a number of institutions where population has declined. The Youth Authority advises that reductions are first made at institutions with dormitory style housing units since single living units allow for more effective security. As a result, some Youth Authority institutions will have populations significantly in excess of their design capacity while others will fall below that level.



Historically Projections Higher Than Actual Population. 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 institutional population projection dropped by 209 wards from 6,985 in the spring 2001 projections to the actual population of 6,776.

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.

County Sliding Scale Fees Should Be Adjusted for Inflation

We recommend the enactment of legislation to adjust the sliding scale fees annually to account for the effects of inflation. We estimate that this would generate \$9 million in savings in 2002-03. Therefore, we recommend reducing Item 5460-001-0001 by \$9 million.

Background. Under current law, counties are required to share the cost of housing juvenile offenders in the California Youth Authority. For many years, counties paid a flat fee of \$25 per month per offender. Chapter 6, Statutes of 1996 (SB 681, Hurtt) made two major changes in the cost sharing arrangement. First, it increased the flat fee that counties pay from \$25 per month to \$150 per month to account for inflation. Second, it established a “sliding scale” fee structure which adjusts the amount that counties pay monthly based upon the classification of the juvenile offender.

Wards are assigned a category number ranging from I to VII—I being the most serious and VII being the least serious. These categories are based in part on the seriousness of the commitment offense. The sliding scale legislation was intended to provide counties with a fiscal incentive to develop and use more locally-based programs for less serious juvenile offenders, thereby reducing their dependence on costly Youth Authority commitments. This fee structure was modified somewhat by Chapter 632, Statutes of 1998 (SB 2055, Costa). This measure froze the per capita costs on which the sliding scale fees are based at the levels in effect on January 1, 1997 (\$2,600), thereby effectively capping the fees. Accordingly, counties pay 50 percent of per capita costs (\$1,300 per month) for category V commitments, 75 percent (\$1,950 per month) for category VI, and the full cost (\$2,600) for category VII commitments monthly. Figure 3 shows by category the fees that counties are required to pay under current law for each juvenile sent to the Youth Authority.

Fiscal Incentive Will Erode. Currently, the fee structure encourages counties to place more serious offenders in the Youth Authority because counties are charged a minimal amount for these juveniles. Capping the rates, however, changes this fiscal incentive. When counties are deciding placement for wards, counties bear the full costs for wards placed in their own programs, while the same placement in the Youth Authority will be increasingly less costly because the rates are not adjusted to reflect inflation. As such, placement in the Youth Authority will again be more financially attractive to counties. As a result of the freeze, the cost gap between placement in a county program and in the Youth Authority will increase

nullifying the fiscal incentive that is present in a fee structure that is adjusted for inflation.

Figure 3		
Monthly County Fees Paid Per Ward to Youth Authority—2002		
Category	Percent	Fee
I to IV	0%	\$150
V	50	1,300
VI	75	1,950
VII	100	2,600

Costs Are Rising. In the *Analysis of the 1999-00 Budget Bill*, we recommended that the sliding scale fees be periodically adjusted to account for inflation in order to avoid the significant upward adjustment made to the \$25 monthly fee in 1997. Capping the base rate (\$2,600) that counties pay to the Youth Authority increases the financial burden for the Youth Authority in two ways. First, the Youth Authority incurs the actual cost increases due to inflation because the fee charged to the counties is capped. Second, the Youth Authority institution population is expected to increase through 2006 which means that the Youth Authority will house a growing population, but receive less reimbursement for their care.

Analyst's Recommendation. For the reasons stated above, we recommend that the monthly fee be increased from \$150 to \$176 and the base rate be increased from \$2,600 per month to \$3,040 per month to account for inflation, as shown in Figure 4 (see next page). The Legislature should enact legislation to annually adjust the fee structure for inflation. This would maintain the fiscal incentive for counties to send their most serious offenders to the Youth Authority and offset a portion of the yearly cost increases incurred by the Youth Authority. We estimate that the state could save \$9 million in 2002-03 as a result of such action.

