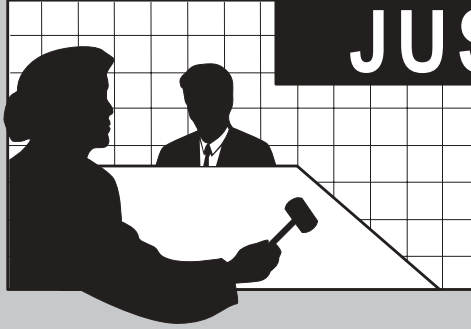


JUDICIARY & CRIMINAL JUSTICE



60 YEARS OF SERVICE

2003-04 Analysis

MAJOR ISSUES

Judiciary and Criminal Justice



Elderly Inmates Two to Three Times More Expensive, Yet Less Risky

- Research shows that elderly state inmates are two to three times as costly to incarcerate as younger inmates. Yet, elderly offenders are less likely to re-offend and have greater success on parole. Accordingly, we recommend the Legislature adopt trailer bill language requiring that nonviolent elderly inmates be released early to parole. We estimate this would generate savings of \$9 million in the budget year (see page D-36).



Work Credits Earn Inmates Early Release

- Inmates who are being processed in reception centers and who are unassigned to a full-time work or education program due to a shortage of slots earn less than the maximum level of work credits. Allowing these inmates to earn day-for-day work credit, instead of the one-day-for two days participation they currently earn, would save the state \$70 million annually while reducing the sentence of approximately 29,000 inmates by only 27 days. We recommend enactment of legislation to adopt such a policy (see page D-42).



State Should Consolidate OCJP Programs In Other Departments

- Given Office of Criminal Justice Planning's (OCJP) poor performance in administering its programs, and the significant overlap of its mission and programs with those of other departments, we recommend that the programs of this office be shifted to other departments. This would improve

the efficiency and service delivery of state government, save \$1.5 million General Fund, and free-up \$3.7 million in federal funds for other programs (see page D-67).



Youth Authority Releases Plan to Close Three Institutions By 2005-06

- In response to legislative direction, the Youth Authority has submitted a plan to close the following three institutions by the end of 2005-06; the male portion of the Ventura Youth Correctional Facility and the DeWitt Nelson Facility (in Stockton) by the end of the budget year, and the Fred C. Nelles Youth Correctional Facility (in Whittier) by the end of 2005-06. We recommend that the Youth Authority report at budget hearings on the timeframe for implementation of each of the closures and the feasibility of closing Fred C. Nelles prior to DeWitt Nelson (see page D-52).



Court Security Proposal a Funding Swap, Not Realignment

- The Governor's budget proposes to "realign" \$300 million in court security costs. This proposal does not constitute a realignment of responsibilities and control over court security. Rather, it is a swap of sales tax revenue for General Fund support. We recommend that the Legislature exclude this component from the Governor's realignment proposal (see pages D-15 of this *Analysis* and Part V of *The 2003-04 Budget: Perspectives and Issues*).



Court Security Flexibility Proposal Does Not Go Far Enough

- The Governor's budget proposes to allow courts to competitively contract with local sheriff's department, local police departments, or the California Highway Patrol (CHP) for court security. While we agree with the need for increased flexibility in the provision of court security, we recommend that the proposal be amended to *require* the courts to contract on a competitive basis, and to allow them to contract with private security providers, as well as local police, sheriffs, and the CHP (see page D-17).

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OVERVIEW

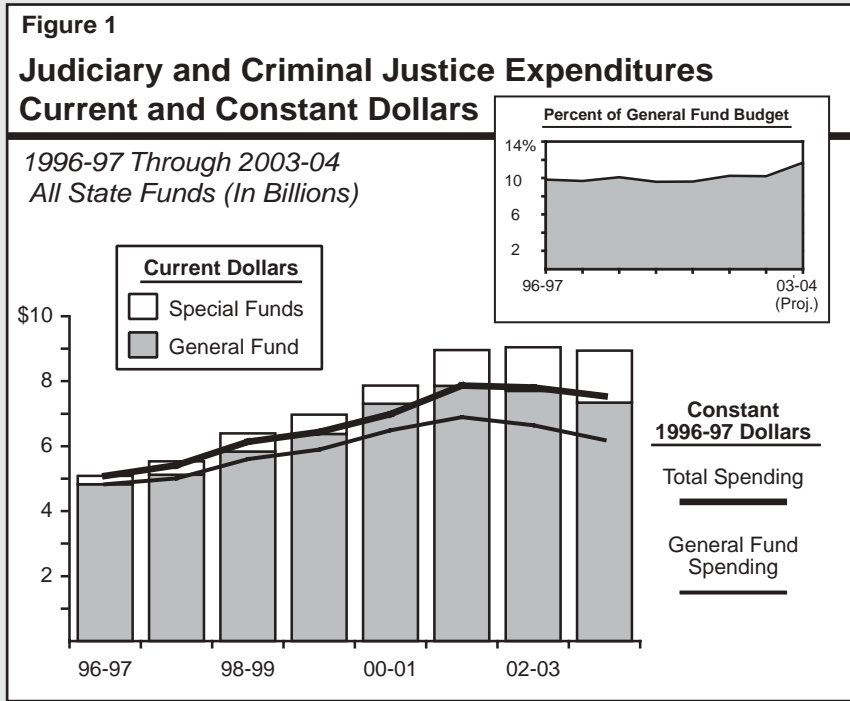
Judiciary and Criminal Justice

General Fund expenditures for judiciary and criminal justice programs are proposed to decrease by 4.7 percent in the budget year. This net decrease reflects (1) a proposed shift of funding for trial court activities from the General Fund to new sales and use tax revenues, (2) unallocated reductions in judicial and trial court funding, and (3) reductions in departmental operating expense and equipment funding, and the elimination of vacant positions.

EXPENDITURE PROPOSAL AND TRENDS

Budget Year. The budget proposes total General Fund expenditures of \$7.3 billion for judiciary and criminal justice programs, which is a decrease of \$363 million, or 4.7 percent, below estimated current-year spending. This overall decrease consists of General Fund increases in some areas and General Fund decreases in other areas. However, it is largely driven by General Fund reductions in judiciary programs, including most notably the Governor's proposal to shift trial court security costs from the General Fund to newly proposed sales and use tax revenues as part of a realignment proposal, and unallocated reductions in the budget for the judiciary.

Historical Trend. Figure 1 (see next page) shows expenditures from all state funds for judiciary and criminal justice programs since 1996-97. Expenditures for 1996-97 through 2003-04 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 \$3.8 billion since 1996-97, representing an average annual increase of 8.5 percent. The judiciary and criminal justice share of the General Fund budget is projected to reach 11.7 percent in 2003-04, its highest level during the past ten years. This, in part, reflects General Fund reductions in other areas of the budget.



SPENDING BY MAJOR PROGRAM

Figure 2 shows expenditures from all sources for the major judiciary and criminal justice programs in 2001-02, 2002-03, and as proposed for 2003-04. As the figure shows, the California Department of Corrections (CDC) accounts for the largest share of total spending in the criminal justice area, followed by Trial Court Funding. This figure also shows the significant shift in funding for the courts from the General Fund to special funds.

MAJOR BUDGET CHANGES

Figure 3 (see page 11) presents the major budget changes for judiciary and criminal justice programs. These and other changes are described below.

Inmate Population and Workers' Compensation Drive Significant Increases. The budget provides full funding for the projected inmate and ward populations. The CDC forecasts a 2 percent increase (3,140 inmates) in 2003-04 compared to its spring 2002 projection, resulting in a budget

Figure 2

Judiciary and Criminal Justice Budget Summary

2001-02 Through 2003-04
(Dollars in Millions)

	Actual 2001-02	Estimated 2002-03	Proposed 2003-04	Change From 2002-03	
				Amount	Percent
Department of Corrections					
General Fund	\$4,934.7	\$5,096.0	\$5,149.2	\$53.2	1.0%
Special funds	47.1	47.5	51.0	3.5	7.4
Reimbursements and federal funds	104.7	92.9	76.4	-16.5	-17.8
Totals	\$5,086.5	\$5,236.4	\$5,276.6	\$40.2	0.8%
Department of the Youth Authority					
General Fund	\$357.8	\$354.6	\$336.8	-\$17.8	-5.0%
Bond funds and special funds	0.8	0.6	0.5	-0.1	-16.7
Reimbursements and federal funds	75.1	71.0	76.7	5.7	8.0
Totals	\$433.7	\$426.2	\$414.0	-\$12.2	-2.9%
Federal Offset for Undocumented Felons					
	-\$158.3	-\$154.5	-\$154.5	—	0.0%
Trial Court Funding					
General Fund	\$1,196.8	\$1,092.4	\$791.1	-\$301.3	-27.6%
Special funds	405.8	641.8	937.8	296.0	46.1
County contribution	475.1	475.1	475.1	—	—
Totals	\$2,077.7	\$2,209.3	\$2,204.0	-\$5.3	-0.2%
Judicial					
General Fund	\$290.7	\$289.1	\$289.4	\$0.3	0.1%
Other funds and reimbursements	49.1	56.2	55.4	-0.8	-1.4
Totals	\$339.8	\$345.3	\$344.8	-\$0.5	-0.1%
Department of Justice					
General Fund	\$336.4	\$316.4	\$302.0	-\$14.4	-4.6%
Special funds	120.5	138.3	137.3	-1.0	-0.7
Federal funds	36.8	29.8	27.2	-2.6	-8.7
Reimbursements	122.6	153.3	140.2	-13.1	-8.6
Totals	\$616.3	\$637.8	\$606.7	-\$31.1	-4.9%

augmentation of approximately \$101 million. The Youth Authority projects a 2 percent decrease (90 wards) compared to the earlier forecast, resulting in minor savings. The budget provides funds for the increased costs of housing additional inmates in the CDC. In addition, for the third consecutive year the budget provides significant increased funding of \$115 million for CDC workers' compensation costs.

Courts Hit by Largest Unallocated Reduction in Budget, and Must Absorb Major Cost Increases. The budget proposes unallocated reductions of \$116 million for the trial courts and \$17.7 million for the judicial branch, which includes the Supreme Court, Courts of Appeal, and the Habeas Corpus Resource Center. In addition, there are significant court costs that do not appear to be included in the proposed budget, such as negotiated salary increases for court employees, and increased county charges for services they provide to the courts. Under the Governor's proposal, the courts would need to absorb these costs in addition to the proposed reductions.

Courts Becoming Increasingly Reliant Upon Special Funds. Under the Governor's proposal, special funds (excluding the county contribution) represent the single largest share of Trial Court Funding (see Figure 2). For the first time in many years, fees are proposed to exceed the General Fund share of the Trial Court Funding budget. The primary sources of these funds are fees and penalties, such as the civil filing fee, trial motion fee, and criminal penalties. These special funds have grown from approximately 19.5 percent of court funding in 2001-02 to an estimated 42.6 percent in 2003-04. This growth is the result of fee and penalty increases included in the *2002-03 Budget Act*, as well as proposed budget-year increases in fees. For the budget year, the Governor proposes to increase the existing trial motion fee from \$23 to \$33, establish a new court security fee, and transfer "undesignated fees" from the county to the courts to offset General Fund reductions. In addition, the Governor proposes to shift \$300 million in court security costs from the General Fund to newly proposed realignment sales tax revenues. In the judicial budget, the Governor proposes to increase the appellate filing fee from \$265 to \$630.

Local Law Enforcement Programs Fully Funded. The Governor's budget provides \$316.5 million (General Fund) to fully fund local law enforcement programs, including \$232 million for Citizens' Option for Public Safety and juvenile justice grants, \$51 million for high technology crime programs, \$15 million for the War on Methamphetamine program, and \$18.5 million for the Rural and Small County Law Enforcement Assistance program.

Figure 3

Judiciary and Criminal Justice Proposed Major Changes for 2003-04 All Funds

Department of Corrections	Requested:	\$5.2 billion	
	Increase:	\$40 million	(+0.8%)

- \$46 million for inmate academic and vocational programs
 - \$22 million resulting from elimination of vacant positions
 - \$10 million from temporary closure of women's prison, which is proposed to be converted to a male prison in 2004-05
-
- + \$101 million for inmate population growth
 - + \$115 million for increase in workers' compensation

Trial Court Funding	Requested:	\$2.2 billion	
	Decrease:	\$5 million	(-0.2%)

- \$300 million for court security shifted from General Fund
 - \$116 million from unallocated reduction
 - \$66 million from General Fund shift to user fees
 - \$37 million from implementing electronic reporting
-
- + \$14 million for various trial court needs/health benefit costs
 - + \$20 million for court staff retirement

Department of Justice	Requested:	\$607 million	
	Decrease:	\$31 million	(-4.9%)

- \$24 million from state operations reductions
-
- + \$25 million for various litigation

The Budget Assumes Continuation of Federal Funds. The budget assumes the state will receive \$154 million in federal State Criminal Alien Assistance Program (SCAAP) reimbursement. This is \$50 million less than assumed in the *2002-03 Budget Act*, and is consistent with prior-year receipts. Nonetheless, it continues to be a risky assumption since the President proposed to eliminate the SCAAP in 2002 and Congress has not included funding for the program in any of its pending continuing resolution bills. At the time this analysis was prepared, the state had not yet received SCAAP funding for the current year.

DEPARTMENTAL ISSUES

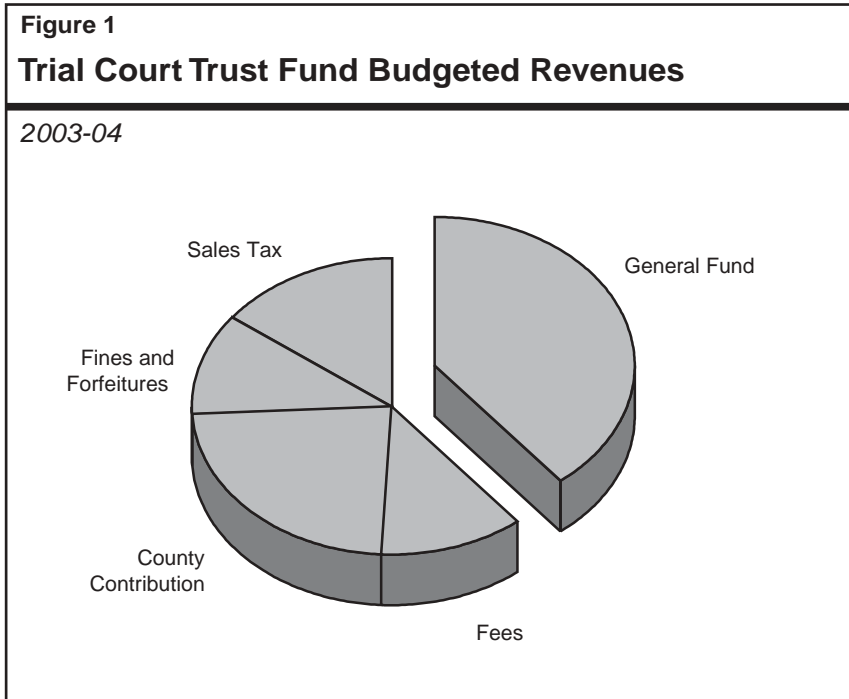
Judiciary and Criminal Justice

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 8.1 million cases were filed in the trial courts, at some 400 court locations throughout the state during 2000-01 (most recent data available), and just over 13,000 trials were conducted. The Trial Court Trust Fund is the main funding source for trial court activities.

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 obligations for court operations. Figure 1 (see next page) shows the sources of revenue for the Trial Court Trust Fund.

Proposed Spending. The budget proposes total expenditures in 2003-04 of \$2.2 billion for support of the Trial Court Funding program, a decrease of \$5.2 million, or 0.2 percent, compared to estimated current-year expenditures. General Fund support would decrease by \$301.3 mil-



lion bringing the total proposed General Fund expenditures to \$791.1 million. Figure 2 shows expenditures for the trial courts in past, current, and budget years.

Significant changes in the Governor's proposed budget for Trial Court Funding include the following which are discussed in greater detail later in this *Analysis*.

- **Court Security—\$300 Million.** This proposal would shift \$300 million in court security costs from the General Fund to a proposed sales tax revenue increase as part of the realignment proposal.
- **Unallocated Reduction—\$116 Million.** The budget proposes an unallocated reduction of \$116 million. Under this proposal, the Judicial Council would decide how these reductions are allocated to the courts.
- **New and Increased Fees—\$66.2 Million.** This proposal would shift \$66.2 million in trial court costs from the General Fund to various fees, including a new security fee of \$20 imposed on all civil filings and criminal penalties (\$34 million), and an increase in the trial motion fee from \$23 to \$33 (\$1.2 million). In addition,

Figure 2
Trial Court Funding Program

(In Millions)

	Actual 2001-02	Estimated 2002-03	Proposed 2003-04
Trial court operations	\$1,792.7	\$1,946.4	\$2,004.8
Superior Court judges salaries	204.4	218.6	226.6
Assigned judges	20.1	20.6	20.6
Court interpreters	60.5	59.7	68.0
Unallocated reduction	—	-36.0	-116.0
Totals	\$2,077.7	\$2,209.3	\$2,204.0

the budget proposes to transfer various “undesigned fees” from the counties to the courts (\$31 million).

- **Electronic Recording—\$36.5 Million.** The budget proposes to save \$36.5 million by implementing electronic recording of court proceedings (\$31 million) and through court ownership of transcripts (\$5.5 million).

Proposed Augmentations. The 2003-04 Governor’s Budget proposes \$75.2 million in augmentations, including \$32.6 million for court security, \$14.3 million for court staff health benefit costs, \$19.9 million for court staff retirement, \$4.5 million for court interpreter services, and \$3.9 million for implementation of the Court Interpreter Employee and Labor Relation Act.

COURT SECURITY “REALIGNMENT”

Background

Current law requires trial courts to contract with their local sheriff’s department for court security. Courts have little opportunity to influence either the level of security to be provided or the salaries of those security officers, but are expected to pay the full amount of each. In most cases, the county sheriff determines the minimum level of security required in a court facility. In addition, the county board of supervisors negotiates the level of salaries and benefits with the sheriff.

Figure 3 (see next page) illustrates the growth in court security costs for the period 1999-00 through 2003-04. As the figure shows, court secu-

rity costs have grown rapidly, going from \$263 million in 1999-00 to an estimated \$356 million in 2003-04. (The Governor's budget provides a lower amount of \$334 million because of assumed savings resulting from the court security proposal.) It is important to note that the 2003-04 amount will increase as salary increases are negotiated throughout the year. According to Judicial Council staff, the growth in sheriff negotiated salary increases has primarily driven the increase in court security costs over this period. Assuming court security costs continue to grow at an average annual rate of about 8 percent, we estimate court security costs will reach \$521 million by 2007-08, or 54 percent, above estimated budget-year expenditures.

Figure 3		
Trial Court Security Costs		
<i>(Dollars in Millions)</i>		
Year	Costs	Increase
1999-00	\$263	—
2000-01	273	4.0%
2001-02	299	9.3
2002-03	330	10.5
2003-04	356	7.9
Average Annual Increase		7.9%

The Budget Proposal. As part of the administration's realignment proposal, the budget proposes to (1) shift \$300 million in court security costs from the General Fund to the new realignment revenues, and (2) allow the trial courts to contract with "various sworn law enforcement agencies for court security." Based on discussions with Department of Finance (DOF) staff, it is our understanding that the intent of the latter proposed change is to allow the courts to contract with the sheriff, local police departments, or the California Highway Patrol (CHP). The budget assumes this new flexibility will result in budget year savings of \$22 million.

Concerns With Governor's Court Security Realignment Proposal

As part of a larger realignment of health and social services programs, the Governor's budget proposes to shift funding for court security from the General Fund to a portion of a new sales tax levy. The Governor's court security realignment proposal does not constitute a realignment of responsibilities and control over court security, rather, it

is a funding source swap. Accordingly, we recommend that the Legislature exclude this component from the Governor's realignment proposal.

Court Security Proposal Is a Swap, Not Realignment. According to the administration, its court security realignment proposal is consistent with the principles of the 1991 State-Local Program Realignment. The basic idea of state-local realignment is to transfer program responsibility and control to the appropriate level of government along with adequate revenue sources. Such a realignment is intended to increase efficiencies, improve service delivery, and foster innovation.

Based on our review of the Governor's court security proposal, we do not believe that this proposal constitutes program realignment. Under the Governor's proposal, Trial Court Funding would remain a state program, and program responsibility and control is not being realigned from one level of government to another. Rather, the proposal is simply to substitute a new revenue source intended for local government (proceeds from a 1 percent increase in sales tax) for the current General Fund support for trial court security. In doing so, it blurs the lines of responsibility for Trial Court Funding and runs counter to the direction in which the Legislature was moving this program. Although the proposal attempts to increase cost efficiency by giving courts flexibility to contract with sworn law enforcement agencies, this could be done absent realignment or the proposed shift of court security costs from the General Fund to a new funding source.

In view of the above, we recommend that the Legislature reject this aspect of the Governor's realignment proposal. For further discussion of the entire realignment proposal, please see "Part V" of *The 2003-04 Budget: Perspectives and Issues*.

Court Security Flexibility Proposal Has Merit, But Does Not Go Far Enough

While we agree with the need for increased court flexibility with regard to the management of court security, we do not think the Governor's proposal goes far enough. We recommend the Legislature amend the proposed trailer bill language to (1) require courts to contract for court security on a competitive bid basis, and (2) allow courts to contract with local sheriffs, police, California Highway Patrol, and private security.

The Governor's budget proposes trailer bill language that seeks to increase cost efficiency in the provision of court security by allowing courts to enter into contracts for court security based upon a competitive bid process. Based on discussions with the DOF, it is our understanding that

the proposal would allow the courts to contract with local sheriffs departments, local police departments, or the CHP for court security services. The budget assumes General Fund savings of \$22 million in 2003-04 because of this increased flexibility.