Counties Have Been Provided Additional Resources. We realize that the fee adjustment places additional costs on counties. However, we would note that the Legislature has over the last few years provided counties with a significant infusion of funds to deal with their less serious offender population, thereby reducing the amount that counties would have otherwise spent to provide such services for this population. Specifically, counties have received a total of \$238 million from the state in the past two fiscal years as a result of Chapter 353, Statutes of 2000 (AB 1913, Cardenas). This legislation provides grants to assess existing services for

the juvenile offender population, develop a juvenile justice plan, and implement programs based on the plan. The 2002-03 Governor's Budget provides another \$116.3 million. This ongoing funding should ease the county transition to a fee structure that is adjusted for inflation.

Figure 4 LAO Recommended Fee Structure Monthly Amount Per Ward		
Category	Current	LAO Recommended
I to IV	\$150	\$176
V	1,300	1,520
VI	1,950	2,280
VII	2,600	3,040

In recent years, the Legislature has also provided \$173 million for construction and renovation of county juvenile detention facilities. In the current year, the Legislature has also provided \$201 million in federal funds to county probation departments through the Temporary Assistance for Needy Families program. Of this total, \$33 million is available for probation camps, one of the primary placements for less serious juvenile offenders.

Appellate Court Rules Youth Authority Must License Medical Facilities

We recommend that the Youth Authority report at budget hearings on its current plan to license three of its 11 medical facilities as correctional treatment centers (CTC), the results of a survey of the medical needs of the ward population (scheduled for completion at the end of February), and any changes to its plan to license three medical facilities that result from the survey.

Background. In 1987, the California Legislature created the CTC licensing category to provide minimum health standards for California's correctional facilities. A CTC is a health facility within a secured facility that provides inpatient health services for wards requiring acute and subacute psychiatric and medical care. Wards require acute psychiatric care when they have a serious mental illness and are an immediate danger to themselves, while wards requiring subacute psychiatric care may have a less serious mental illness, but still need intensive treatment. These facilities provide basic health services such as access to physicians, psychia-

trists, and dietary information. In order to be licensed, the facilities must meet certain design requirements such as a minimum area for a treatment room, spaces for laundry and an ambulance entrance, and patient viewing areas. Regulations also require that minimum staffing levels are maintained and that all staff are licensed. The deadline for obtaining such licensure was January 1996.

The Department of Health Services is responsible for developing regulations for the correctional treatment centers. The regulations cover all aspects of the management and operation of a CTC including facility design, required staffing levels, and the use of clinical restraints.

The Youth Authority operates 11 medical facilities that meet the statutory definition of correctional treatment centers. To date none of its facilities have been licensed. Although YA anticipates licensing three of its facilities, and is developing a conceptual plan for a fourth, it has no plans to license the remaining seven.

Morris v. Harper. In May 2000, a lawsuit (*Morris v. Harper*) was brought against YA for not complying with the state licensing requirements. The lawsuit followed in the wake of news accounts of medical maltreatment of wards. The trial court ruled against the Youth Authority stating that although the Youth Authority had taken steps toward licensing three of its medical facilities, the licensing requirements were likely not to be completed without judicial intervention. The Youth Authority appealed the decision arguing that it was actively seeking licensure. The appellate court rejected the arguments and upheld the decision of the lower court. Under the court order, the Youth Authority must:

- License three facilities by December 28, 2001.
- License the remaining eight facilities by December 27, 2002.
- Provide a written plan for implementing the licensure.

Youth Authority Plan Does Not License CTCs at All Institutions. As mentioned above, the appellate court ordered the Youth Authority to license all of its medical facilities as CTCs. However, the Youth Authority action plan (discussed below) provides steps to license three facilities. The department's position is that once a survey of the medical needs of wards is completed, it anticipates that the population requiring such care will be adequately served by their current action plan.

According to the Youth Authority, the action plan would address the immediate and longer term health needs of their population. This plan was submitted to the Youth Law Center, who is monitoring compliance with the ruling, to meet the first deadline of December 28, 2001. To address the immediate needs of severe mentally ill (acute) and less se-

vere mentally ill (subacute) wards, the Youth Authority has contracted with the Department of Mental Health to provide ten state hospital beds for wards who meet the acute or subacute criteria. These beds will also be available once the licensed facilities come on line.

The Youth Authority also has construction plans underway to renovate the existing medical facilities at three of their institutions in order to meet the licensing requirements of a CTC. Since 1998, the Legislature has provided \$4.9 million for various stages of the renovation at the three facilities and the Youth Authority is requesting another \$4 million in the budget year for this purpose. (See the "Youth Authority" Section of the "Capital Outlay" chapter of this *Analysis*.) The first licensed CTC is scheduled to come on line in July 2002 with the last of the three scheduled for March of 2004. Although the court order required that three facilities be licensed by December 28, 2001, the Youth Law Center has indicated that the action plan demonstrated a good faith effort to implement the ruling.

Survey Key to Action Plan. At the time this analysis was prepared, the Youth Authority was conducting a survey of its ward population to determine the number of youths who meet the criteria for acute and subacute psychiatric care and subacute medical care. The survey, which is to be validated by an outside consultant, is scheduled for completion at the end of February 2002. Once this survey is complete, the Youth Authority maintains that it will have a better idea of whether its current plan will provide the necessary beds. According to the Youth Authority, if the number of wards requiring a CTC bed is close to the Youth Authority's current estimate, then licensing more facilities than is already planned will not be necessary. However, if the survey determines that the number is higher than estimated, the Youth Authority will need to revise the plan. Since the survey had not been completed at the time this analysis was prepared, it is too early to determine whether the current action plan will be adequate to serve the entire Youth Authority population.

Analyst's Recommendation. We recommend that the Youth Authority report at budget hearings on the completed survey, and whether the current action plan will be adequate to serve its population. If the survey indicates that the number of wards that require these services is higher than expected, then the Youth Authority should report on how it plans to accommodate the larger population.

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 Governor's budget proposes total expenditures of \$265 million for OCJP in 2002-03, including \$72.4 million from the General Fund. The total budget reflects a net decrease of \$52 million, or about 16 percent, below estimated current-year expenditures. Despite this overall decrease, the Governor's budget proposes to maintain significant local assistance programs such as the Gang Violence Suppression Program at previous levels of funding. We discuss this issue in more detail below.

Gang Violence Suppression Program Needs Review

We recommend that the Legislature adopt supplemental report language requiring the Office of Criminal Justice Planning to conduct an outcome evaluation of the Gang Violence Suppression Program and to report its findings as well as steps it is taking to ensure that grantees submit accurate data by January 10, 2003.

Background. Chapter 1030, Statutes of 1981 (AB 788, Martinez) established the Gang Violence Suppression Program. Under existing law, the OCJP administers the program by providing grants and technical assistance to local agencies to reduce gang violence. There are five components to the program; prosecution, law enforcement, probation, prevention, and education.

The prevention component trains school personnel in gang awareness, gang suppression, and gang prevention strategies. The law enforcement component enhances police and sheriff departments efforts to investigate and arrest identified gang members. The probation component establishes an

intensive supervision unit for gang members on probation. District attorneys' offices provide "vertical prosecution" of gang members whereby one attorney follows the case throughout the court process.

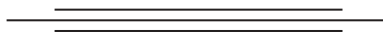
Budget Request. The Governor's budget requests \$5.6 million for the Gang Violence Suppression Program which includes \$4.6 million from the General Fund and \$1 million in federal funds. Since 1991, OCJP has provided more than \$57 million for this program including \$48.6 million from the General Fund and \$9.1 million in federal funds.

Overall Reductions in Gang Violence Not Demonstrated. The OCJP has administered the Gang Violence Suppression Program since 1984, but cannot provide information on the program's effectiveness. For example, OCJP could not provide information on conviction rates in the counties that received funds for prosecutions nor could it provide information on the change in gang related crimes in schools that receive these funds. Finally, we would note that OCJP was unable to show that funds were awarded to the communities that could benefit the most from this program. For example, OCJP could not demonstrate that its grantees have higher rates of gang violence than other communities in the state. Without this information, the Legislature can have no assurance that the funds are being used in the most effective manner.

Information from Grantees Inadequate. Under the program, grantees are required to submit information to justify continued funding. According to OCJP, this information is inaccurate. Based upon our review of information provided by OCJP, we estimate that out of 54 Gang Violence Suppression grantees reviewed, 67 percent were reporting inaccurate information. These grantees were either over-reporting, under-reporting, or unable to provide documentation to verify their numbers.

Analyst's Recommendation. For these reasons we recommend that the Legislature adopt supplemental report language requiring OCJP to conduct an outcome evaluation for the Gang Violence Suppression Program and report its findings to the Legislature by January 10, 2003. We further recommend that OCJP report on steps it is taking to ensure that data submitted by grantees is accurate and that source documentation is available. We believe that these activities can be absorbed by existing staff in OCJP's evaluation unit.