No Information on How Savings Were Estimated. Our analysis indicates this proposal could potentially result in savings if the courts are permitted to contract for security services on a competitive bid basis. However, at the time this analysis was prepared, Judicial Council could not provide information as to how the \$22 million savings was estimated.

State Could Save Millions More on Court Security. We believe that allowing courts to contract with private security companies, the CHP, as well as local law enforcement agencies would likely increase state savings. Figure 4 illustrates the potential savings under three scenarios using the Los Angeles Superior Court as an example. As the figure shows, the potential savings from using private security in this county could range from \$15 million to \$74 million depending on the level of contracting with private security. The savings reflect lower private security salaries as compared to sheriff salaries.

Figure 4				
Example: Los Angeles Superior Court Security				
<i>(Dollars in Millions)</i>				
Security Provided by:	Budget		Savings	
	Existing Law	Contract Option	Dollars ^a	Percent ^a
Scenario 1: Sheriff only	\$104		—	—
Scenario 2: 50 percent Sheriff/ 50 percent private^b		\$89	\$15	14%
Scenario 3: 100 percent private		30	74	71

^a Compared with existing law.

^b All security except courtroom bailiffs are private security.

Court Should Be Required to Use Competitive Bid Process. The Governor's budget proposes to *allow* courts to contract with local law enforcement agencies or the CHP to provide court security services. Because the state has assumed fiscal responsibility for Trial Court Funding, we think it is appropriate to *require* courts to contract for court security on a competitive bid basis. In addition, courts should be able to contract with private security when appropriate for court security. This would

greatly improve the state's ability to contain costs in this fast growing component of the trial court budget.

Analyst's Recommendation. We recommend the Legislature amend the proposed trailer bill language to (1) require courts to contract for court security on a competitive basis, and (2) allow courts to contract with local law enforcement, the CHP, as well as private security. This would give the state a greater ability to contain court costs, and would likely result in greater savings in the budget year and beyond.

OTHER TRIAL COURT FUNDING ISSUES

New Court Security Fee Raises Concerns

We recommend that the Judicial Council report at the time of budget hearings on how the court security fee will be implemented, and the potential impact this will have on access to the civil courts, as well as other state and local programs.

The Proposal. The budget proposes to establish a new court security fee of \$20. According to the DOF, this new \$20 fee will be levied on civil filings, as well as criminal fines. It is estimated that the court security fee will generate \$34 million in 2003-04. We have several concerns with the proposal.

Not All Fee Payers Are Beneficiaries of Court Security Services. According to Judicial Council staff, the revenue from the court security fee would be used to cover court security costs that are not included within the Governor's realignment proposal. The security fee would be levied on criminal infractions, which are largely traffic tickets. Fees generated from criminal infractions make up most of the revenue in the Governor's proposal. Most people pay these fines before a hearing. In fact, many individuals pay traffic tickets through the mail, and have no need to go to court. Under the Governor's proposal, these individuals would be charged a fee for a service they are not using.

New Fee May Reduce Civil Court Access for Some. Last year, as part of the *2002-03 Budget Act*, the Governor and Legislature increased the civil filing fee by 10 percent, and criminal penalties by 20 percent. In our view, the proposed new "court security fee," equates to a second consecutive increase in the civil filing fee and criminal penalties, bringing the total increase over the two-year period to 20 percent for the civil filing fee, and up to 36 percent for criminal penalties. This is because, under the Governor's proposal, the court security fee would be collected at the same time as the civil filing fee, and as a supplement to criminal penalties (mainly traffic tickets). As regards the civil filing fee, the proposed

increase, on top of the current-year fee increase, could make it difficult for some low-income Californians to access the courts.

New Fee Puts Other State and Local Programs At Risk. The state, counties, and the courts share criminal penalty revenues, with these revenues being disbursed first to the state, then to the counties, and finally to the courts. Based on discussions with Judicial Council, it is our understanding the new security fee would be taken “off the top” by the courts, thereby changing the current disbursement order established by the Legislature in the 2002-03 budget. This could put state and other local programs (including the courts) at risk for reduced funding to the extent that the higher fee results in fewer people paying traffic tickets, or results in more traffic tickets being challenged in courts and therefore reduced by the judge. The Legislature should consider the potential tradeoffs between court security and other programs when deciding whether or not to approve the proposed new fee.

At the state level, criminal penalty revenues support various programs including those funded by the Restitution Fund and State Penalty Fund, such as victim restitution, peace officer training, and corrections training. At the county level, these funds support a variety of county general fund programs and the maintenance of effort payment to the State Trial Court Trust Fund. Finally, a portion of the funds goes into the State Court Facilities Construction Fund for support of court facilities.

Analyst’s Recommendation. We recommend that the Judicial Council report at the time of budget hearings on how the court security fee will be implemented, and the potential impact this will likely have on access to the civil courts and other state and local programs.

Undesignated Fees: Important Step Forward, But Risky Estimate

We agree in concept with the Governor’s proposal to transfer undesignated fee revenue from the counties to the courts who incur the costs of providing the services for which the fee is paid. However, given the uncertainty of the \$31 million estimate of transferred fee revenues, we recommend Judicial Council report at budget hearings on the potential impact to the courts if the revenue falls short of the estimated \$31 million.

Governor’s Proposal. The Governor proposes to transfer \$31 million in undesignated fee revenue from the counties to the courts, and reduces the General Fund share of costs by the same amount.

Background. Chapter 850 shifted primary fiscal responsibility for support of the trial courts from the counties to the state. Chapter 850 and

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

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

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

The group identified and catalogued, by statute, all court-related fees not addressed in Chapter 850. The fees were placed in one of four categories. Three of the categories include fees in which the disposition of the fees (either state or counties) is clearly laid out in statute. The fourth category consists of revenues where the use or disposition is not specified. About 47 percent of the fees not addressed by Chapter 850 fall into this last category. There was a lack of information about (1) where fees in the fourth category are currently being deposited, with the trial courts or the counties; and (2) the total amount of fee revenues in question.

Bureau of State Audits Report. In response to an issue we raised in the *Analysis of the 2001-02 Budget Bill*, the Joint Legislative Audit Committee requested that the Bureau of State Audits (BSA) review a sample of superior courts to determine how much revenue is undesignated, which entities collect these revenues, and how the courts distribute them. In February 2002, the BSA reported that the superior courts' accounting and collection procedures impeded a precise and comprehensive calculation of undesignated fee revenues. It recommended that the Administrative Office of the Courts direct each superior court to identify the entity in its jurisdiction that incurs the cost of providing the service for which the fee is paid and distribute these fees back accordingly.

Judicial Council Survey. In mid 2002, Judicial Council surveyed the trial courts to determine the entity providing the services related to the undesignated fees, and the amount of revenue generated by these fees.

Based on the survey results, Judicial Council determined that 20 of the 41 undesignated fees are related to services for which the courts uni-

formly incur the cost. Of the remaining 21 undesignated fees, 20 are assessed on services provided by either the courts or the county. (The 41st fee is the small claims fee that is being addressed in separate legislation.) Accordingly, the Governor's budget proposes to transfer the revenue generated by the 20 undesignated fees, where the courts clearly incur the cost of providing the service, into the Trial Court Trust Fund. In addition, the proposal requires that the revenue generated from the remaining 20 fees be retained by either the county or the court, whomever incurs the cost of providing the service.

Concept Makes Sense, but Revenue Estimate Uncertain. We agree in concept with the Governor's proposal to transfer undesignated revenue from the counties to the courts, particularly where the court bears the cost of providing the service. However, our analysis indicates there is a high level of uncertainty in the estimate of \$31 million. Based on the survey, the Council estimated \$79 million in total revenue from undesignated fees. Of this amount, Judicial Council estimates there is \$31 million that the counties currently retain which should be transferred to the courts because they incur the cost of providing the service. In recognition of these additional resources being available to the courts, the Governor's budget proposes to reduce the General Fund share by a corresponding amount.

We raise two potential concerns regarding the estimated revenues from the undesignated fees. First, because a number of courts were unable to report their revenue from undesignated fees, the Council was forced to estimate the amount generated by those courts. Second, some courts have informal agreements with counties regarding the use of undesignated fee revenue. The actual amount that would be transferred to the Trial Court Trust Fund under the Governor's proposal depends on whether, and to what extent, courts maintain the agreements. The Judicial Council staff attempted to factor this into their methodology for estimating the fiscal impact of the budget proposal. However, Judicial Council staff indicate there is a high level of uncertainty regarding this aspect of the estimate. To the extent the revenue from the undesignated fees does not materialize, the courts will have to either reduce their budgets or the General Fund will have to backfill the shortfall. Basically, it may result in an additional unallocated reduction to the courts. For these reasons, we recommend Judicial Council report at budget hearings on the potential impact to the courts if the revenue falls short of the estimated \$31 million.

Electronic Reporting Has Merit, But More Detail Needed

We find that the Governor's proposal to implement electronic reporting in the trial courts has merit. However, there are a number of

implementation issues which need to be addressed. We recommend that the Judicial Council report at budget hearings on key issues relating to how the plan would be implemented.

Background. Current law requires the use of stenographers to report and transcribe the official record of most court proceedings. The courts currently employ approximately 1,866 court reporters (1,623 are court employees and the remainder are contract employees). Typically, the court reporter is the sole owner of all the equipment necessary to perform his/her duties, including the stenotype machine, computer aided software for transcription, and all the elements involved in producing the transcript. Also, for the most part, the court reporter transcribes the record on his/her own time, outside of the eight hour work day. For these reasons, the transcripts are “owned” by the court reporter and must be purchased by the court. The average cost per page for a transcription is \$2.34 for the first copy and \$0.41 for copies. In 2001-02, the state spent approximately \$173 million for court reporter salaries, and \$25 million to purchase court transcripts.

Governor’s Proposal. The Governor’s budget proposes trailer bill language that would give the courts the authority to use electronic reporting. It assumes savings of \$36.5 million in 2003-04, including \$31 million from allowing courts the flexibility to use audio electronic reporting in courtrooms, and \$5.5 million as a result of transferring ownership of the court record from the stenographic reporter to the courts. Electronic reporting involves the use of audio equipment to tape record court proceedings which are then transcribed to a transcript. “Transferring ownership” means that courts would no longer need to purchase transcripts from court reporters. The intent of these proposals is to give Judicial Council discretion in determining the method of taking down the verbatim record and producing the transcript.

Electronic Reporting Widely Used in Other States. Based on a survey by Judicial Council, 46 states currently take advantage of some form of electronic reporting. Most states use a combination of stenographic reporters and electronic reporting as opposed to exclusive use of electronic reporting. In conversations with four states (New Jersey, Indiana, Illinois, and Washington) that use electronic reporting, they all indicated that the transition was a gradual process initiated out of the desire to take advantage of a cost effective technology and/or the recognition of a shortage of reporters in their respective states. The State of Illinois allows judges the discretion in deciding how the record will be taken. The court representatives that we spoke to in these states indicated that the quality of the transcript is not compromised by the use of electronic reporting. We note that electronic reporting is also used in the federal court system, including the Federal District Court, Bankruptcy Court, and Court of Appeals.

Demonstration Project: Electronic Reporting Is Accurate and Cost-Effective. Chapter 373, Statutes of 1986 (AB 825, Harris), enacted a four-year demonstration project to assess the costs, benefits, and acceptability of using audio and video reporting of the record except in criminal or juvenile proceedings. This law also established an advisory committee and charged the committee, as well as Judicial Council, with reporting to the Legislature on their findings. Chapter 678, Statutes of 1989 (AB 1854, Speier), subsequently extended the project from 11 trial courts to 75 and extended the termination date three years, from January 1, 1991 to January 1, 1994.

Judicial Council submitted an evaluation report to the Legislature on the demonstration project concluding, "The use of electronic reporting as an alternative method to produce and preserve the verbatim court record has been successfully demonstrated in the current pilot project." The council found significant savings of \$28,000 per courtroom per year in using audio reporting, and \$42,000 per courtroom per year using video, as compared to using a court reporter. The savings are largely due to salary savings. Most important were the survey results from the users, judges, and attorneys. These surveys found that 98 percent of the users reported that the audio-tape was accurate, 97 percent reported that the transcript which emerged from the audio tape was delivered in a timely manner, and 92 percent reported that nothing of substance was omitted from the transcript. The advisory committee was divided on the use of electronic reporting, with half saying it was acceptable and should be used in all courtrooms and the other half saying its use should be limited to court hearings with no testimony.

Based on our review of other states and the demonstration project, we believe that electronic reporting is a reliable and cost-effective alternative to the system of court reporting currently used in California's trial courts. While we believe implementation of electronic reporting could result in savings, we are uncertain as to whether the Governor's proposal would result in savings in the budget year due to a lack of details as to how the proposal would be implemented.

Implementation Issues. At the time this analysis was prepared, Judicial Council staff had not worked out some of the details of how the Governor's proposal would be implemented. As regards the ownership of transcripts, we found that several important details of the proposal had not been worked out, including issues such as the type and amount of equipment and staff needed to take over production and management of the transcripts. Because the courts have not been responsible for the production or management of transcripts, it is important that they have an idea of the resources required to produce and deliver court transcripts in a timely manner.

Savings Uncertain. The Council staff were able to provide some information on the estimated savings, but it was incomplete. For example, the estimate did not include the cost of staff to monitor the electronic reporting equipment which we believe is important to the successful implementation of electronic reporting. The monitoring staff are responsible for setting up the equipment and making sure it is recording properly. In addition, Judicial Council staff could not provide information on several important aspects of the proposal, including the cost of transcribing electronic reporting, and whether or not the private sector could handle the transcription needs of the courts. We note that the proposed trailer bill language does not require the courts to implement electronic reporting, rather, it authorizes the Judicial Council to determine how the official record of the court will be taken down.

Analyst's Recommendation. While the electronic court reporting proposal in concept has merit, there are a number of uncertainties which the Judicial Council should address at budget hearings. Therefore, we recommend that Judicial Council report at budget hearings on whether the proposed rule of court would simply *allow* courts to implement electronic recording, or whether it would *require* courts to implement electronic reporting. Moreover, if the proposal is to allow courts to implement electronic reporting, the Council should report on how many courts have indicated an interest in doing so, and whether this number is consistent with the estimated level of savings. In addition, the council should advise the Legislature regarding the various implementation issues we have identified, including the amount of staff needed to implement and monitor the audio equipment, transcribe the tapes, and manage the transcripts.

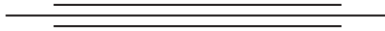
Legislature Needs Plan for Unallocated Reductions

We recommend the Judicial Council report at budget hearings on the potential impact of the proposed 2003-04 unallocated reductions, its plan for allocating the reductions, and action that can be taken to minimize the negative impact on access to the courts.

Governor's Proposal. The 2003-04 Governor's Budget proposes an unallocated reduction of \$116 million in the State Trial Court Funding budget. Although this reduction represents a relatively small percentage (5 percent) of the overall trial court budget, Judicial Council staff indicate the proposed expenditure reduction could limit access to the courts. Because criminal court cases are the highest priority for public safety reasons and must be adjudicated pursuant to timelines established in federal law, Judicial Council staff indicate that civil and family courts would be disproportionately impacted by the proposed reduction in trial court funding. In particular, civil courts may be forced in 2003-04 to lay off

court clerks, reduce hours of operation, and discontinue programs intended to increase access to justice, such as self-help clinics. According to the Judicial Council staff, some courts have already begun to take such actions as a result of current-year reductions. These actions they argue could result in backlogs of civil and family court cases similar to those experienced in the early 1990s.

Analyst's Concerns and Recommendation. Our general concern with unallocated reductions is that it removes the Legislature from the decision-making process, leaving the Judicial Council free to make reductions based solely upon the Council's priorities rather than the Legislature's priorities. While we believe courts should have a certain degree of flexibility in making budgetary decisions, given the issues raised in relation to the proposed reduction, we think the Legislature should be informed of how the Administrative Office of the Courts (AOC) and the courts themselves plan to allocate the reductions. For this reason, we recommend that AOC report at budget hearings on their plan for reducing the court budget, as well as actions that may be taken to minimize the potential negative impact on access to the courts.



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 \$606.7 million for support of DOJ in the budget year. This amount is \$31 million, or about 5 percent, less than estimated current-year expenditures. The requested amount includes \$302 million from the General Fund (a decrease of \$14.4 million, or 5 percent), \$137.3 million from special funds, \$27.2 million from federal funds, and \$140.2 million from reimbursements.

Youth Authority Lawsuit Funding Unjustified

We recommend deletion of \$4.3 million requested for the defense of the California Youth Authority's class action lawsuit because the parties will probably reach settlement. We also recommend adoption of budget bill language to allow the Department of Justice to submit a funding request in the event that settlement is not reached. (Reduce Item 0820-001-0001 by \$4.3 million.)

In January 2002, a class action lawsuit—*Stevens v. Harper*—was filed in federal court against the Youth Authority challenging the department's policies and procedures and virtually every condition of a ward's confinement in Youth Authority facilities. The Governor's budget requests \$4.3 million for DOJ to defend the Youth Authority in this lawsuit. The funding request is for DOJ's projected costs of the case leading up to a possible trial. These costs include expenses related to the discovery process and contracting with subject area experts for defense testimony. In addition, the plaintiffs have filed a state lawsuit because the court significantly narrowed the scope of the federal suit.

Analyst Concern and Recommendation. According to court documents, the discovery process has been postponed until a panel of experts provides an evaluation and report on the issues raised in the *federal* lawsuit. Both parties have requested that the report deadlines be August 20, 2003. It is our understanding that these reports will likely lead to settlement discussions, in which case the current funding request would not be necessary. Moreover, based upon discussions with plaintiff attorneys, the *state* lawsuit will also probably be dropped once the expert reports are released. Again, as with the federal lawsuit, it is believed that the expert reports will most likely lead to settlement discussions.

Because it is likely that the federal and state cases will be settled out of court, we recommend deleting the \$4.3 million requested for the case. However, in the event that the case proceeds in court, or there are some settlement negotiation costs, we recommend the adoption of budget bill language to allow DOJ to submit a funding request for these costs. Specifically, we recommend the following budget bill language:

0820-001-0001 Provision X. Notwithstanding section 27.00 of the *2003-04 Budget Act*, the Department of Finance may submit a deficiency request if *Stevens v. Harper* proceeds to trial in federal or state court, or if expert consultant costs are incurred from settlement negotiations in this case.

Crime Lab Fee Proposal Has Merit, but Needs Implementation Plan

We find that the Governor's proposal to charge local law enforcement agencies for forensic services provided by state laboratories has merit. However, a number of implementation issues need to be addressed. We recommend that the Department of Justice and the Department of Finance provide the Legislature with the details of the proposal prior to budget hearings.

Background. Currently, the Division of Law Enforcement operates 10 regional crime laboratories and 2 special DNA laboratories. The regional labs provide analysis of various types of physical evidence and controlled substances, as well as analysis of materials found at crime scenes. While DOJ labs provide services to state agencies, they primarily serve local law enforcement agencies in jurisdictions without their own crime labs. These local agencies are found in 43 counties representing 25 percent of the state's population. The remaining jurisdictions maintain their own forensic labs at their own expense. Since 1977, DOJ labs have been reimbursed by local law enforcement agencies for blood alcohol testing from fees paid from penalties collected for driving under the influence convictions. However, for the analysis of crime evidence, state labs receive no reimbursements from local agencies that use their services.

Governor's Proposal. The Governor's budget proposes to charge local law enforcement agencies for forensic services provided by DOJ crime labs effective January 1, 2004. This is projected to generate \$3.5 million in reimbursements from local law enforcement agencies and reduce General Fund spending by the same amount. We would note that the amount of reimbursements is based upon a yet to-be-determined fee schedule. It is not clear whether the fees will represent a portion of the costs for performing the services or the full costs.

Local Governments Should Pay for Their Lab Services. We have recommended in the past that the Legislature authorize the change in fee structure proposed by the Governor's budget, most recently in the *Options For Addressing the State's Fiscal Problem* in February 2002. Because developing physical evidence through laboratory analysis is part of the responsibility of local governments for investigating and prosecuting crimes, we believe that the costs for these services should be borne by the counties and cities. Such a funding alignment appears even more appropriate when it is noted that 19 local law enforcement agencies—county sheriffs, district attorneys, or city police—have undertaken this responsibility by operating their own crime laboratories at their own expense. We can find no analytical basis for providing these services at no cost to the agencies currently served by the state while denying this subsidy to those agencies with their own labs.

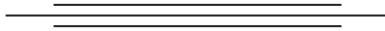
Analyst's Concerns. While we have supported such proposals in the past, we have also pointed out several implementation issues that need to be worked out before such a reimbursement system is in place. These issues include the following:

- **Mitigating Unusually High Costs for Complex Investigations.** Some cases processed by the labs involve significant amounts of physical evidence that require weeks of analysis and testing. This is particularly true of investigations involving firearms, blood, semen, hairs, fibers, and other trace evidence. If local agencies were to be billed for the costs associated with each case, the investigation of some serious crimes could create a fiscal hardship for smaller agencies to support. In order to ensure that such crimes continue to be investigated, some mechanism should be provided to mitigate these costs for smaller agencies.
- **Ensuring That the Labs Are Financially Protected From Lags in Payment or Nonpayment of Fees.** If the labs are to be funded by reimbursements, they must have a mechanism to ensure full and timely payment of these fees. As fee requirements are expanded, DOJ must either have the authority to refuse services to agencies

that do not pay their fees, or to receive payment out of some other state allocation of funds to the local jurisdiction.

- ***Establishing an Appropriate Fee Schedule for Charging Local Agencies.*** Determining the appropriate basis for allocating the costs of lab services can be challenging for some forensic services. For example, the costs of criminalistics analysis can vary widely depending on the case, such that a flat-fee schedule would probably be inappropriate. As a result, it will be necessary to undertake a review of the services provided by the labs and the costs associated with them in order to determine the appropriate fees.