Recent Trends in Gang-Related Violence. A 1998 report released by the California Department of Justice indicates that gang related homicides have been declining. The reasons for this decrease are unknown. An outcome evaluation of the Gang Violence Suppression Program would help determine whether this program, or programs of similar design, have contributed to this decline.



PAYMENT TO COUNTIES FOR COSTS OF HOMICIDE TRIALS (8180)

The state provides reimbursement to counties for the costs of conducting homicide trials. Under current law, a county may apply to the State Controller for reimbursement of certain costs of homicide trials and hearings. For most counties, the maximum amount that the county may be reimbursed is based on the county population, the assessed value of property within the county, and the number of homicide trials conducted during the fiscal year. Chapter 127, Statutes of 2000 (AB 2866, Migden), provides for 100 percent reimbursement of homicide trial costs in certain counties. Shasta, San Luis Obispo, and Placer Counties are currently being reimbursed under this statute. Reimbursement for local homicide trials is paid out of the state General Fund. The Governor's budget proposes \$7.5 million for this purpose in 2002-03.

Homicide Trial Reimbursement Overbudgeted

We recommend a reduction of \$3 million in the amount budgeted to reimburse counties for the costs of homicide trials because there is no justification for the level of funding proposed for the budget year. (Reduce Item 8180-101-0001 by \$3 million).

As indicated above, the budget provides \$7.5 million from the General Fund to reimburse counties for costs related to homicide trials and hearings. However, based on historical expenditure experience we believe this amount is overbudgeted. The budget has recently overestimated the amount needed to reimburse counties. In the past three years (1998-99 through 2000-01), actual reimbursements have declined from 55 percent to 16 percent of the amount appropriated. For 2001-02, the budget act provided \$7.5 million. To date, counties have applied for reimbursements totaling \$3.9 million including advance payments for trials that have yet to take place. The Department of Finance has not provided a justification

for maintaining the higher level included in the proposed budget for 2002-03. Given historical expenditures, we recommend a reduction of \$3 million for the budget year.

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MILITARY DEPARTMENT (8940)

The Military Department is responsible for the command and management of the California Army, Air National Guard, and four other related programs. To support the operations of a force of 23,000, the department maintains a headquarters complex in Sacramento, 127 armories, 33 equipment maintenance facilities, and 10 air bases throughout the state.

The missions of the National Guard are to provide combat-ready forces to the federal government at the direction of the President, to contribute emergency public safety support at the direction of the Governor, and to otherwise assist the community as directed.

The *2002-03 Governor's Budget* proposes departmental expenditures of \$560 million. Of that sum, \$521.7 million would come from the federal government, although only \$57.6 million in federal funds would be appropriated through the budget bill. The remainder of the federal funds are allocated directly to the National Guard by the federal government. The budget bill also authorizes \$34.3 million from the state General Fund, a decrease of \$7.8 million, or 19 percent, in the budget year. The balance of the request (\$4 million) is from reimbursements and a special fund.

Legislation Proposed to Change Turning Point Academy Eligibility Criteria

We withhold recommendation on the \$2.9 million budgeted for the Turning Point Academy pending our review of the administration's proposed legislation to expand the eligibility criteria.

Background. The Turning Point Academy (TPA) is a residential military academy at Camp San Luis Obispo for juvenile offenders found to have committed an offense at school for which expulsion is mandatory ("zero-tolerance" offenses). The academy was established by Chapter 366, Statutes of 2000 (SB 1542, Schiff), to test the effectiveness of boot camps at turning juveniles around who seem headed for a life of delinquency.

Enrollment in the TPA has continually fallen below projected levels. The academy was originally expected to enroll 360 cadets. In its second year of operation, the current year, the academy hoped to enroll 160 cadets for the entire year. However, to date, only 6 are currently enrolled.

The lower than expected enrollment is due to strict admittance criteria. In order to be admitted, cadets must be 15 or older, have no prior offenses, no mental illness or sexual problems, and be expelled from school for a firearms-related offense. In 1999-00, the latest year for which there is data available, there were only 154 students who were expelled for a firearms-related offense. We would also note that the number of expulsions for firearms-related offenses has decreased significantly since the Department of Education began collecting these data in 1997-98 suggesting a shrinking pool of candidates.