Analyst's Recommendation. We find that the Governor's proposal to charge local law enforcement agencies for forensic services provided by DOJ has merit. However, we have identified a number of implementation issues which need to be addressed before the proposal is adopted. Therefore, we recommend that DOJ and the Department of Finance provide the Legislature, prior to budget hearings, with the details of the proposal, including its plan to resolve issues we have raised above.



DEPARTMENT OF CORRECTIONS (5240)

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

The department 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 operates 11 reception centers to process newly committed prisoners; 16 community correctional facilities; 38 fire and conservation camps; the Richard A. McGee Correctional Training Center; 32 community reentry programs; a restitution and a drug treatment program; 136 parole offices; and 4 outpatient psychiatric services clinics.

Budget Proposal

The budget proposes total expenditures of \$5.3 billion for CDC in 2003-04. This is \$40.2 million, or about 0.8 percent, above the revised estimate for current-year expenditures. The primary causes of this increase are a projected rise in the inmate population and a proposed increase in funding for worker compensation expenses.

General Fund Expenditures. Proposed General Fund expenditures for the budget year total \$5.1 billion, an increase of \$53.1 million, or 1 percent, above the revised current-year estimate.

Federal Fund Expenditures. The Governor's budget assumes that the state will receive about \$154.5 million from the federal government during 2003-04 as partial reimbursement of CDC's costs (estimated to be \$556 million in the budget year) for incarcerating inmates in prison and supervising felons on parole who are illegally in the United States and have committed crimes in California. 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 157,979 as of June 30, 2002. About 94 percent of the population is male. The charts show:

- About 55 percent of inmates are incarcerated for nonviolent offenses (Figure 1).
- About 68 percent of all inmates were committed to prison from southern California, with about 32 percent from Los Angeles County alone and 8 percent from San Diego County. The San Francisco Bay Area is the source of about 13 percent of prison commitments (Figure 2).
- 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, see page 34).
- The prison population is divided relatively evenly among whites, blacks, and Hispanics (Figure 4, see page 34).
- About 60 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 16 percent are parolees returned to prison by administrative actions for violation of their conditions of parole (Figure 5, see page 35).

INMATE AND PAROLE POPULATION MANAGEMENT ISSUES

Inmate Population Projected to Stabilize

The California Department of Corrections is projecting the inmate population to grow slightly in the second half of the current year before stabilizing.

Inmate Population Increase. As of June 30, 2002, the CDC housed 157,979 inmates in prisons, fire and conservation camps, and community correctional facilities. Based on the fall 2002 population forecast prepared by CDC, the inmate count will climb to 160,661 by June 30, 2003, an increase of approximately 2,682 inmates, or 1.7 percent, from a year ago. The inmate population is expected to remain at about 161,000 through 2007.

Figure 1
Prison Population by Type of Offense

June 30, 2002

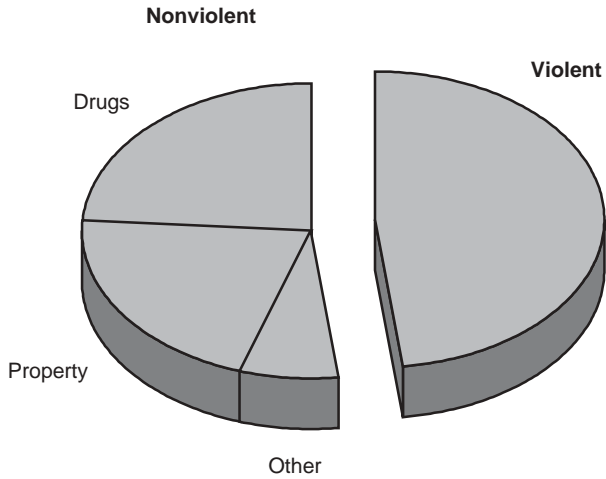


Figure 2
Prison Population by Area of Commitment

June 30, 2002

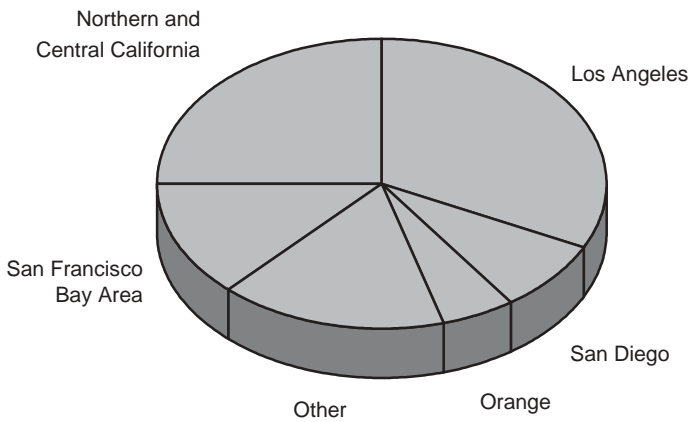


Figure 3
Prison Populatin by Age Group

June 30, 2002

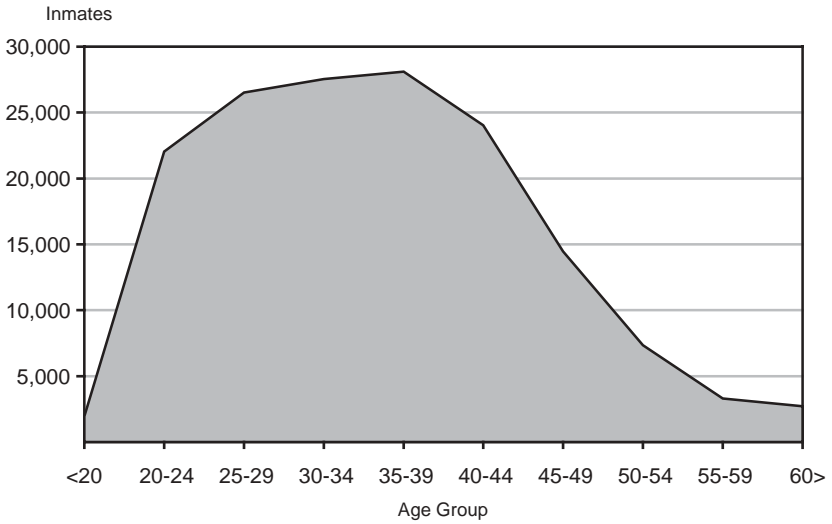


Figure 4
Prison Population by Ethnicity

June 30, 2002

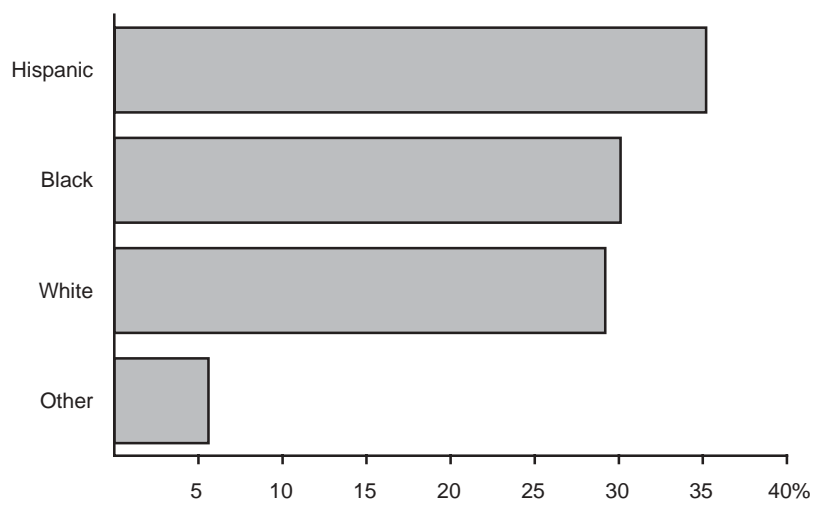
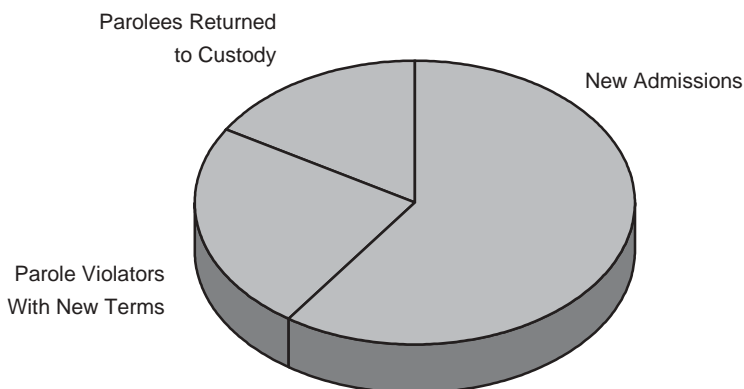


Figure 5**Prison Population by Commitment Type**

June 30, 2002



Parole Population Decline. As of June 30, 2002, the CDC supervised 119,360 persons on parole. The fall 2002 projections assume that the parole population will decrease to 117,233 as of June 30, 2003, and further decline to 115,387 by June 30, 2004. This represents a parole population decrease of 1.8 percent in the current year and 1.6 percent in the budget year. The fall 2002 projections also assume that the parole population will continue to fall through 2005 and stabilize at about 114,000 parolees through June 30, 2007.

Change From Prior Projections. The fall 2002 projection of the inmate population has increased from the prior CDC forecast (spring 2002), which was the basis for the *2002-03 Budget Act*. The new fall 2002 forecast for June 30, 2003 is about 3,330 inmates higher than the spring forecast. As can be seen in Figure 6 (see next page), the department's spring estimate assumed significant growth over the projection period, whereas the fall projection assumes the inmate population will remain stable.

The fall 2002 projection of the parole population shows a slower rate of decline than the spring 2002 projections. Although there is no difference in the projections for June 30, 2003, as can be seen in Figure 7 (see next page), the projections widen over the projection period until the differential exceeds 6,200 at the end of 2007-08.

Figure 6**Total Inmate Population
Recent CDC Projections**

June 30 Population	Projection as of:		Difference
	Spring 2002	Fall 2002	
2003	157,331	160,661	3,330
2005	159,868	160,940	1,072
2007	166,473	160,578	-5,895

Why the Forecasts Changed Between Spring and Fall 2002. According to CDC, three factors appear to have caused the inmate population to increase during the current year. On July 31, 2002, the inmate population surged by 1,150 prisoners from the month before because Los Angeles County reduced the number of state prisoners it was willing to hold in county jails under its local assistance contract. In addition, a Board of Prison Terms (BPT) backlog in Proposition 36 cases resulted in fewer inmate diversions to local treatment programs than previously anticipated. Finally, according to the CDC, fewer parole violators were returned to prison by administrative actions of the Board of Prison Terms.

Figure 7**Total Parole Population
Recent CDC Projections**

June 30 Population	Projection as of:		Difference
	Spring 2002	Fall 2002	
2003	117,233	117,233	—
2005	111,024	114,305	3,281
2007	107,681	113,937	6,256

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. At the time this analysis was prepared, both the Senate and Assembly had adopted a proposal to increase work credits for inmates in the reception centers and inmates who are involuntarily unassigned to a work or education program. This change is not reflected in the department's population projection.
- **Changes in the local criminal justice system** affecting the number of persons arrested, charged, tried, convicted, and ultimately admitted to prison.
- **Changes in 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 2003-04 budget request for caseload funding. Recent data indicate that the population is trending slightly lower than the department's projections. As a result, inmate population may be slightly overstated in the current and budget years. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision.