Budget Year Uncertain. The Governor's budget proposes \$2.9 million for an expected capacity of 15 cadets for each six-month period (30 total for the year). In addition, the administration is proposing budget trailer bill language to expand the admittance criteria for the TPA. At the time this analysis was prepared, the language for the proposed legislation was not available. As such, we cannot determine the level of resources necessary to fund the academy in the budget year.

Analyst's Recommendation. We withhold recommendation on the \$2.9 million budgeted for the TPA pending a review of the language in proposed legislation to expand the eligibility criteria.

Federal Funding for Bridge Security Not Yet Available

We withhold recommendation on the \$6 million requested in federal funds to support stationing National Guard soldiers at four California bridges because no specific federal fund source has been identified.

In response to the terrorist attacks on September 11, 2001, the Governor placed National Guard soldiers to provide security on four California bridges. To date, this mission has been supported by the General Fund. The Governor's budget requests \$6 million in federal funds to continue the bridge security activities in the budget year.

Although there are indications at the federal level that some funding may be available to state and local governments for the costs of security in the wake of the attacks, it is not yet clear what the funding may support or the amount of the allocation available to the state. While we do not have policy concerns with the Governor's proposal, we withhold recommendation on the \$6 million requested in federal funds until a specific funding source for bridge security becomes available.

FINDINGS AND RECOMMENDATIONS

Judiciary and Criminal Justice

Analysis
Page

Trial Court Funding

- D-15 ■ **Update on Court Facilities: Implementation Plan Needed.** Recommend Judicial Council report at budget hearings on status of implementation plan for transfer of court facilities to state.
- D-17 ■ **Court Interpreter Request Not Justified. Reduce Item 0450-101-0001 by \$2.3 Million.** Recommend the Legislature deny augmentation of the Court Interpreters program because the Judicial Council has not provided sufficient information to justify increased workload.
- D-18 ■ **Fee and Assessment Increases May Not Generate Projected Revenues.** The Governor's budget assumes that increasing civil filing fees and criminal fines by 10 percent and 20 percent, respectively, will generate \$61 million in General Fund revenue. There is considerable uncertainty regarding this assumption given the level of local discretion in setting criminal fines, and past shortfalls in civil filing fee revenue.

Department of Justice

- D-21 ■ **Division of Gambling Control Is Slow in Processing Tribal Applications of Key Personnel.** Recommend enactment of legislation requiring the division to complete the background reviews for tribal license applications within 180 days. Background reviews not completed within the 180 days should be forwarded to the Gambling Control Commission with an explanation as to why the review has not been completed.

Analysis**Page**

- D-22 ■ **Feasibility Study Report Must Complete Review Process.** Withhold recommendation on \$1.3 million and two permanent positions for the division and \$73,000 for the California Gambling Control Commission (including \$58,000 in Item 0855-001-0367 and \$15,000 in Item 0855-001-0567) for the License 2000 database project until the Department of Information Technology and the Department of Finance have completed their reviews of the project's feasibility study report.

Department of Corrections

- D-25 ■ **Inmate Population Projected to Drop Then Stabilize.** In a major shift from the prison growth experienced in the past two decades, the California Department of Corrections (CDC) is projecting that the prison population will decline in the current year and stabilize for a few years before resuming its gradual climb upward.
- D-30 ■ **Caseload May Require Further Adjustment.** We withhold recommendation on the 2002-03 budget request for caseload funding. Although more recent data indicate that population is trending slightly higher than the CDC projection, we see no reason to adjust the budget request at this time. We will continue to monitor the caseload and recommend further changes, if necessary, following our review of the May Revision.
- D-31 ■ **2002-03 Inmate Housing Plan.** We withhold recommendation on the CDC's inmate housing plan because the inmate population is trending slightly higher than projected, thus making the housing plan obsolete. We anticipate the CDC will revise the housing plan at the time of the May Revision.
- D-32 ■ **Increased Federal Funds Assumption Presents Fiscal Risk.** The Governor's budget assumes that the state will receive an additional \$50 million from the federal government for the costs of incarcerating undocumented felons. There is considerable uncertainty regarding this assumption given prior funding levels from the federal government.