Actual Inmate Count Is Slightly Lower Than Fall Projection. The fall 2002 projection anticipated that the prison population would increase by about 1,800 inmates during the first half of 2002-03 relative to the prior year. Instead, it increased by about 1,500. According to the CDC, this lower than anticipated population increase is attributable to a lower than anticipated number of parolees returned to custody, and more inmate releases from conservation camps due to the recently implemented doubling of work credits pursuant to Chapter 1124, Statutes of 2002 (AB 3000, Committee on Budget).

Current-Year Effect. Based on the inmate population as of the end of December 2002, we estimate that the average daily population of the prison system in 2002-03 will be about 630 inmates below the caseload assumed in the Governor's budget plan. We further estimate that the average daily parole population will be about 624 parolees lower than the caseload assumed in the Governor's budget plan. The net effect of these two changes would be a decrease in current-year costs of about \$8.7 million.

Budget-Year Effect. The CDC forecast assumes that inmate population will increase by 378 between the current and budget years. Although the recent data suggest inmate population may be stable in the budget year, there is uncertainty as to how much Proposition 36 diversions will be affected by recently adopted CDC/BPT referral procedures for moving parolees into county drug assessment centers. Furthermore, at this time, we are unable to gauge the effect that increased work credits for conservation camp inmates is likely to have on average daily population.

The CDC will issue updated population projections in spring 2003 that form the basis of the department's May Revision proposal. At that time, we will review whether adjustments to CDC's funding for inmate and parole caseloads are warranted.

Analyst's Recommendation. We withhold recommendation on the 2003-04 caseload funding request. We will continue to monitor CDC population, and make recommendations as appropriate at the time of the May Revision.

Early Release of Elderly Inmates

The California Department of Corrections currently has approximately 6,400 inmates over the age of 55. Elderly inmates are costly to care for, yet research indicates that many of these older inmates represent a relatively low risk of reoffending and show high rates of parole success. Given the state's current fiscal condition, we believe the Legislature should adopt budget trailer bill language requiring early discharge to parole for nonviolent older inmates. We estimate that such a policy would result in state savings of approximately \$9 million in the budget year, and significantly more in the out-years without jeopardizing public safety. (Reduce Item 5240-001-0001 by \$9 million.)

Background. Inmates 55 years of age and older are becoming a larger part of the CDC's institutional population. Currently, approximately 3,509 inmates are between age 55 and age 59, 1,621 inmates are between age 60 and 64 years of age, and 1,267 inmates are 65 years or older. Because older inmates tend to have more significant medical problems, the graying of CDC's population has serious long- and short-term General Fund implications. Last year, we discussed releasing nonviolent, elderly inmates to parole as one of the Legislature's options for addressing the state's fiscal problem. This analysis provides additional information on the cost of housing older inmates in California prisons, and discusses research related to elderly inmates and their likelihood to reoffend.

Elderly Inmates Two to Three Times More Expensive. While CDC agrees that housing elderly inmates in California prisons is more costly

than housing younger prisoners, it could not provide specific information on how much it costs to house elderly inmates. This is because the department does not collect data on this specific group of inmates. However, our review of correctional operations in other states, as well as other research on this topic, indicates that elderly inmates cost as much as two to three times the amount required to house younger inmates. New York, for example, estimates an average annual cost to house elderly inmates of \$50,000 to \$75,000, which was twice that state's average for a younger prisoner. Although no figures were available, in 1997, the Texas Criminal Justice Policy Council concluded that Texas paid nearly three times as much to provide health care to elderly inmates as it paid for the general prison population. Finally, the National Center of Institutions and Alternatives estimates the national average yearly cost of confining elderly inmates is approximately \$69,000, over three times the national average of \$22,000 to incarcerate ordinary inmates.

Why Are Elderly Inmates Expensive? As one might expect, the higher cost of housing elderly inmates is driven by the special needs brought about by age, similar to the needs of many aging adults in society. These special needs range from the need for eye glasses and hearing aids to the need to address more frequent health care episodes, and treatment for chronic disease and fatal illness. Elderly inmates also require special facilities accommodations, such as special commodes and showers with handrails. Many elderly inmates will ultimately require constant bed care and intensive medical supervision.

In addition to the special needs that generally come with aging, there are some unique factors about prison that make housing elderly inmates potentially more costly. First, inmate demographics and prior life styles probably result in a concentration of individuals more prone to certain health conditions such as diabetes, heart disease, and hepatitis. Second, the full cost of prison health care services is borne by the state, rather than shared as in an insurance program. Third, the cost of prison health care services is accompanied by the cost of guarding the inmate while services are delivered. This is particularly an issue when the inmates need to be transported to an outside facility for medical treatment. Fourth, CDC is not equipped to effectively manage the health care needs of elderly inmates. For example, the department does not have a chronic care management program for elderly inmates that might allow it to prevent some inmates from requiring expensive medical treatment.

Are California Prisons Equipped to Handle Elderly Inmates? Nationwide, most correctional institutions are poorly positioned to cope with the health and housing needs of aging and geriatric prisoners. For example, California, like most other states, generally does not have facilities specifically designed or operated to meet the needs of elderly in-

mates. Moreover, California, like other states, relies on a sick-call system originally conceived to treat common illnesses like flu, wherein correctional officers who, except for medical technical assistants (MTAs), typically have little or no medical training, are generally the first to take note of an aging inmate's medical problems. Then, doctors and nurses—many with little training or experience in treating age-related illness—must handle dozens of these and other cases with very limited time per patient.

Another problem for California is it, like most other states and the Federal Bureau of Prisons, has no official inmate classification based on age. From a budgetary perspective, the classification system's failure to track prisoners by age precludes the kind of analysis that would flag spikes in the costs to care for elderly inmates or suggest alternative management strategies such as relocation to reduce transportation costs or dedicated housing to take advantage of economies of scale.

By 2022, we estimate the elderly inmate population will be approximately 30,200, or 16 percent of the total CDC population. Preparing California's prison system for this number of elderly inmates will likely be extremely costly. This is because, it would likely involve facility renovations, as well as a change in the manner in which health care is delivered, and potentially expensive treatments for such age-related illnesses as cancer and heart disease.

Criminal Behavior Declines With Age. Criminologists have long known that the propensity to commit crimes declines with age regardless of sex, race, ethnicity, or offense. Figure 8 shows that nationwide, arrests in 1999 peaked between the ages of 15 to 25, dropped dramatically for offenders 25 to 40, and were fewer than 5 percent among individuals 50 years of age and older. If reducing crime is the goal, the data suggest that imprisoning a 55-year old will have much less of an effect than imprisoning a 20-year old.

Perhaps the most important consideration related to early release of an elderly inmate is the possibility that he or she will commit additional crimes in the future. According to one federal study, 45 percent of inmates released from prison between the ages of 18 and 49 were likely to commit another crime and end up back in prison. By comparison, only 3.2 percent of those released over the age of 55 got in trouble with the law. In addition, a 1995 U.S. Department of Justice study tracked a cohort of parolees released in 1991. As Figure 9 shows, the study found that recidivism varies sharply by age group. In particular, this study indicated that older parolees are reincarcerated very infrequently, as only 1.4 percent of parolees 55 years and older recidivated.

Figure 8
Arrests Decline With Age

Percent of All Persons Arrested

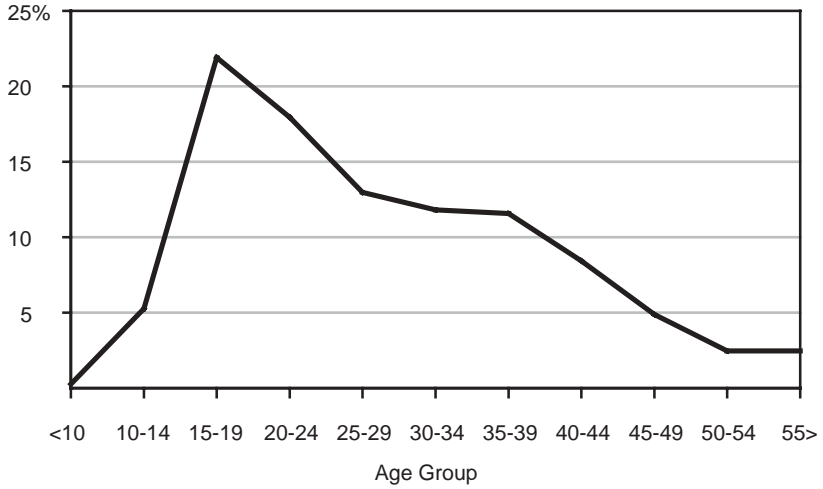
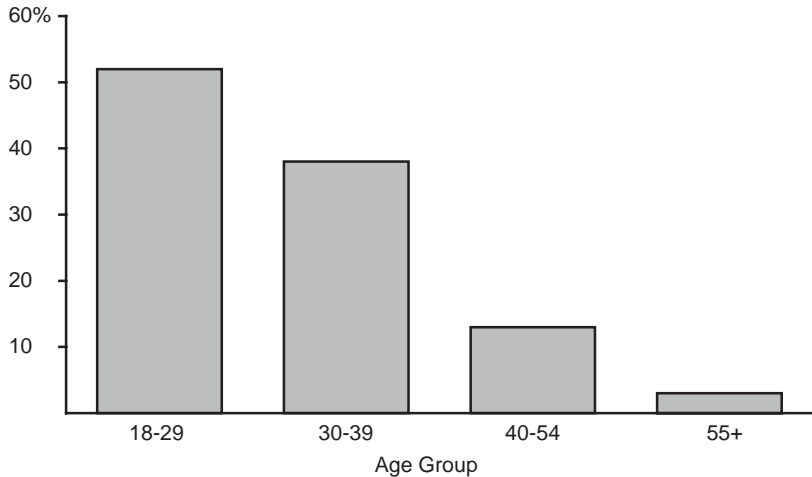


Figure 9
Recidivism by Age Group
1991

Percent Recidivating



Source: U.S. Department of Justice

Benefits of Early Release to Parole for Nonviolent Elderly Prisoners. Our analysis suggests that housing nonviolent elderly inmates in prison is not a good use of scarce resources since they are potentially very expensive, yet represent a relatively low risk to society. In addition, as discussed above, research indicates that older inmates tend to be more successful on parole than younger parolees.

Early release of nonviolent and nonserious elderly inmates to parole offers the state a variety of short- and long-term benefits. Based upon information provided by CDC, we estimate there are approximately 250 elderly inmates who would be considered nonviolent and nonserious offenders. Releasing these inmates to parole would generate General Fund savings of approximately \$9 million in the budget year. It also represents a potentially significant cost avoidance because it would reduce the need to make expensive infrastructure accommodations. Finally, given the estimated growth of CDC's elderly population and the recent upward spiral in medical costs, this proposal could yield significant long-term General Fund savings to the extent that it reduces the likelihood of court-imposed health care mandates for elderly inmates.

Analyst's Recommendation. Given the high cost of housing *nonviolent* elderly inmates, relatively low rates of reoffense by elderly inmates, and research showing high rates of parole success among older inmates, we recommend the Legislature release *nonviolent* inmates over 55 years of age to parole. In addition to savings of approximately \$9 million in the budget year, this would reduce prison health care costs, and reduce prison overcrowding, thereby increasing the level of safety in California prisons.

Work Credits Earn Inmates Early Release

We recommend that the Legislature adopt trailer bill language to allow inmates in the reception centers and inmates involuntarily unassigned to earn day-for-day work credits. This would save the General Fund \$70 million in the budget year, and would give the department an increased ability to manage inmate behavior, thereby potentially increasing institution safety. (Reduce Item 5240-001-0001 by \$70 million.)

Background. State law requires the CDC to apply work credits to all qualifying inmate assignments including full-time work and elementary, high school, or vocational education programs. In addition, some 5,700 inmates participating in substance abuse treatment programs with half-time work components accrue work credits. The CDC data indicate that systemwide nearly 87,000 inmates—or 82 percent of the inmates who are work-credit eligible—are currently assigned full-time placements. At the time this analysis was prepared, the Senate and Assembly had adopted

legislation to increase work credits for certain nonviolent inmates as part of the mid-year budget reduction package.

Work Credit Eligibility. Under current law, eligibility for work credits varies depending on the crime, the date it was committed, and previous felony convictions. In general, the credit system is structured to allow inmates convicted of nonviolent felony offenses to earn the greatest sentence reduction and inmates convicted of violent felonies to earn the least. Some inmates convicted of violent felonies are not eligible for work credits. Specifically, statute limits or prohibits work credits as follows:

- **Nonviolent Felons.** Under current law, most inmates serving prison time for nonviolent felony offenses can earn up to one day of credit for every day of participation in a full-time work assignment or education program, thereby reducing their sentences by 50 percent. Last year, as part of the *2002-03 Budget Act*, the Legislature increased the maximum credits for inmates participating in fire camps from 50 percent—or day-for-day—to 67 percent or two days for every day of participation in the fire camp program.
- **Violent Felons.** Inmates convicted of murder, a serious violation while incarcerated, or attempted murder of a police officer or firefighter are not eligible for work credit sentence reductions. Inmates convicted of certain serious violations such as murder, rape, kidnapping, or robbery, can reduce their sentences by no more than 15 percent. Enacted in 1994, the 15 percent maximum is consistent with the federal truth-in-sentencing law that assures victims of serious crimes and the general public that offenders will not be allowed to escape long prison terms.
- **Strikers.** Inmates convicted of any felony under the “Three Strikes and You’re Out” law, if the first conviction was a serious violation such as murder, rape, kidnapping, robbery or carjacking, may reduce their sentence by a maximum of 20 percent. Inmates convicted of any felony under the Three Strikes and You’re Out law, who have two or more prior serious or violent felony convictions, may not reduce their indeterminate term of at least 25 years to life.
- **Involuntarily Unassigned.** These are inmates who are willing to work, but who are placed on a waiting list due to a shortage of qualifying work or education placements. Under current law, CDC can only reduce their terms by 33 1/3 percent or one day of credit for every two days of participation. This provision also applies to persons undergoing processing in the prison reception centers, waiting for a program assignment, or sent to ad-

ministrative segregation for disciplinary reasons. Inmates who refuse to work do not receive work credits.

State law also provides for forfeiture of work credits as the result of serious disciplinary infractions, but allows CDC to restore credits after a period of not more than one year free of disciplinary problems. Because credits can have such a significant bearing on an inmates' length of confinement, statute requires the department to provide both a hearing and a multilevel appeal before revoking work credits. The appeal process is staff intensive and time consuming for the CDC, but often results in the restoration of lost inmate credits.

Maximum Credit Not Available to Unassigned and Reception Center Inmates. When work credits went into effect in 1983, the Legislature's objective was that, consistent with security and department resources, eligible inmates would have a reasonable opportunity to reduce their prison stays by 50 percent, or the maximum of day-for-day credits earned from full-time work or education assignments. Most inmates, however, can expect to lose up to one month of work credit time both when they are housed at prison reception centers and when they are placed on work assignment waiting lists. Until they have completed their reception center processing and are assigned to full-time, work-credit-qualifying slots, inmates earn work credit at a rate of 33 1/3 percent—or one credit for every two days they spend waiting.

Many inmates wait months to earn maximum work credits. For example, CDC data indicate that as of January 2003 about 13,000 inmates were being processed in reception centers, and 16,000 were unassigned. The average inmate takes from 60 to 120 days to process out of the reception center. The department was unable to provide an average time an inmate might stay on the unassigned list because of the wide variation from prison to prison. We do know, however, that for every 30 days an inmate is housed at a reception center or awaits a full-time assignment he loses five days of work credits relative to what he would have earned in a full-time job or education placement. Based on discussions with departmental staff, they indicate that delays in reception center processing and work and education assignments frequently result in inmate appeals. From the state's perspective, these delays represent millions of General Fund dollars to fund tens of thousands of potentially avoidable incarceration days.

Governor's Budget Proposal May Reduce Work Credit Availability. Nearly 28,000 inmates earn work credits through some type of vocational or academic training including Adult Basic Education, GED preparation, Literacy Programs, and a variety of vocational preparation programs. The *2003-04 Governor's Budget* proposes to reduce spending on academic

and vocational training by \$46 million, thereby potentially reducing the availability of work credits. At the time this analysis was prepared, the administration had not provided any details on its proposal. According to the department, inmates whose academic and vocational slots are reduced by these actions will not lose their ability to earn work credits at the maximum rate. However, because the department was unable to provide details on the governor's reduction proposal, there is no way to estimate whether it will contribute to the department's educational assignment delays or increase prison stays. As such, reducing spending for education programs could potentially result in General Fund costs if inmates lose their ability to earn credits.

Benefits of Day-for-Day Work Credit for Reception Center and Unassigned Inmates. Last year, in our *Options for Addressing the State's Fiscal Problem* publication, we proposed that the Legislature consider amending current law to increase the work credit earnings rate from 33 1/3 percent to the maximum 50 percent rate for nonviolent inmates housed in reception centers and inmates waiting for a work assignment. According to the department, this proposal would save \$70 million (General Fund) in the budget year while reducing the prison terms of more than 29,000 prisoners by an average of only 27 days. In addition, most if not all of the inmates who would gain work credit time under this proposal are serving relatively short sentences (an average of five months) for nonviolent and nonserious offenses.

We believe our proposal has a number of short- and long-term benefits. In particular, it would reduce CDC's operational costs by shortening prison stays and generate an estimated \$70 million General Fund savings in the budget year. It would also alleviate serious reception center overcrowding which has been an ongoing problem, and possibly allow the state to delay future construction costs. In addition, we believe these enhanced work credits will provide an incentive for reception center inmates to modify antisocial and criminal behavior. Currently, CDC can reduce an inmate's credits for serious misconduct. Increasing the work credits should provide inmates a greater incentive to comply with CDC guidelines because they have more at stake. Finally, by eliminating the basis for the numerous inmate appeals that require large commitments of expensive correctional staff time, this proposal will likely reduce CDC's appeals-related workload.

Analyst's Recommendation. For the reasons discussed above, we recommend the Legislature adopt trailer bill language to allow inmates in reception centers and those who are involuntarily unassigned to receive day-for-day work credit. In addition to savings of approximately \$70 million in the budget year, this proposal would reduce prison over-

crowding, help reduce inmate violence by providing a greater incentive for good behavior and, in doing so, potentially contribute to institutional safety.

Federal Funds Assumption May Be Unrealistic

The Governor's budget assumes that the state will receive \$154 million from the federal government for the costs of incarcerating undocumented felons. There is considerable uncertainty regarding this assumption because neither the President's 2002-03 budget nor the 2003-04 budget—released earlier this month—includes funding for this program.

The Governor's budget assumes that the state will receive \$154.5 million from the federal government during 2003-04 as partial reimbursement of CDC's cost of incarcerating inmates in prison and supervising felons on parole who are illegally in the United States and have committed crimes in California. Last year, we cautioned that the \$208 million in federal funds that the *2002-03 Governor's Budget* assumed the state would receive to incarcerate undocumented felons was risky because funding was not included in the President's 2002-03 budget. Moreover, it represented a federal funding level that had never been achieved in the history of the State Criminal Alien Assistance Program. To date, California has not received any of the anticipated 2002-03 federal funding because Congress has not enacted an appropriations bill for the U.S. Department of Justice. Although this year's proposed funding level is more consistent with historical federal appropriations, we note that the President's 2003-04 budget proposal, released earlier this month, does not propose funding for this program.

Another Delay for Salinas Valley Facility

The scheduled opening of a new mental health facility at Salinas Valley State Prison has been delayed repeatedly due to construction problems. We recommend that the current-year budgets of the Departments of Corrections (CDC) and Mental Health be adjusted to reflect the savings of at least \$1.5 million in operating costs for the new facility that will result from the delay in its activation. We further recommend that an additional \$100,000 in funding for CDC operating expenses be deleted because it is unclear why these resources are needed at this time.

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

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 \$414 million for the Youth Authority in 2003-04. This is \$12.2 million, or about 3 percent, below estimated current-year expenditures. General Fund expenditures are proposed to total \$336.8 million in the budget year, a decrease of \$17.8 million, or 5 percent, below expenditures in 2002-03. The department's proposed General Fund expenditures include \$37.4 million in Proposition 98 education funds. The Youth Authority also estimates that it will receive about \$75.3 million in reimbursements in 2003-04. These reimbursements primarily come from fees paid by counties for wards sent to the Youth Authority.

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

Approximately 76 percent of the total funds requested for the department is for operation of the department's institutions and camps and 11 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.

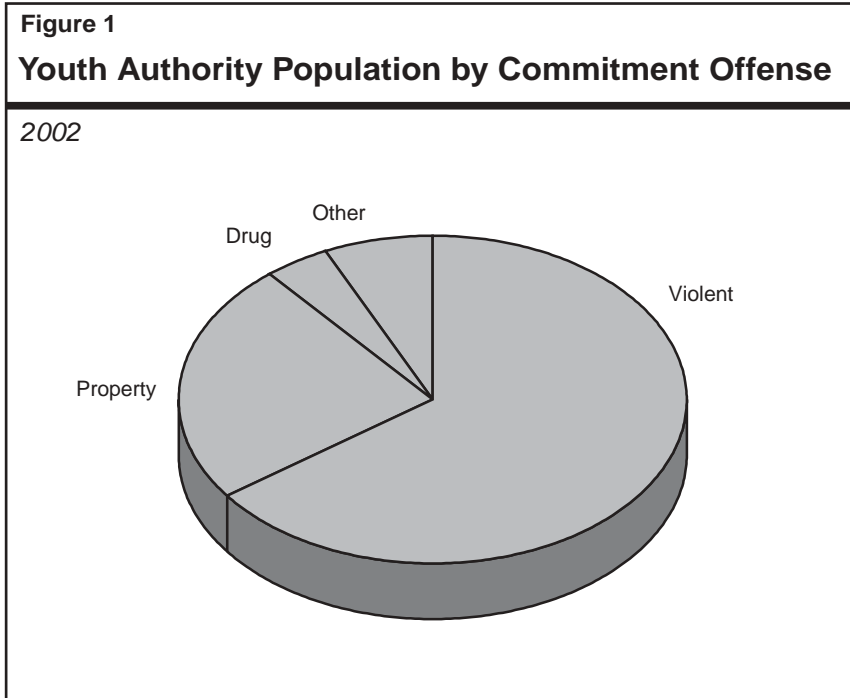
Who Is in the Youth Authority?