Analysis

Page

- D-32 ■ **Deactivation Savings Overstated.** The budget proposes to deactivate five community correctional facilities and 425 community correctional reentry center beds for a net savings of \$8.5 million. Our review finds that these savings are overstated by \$4 million because the estimate is based on a current year rather than a budget year estimate of costs.
- D-33 ■ **Budget Deficiencies Likely to Continue.** We recommend that CDC report prior to budget hearings on its efforts to address its structural budget problems, and how these problems will impact the department’s revised budget for 2001-02 and the proposed budget for 2002-03. We further recommend that the department be required to provide, at the time of the May Revision, a detailed analysis of the fiscal impact of the new Memorandum of Understanding between the state and Bargaining Unit 6.
- D-35 ■ **State Can Close Women’s Prison.** The decline in the female inmate population provides the state the opportunity to close one of the women’s prisons. We recommend that CDC report at budget hearings on the feasibility and costs and benefits of closing the Northern California Women’s Facility, as well as on other potential current and future uses for the prison facility in the event it were closed.
- D-39 ■ **Hospital Caseload Probably Overbudgeted. Reduce Item 5240-001-0001 by \$7.5 million.** We recommend that the Legislature reduce the Department of Corrections (CDC) General Fund budget by \$7.1 million because it is likely to use fewer beds than projected in state mental hospitals operated by the Department of Mental Health. We further recommend denial of a \$427,000 General Fund augmentation to CDC for additional security at Patton State Hospital because a slowdown in hospital population growth means that these additional beds are not needed in 2002-03. Finally, we recommend that the CDC budget be adjusted if activation of a new mental health facility at Salinas Valley State Prison is delayed.

Analysis**Page****Board of Corrections**

- D-40 ■ **CLEAR Program. Reduce Item 5430-128-0001 by \$3 million.** Recommend deletion of \$3 million requested from the General Fund for the Community Law Enforcement and Recovery (CLEAR) program because the results of the program evaluation are inconclusive and the state has no fiscal oversight of program expenditures. Furthermore, other state funding sources can be used for this program.

Department of the Youth Authority

- D-46 ■ **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 6,100 and then increase somewhat to 6,400 wards in 2005-06. Youth Authority parole populations are expected to decline in the budget year to 4,290 and continue to decline to 3,990 parolees in 2005-06.
- D-46 ■ **Ward and Parolee Population Projections Will Be Updated in May.** Withhold recommendation on a \$7.3 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.
- D-48 ■ **Adjust County Fees for Inflation. Reduce Item 5460-001-0001 by \$9 million.** Recommend annually adjusting the fees counties pay for sending their juvenile offenders to the Youth Authority for the effects of inflation. The adjustment would maintain the fiscal incentive for counties to send their most serious juvenile offenders to the Youth Authority. We estimate that the state could save \$9 million in 2002-03.
- D-50 ■ **Appellate Court Rules Youth Authority Must License Medical Facilities.** Recommend that the Youth Authority report at budget hearings on the survey of wards requiring acute and subacute psychiatric care as well as subacute medical care. Further recommend that the Youth Authority report at hearings on a revised action plan if the survey indicates that the current plan will not be adequate to serve the population.

Analysis

Page

Office of Criminal Justice Planning

- D-53 ■ **Gang Violence Suppression Program Needs Review.** Recommend that the Legislature adopt supplemental report language requiring the Office of Criminal Justice Planning to conduct an outcome evaluation of the Gang Violence Suppression Program and to report its findings as well as steps it is taking to ensure that grantees submit accurate data by January 10, 2003.

Payment to Counties for Costs of Homicide Trials

- D-55 ■ **Homicide Trial Reimbursement Overbudgeted. Reduce Item 8180-101-0001 by \$3 Million.** Recommend a reduction of \$3 million in the amount budgeted to reimburse counties for the costs of homicide trials because there is no justification for the level of funding proposed for the budget year.

Military Department

- D-57 ■ **Legislation Proposed to Change Turning Point Academy Eligibility Criteria.** Withhold recommendation on the \$2.9 million proposed for the Turning Point Academy pending a review of the language in proposed legislation to expand the eligibility criteria.
- D-58 ■ **Federal Funding for Bridge Security Not Yet Available.** Withhold recommendation on \$6 million requested in federal funds for National Guard bridge security activities pending identification of a federal fund source.