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, 2002, 96.9 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, 2002, 3.1 percent of the institutional population was juveniles committed by criminal courts.
- **Corrections Inmates.** This segment of the Youth Authority population, 1.5 percent of the population in December 2002, 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 they reach age 21.
- **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.

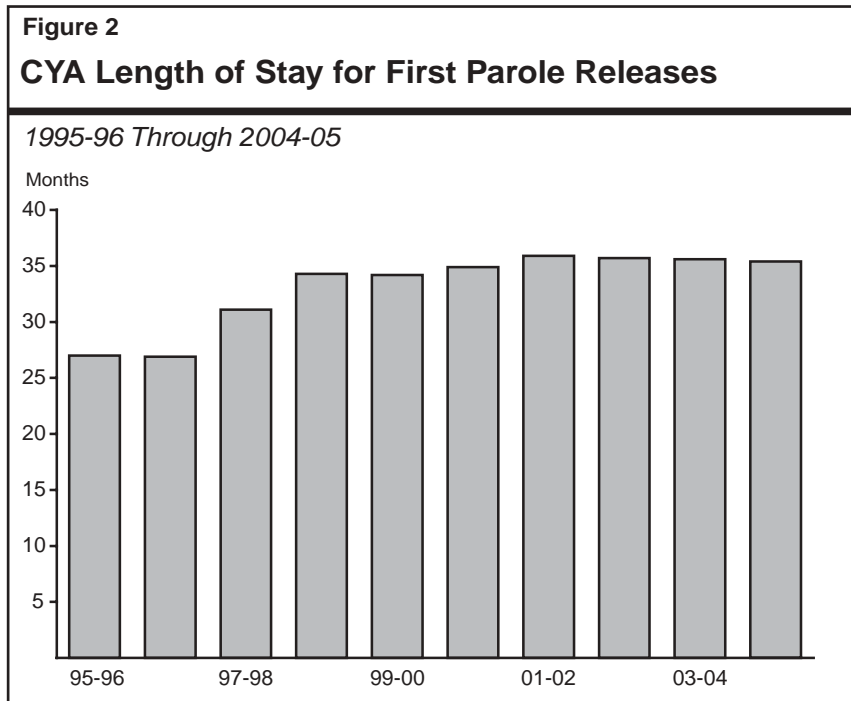
Characteristics of the Youth Authority Wards. Wards in Youth Authority institutions are predominately male, 19 years old on average, and come primarily from Southern California. Hispanics make up the largest ethnic group in Youth Authority institutions, accounting for 49 percent of the total population. African Americans make up 29 percent of the population, whites are 17 percent, and Asians and others are approximately 5 percent.

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



As of December 2002, 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 49 percent 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, 24 percent was incarcerated for property offenses, such as burglary and auto theft; 4 percent for drug offenses; and the remaining 7 percent for various other offenses.

Average Period of Incarceration Has Increased, But Expected to Stabilize. Figure 2 (see next page) shows for the period from 1995-96 through 2004-05, the length of stay for wards prior to their first release to parole.



In 1995-96, the average length of stay was 27 months. By the end of 2001-02, the average increased by nearly nine months to 35.9 months. This was due primarily to increases in the initial parole consideration dates (PCD), the earliest date a ward will be considered for parole, and disciplinary time-adds being given to wards by the Youthful Offender Parole Board (YOPB) for behavioral problems. The PCDs are based on the ward's commitment offense. The Youth Authority estimates that, on average, wards who are first paroled in 2002-03 will have spent 35.7 months in a Youth Authority institution, which is a slight decrease from 2001-02. The Youth Authority projects that length of stay for first parolees will drop somewhat to 35.4 months in 2004-05, then stabilize because of a recently instituted process for the assignment of initial PCDs which will result in PCDs being set shorter than the previous process. Under this new process, PCDs will be set pursuant to existing guidelines rather than above guidelines as in the old process.

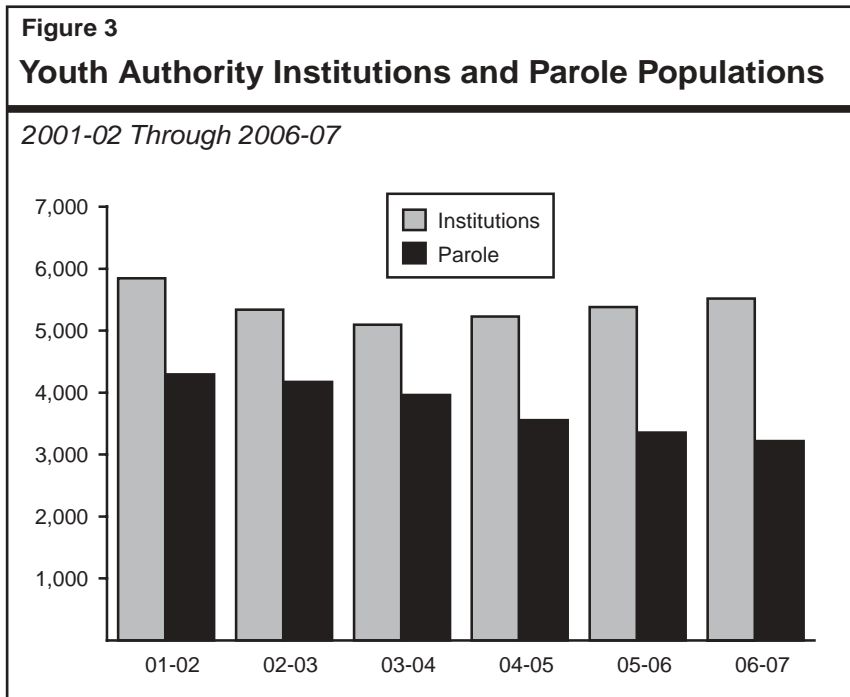
POPULATION ISSUES

Ward and Parolee Populations Declining

We anticipate the Youth Authority's institutional population will continue to decline throughout 2003-04, and increase slightly thereafter. The Youth Authority forecasts 5,095 wards (including camps) at the end of the budget year and 5,520 wards in 2006-07. Youth Authority parole populations are expected to decrease from 3,960 parolees in the budget year to about 3,220 parolees by the end of 2006-07.

The Youth Authority's September 2002 ward population projections (which form the basis for the Youth Authority's 2003-04 budget) indicate that the institutional population will decline modestly through the budget year, stabilize in 2004-05, and then increase by about 8 percent, reaching 5,520 wards on June 30, 2007.

The number of parolees is expected to consistently decrease through 2007. Figure 3 shows the Youth Authority's institutional and parolee populations from 2001-02 through 2006-07.



Ward and Parolee Population Projections Will Be Updated in May

We withhold recommendation on a proposed \$3.4 million decrease from the General Fund based on projected ward and parolee population changes, pending receipt of the May Revision budget proposal and population projections. In addition, we believe that the ward population may decrease further as a result of an inflation adjustment to the county sliding scale fees proposed by the Governor, thereby resulting in additional savings.

Ward and Parolee Population in the Budget Year. The Youth Authority's total population is projected to decrease modestly, declining by 245 wards, or 5 percent, from the end of the current year to the end of the budget year. As a result, the Governor's expenditure plan proposes to reduce the caseload budget by \$3.4 million. However, there is reason to believe that the ward population will decrease by more than 245 because of the Governor's proposal to adjust the county sliding scale fees for inflation which is currently not accounted for in the projections. The fees are structured to encourage counties to retain more of their less serious offenders, and should result in a further decrease in the overall population.

The department indicates that its population decreases will result in unit closures at a number of institutions. These reductions will not be distributed proportionally across institutions. Rather, closures will be targeted at the general population living units with the intent of maintaining mental health services for the growing percentage of wards with mental health needs.

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, 2002 institutional population projection dropped by 83 wards from 5,930 in the spring 2002 projections to the actual population of 5,847.

While the population appears to be flattening, 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 in May.

Youth Authority Plan Would Close Three Institutions

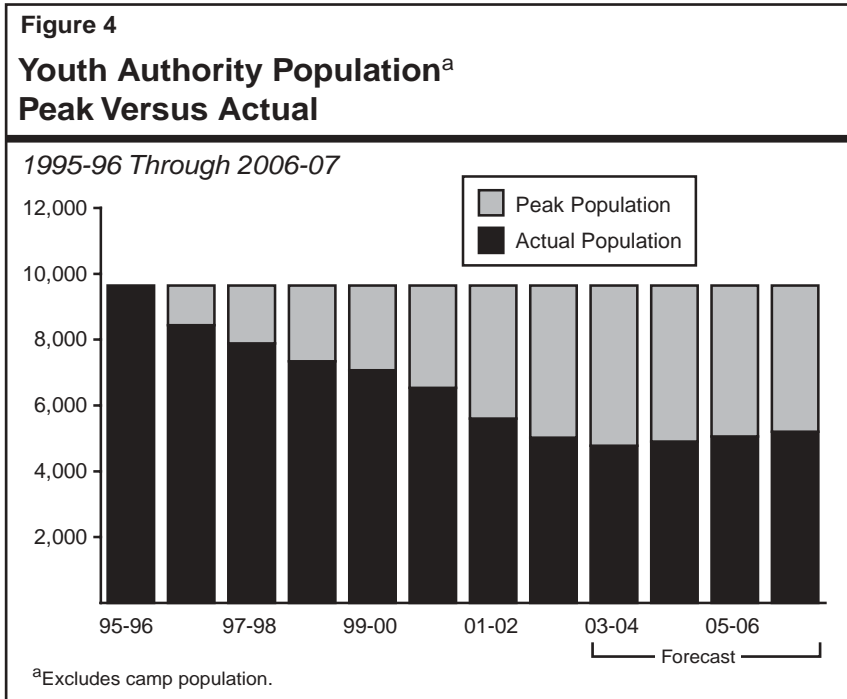
The institution population (excluding camps) at the California Youth Authority has decreased from a high of 9,639 wards in July 1996 to 5,597 wards in July 2002. The Youth Authority forecasts a further decline to 4,775 wards by the end of the budget year, which is a reduction of nearly 50 percent from the high in 1996. The Youth Authority recently submitted

its plan to close three institutions by 2005-06. We have several concerns with the plan including the time frame for implementation of the closures and the order of institution closures. We recommend that the Youth Authority report at budget hearings on these concerns.

Background. As part of last year's budget package, the Legislature passed, and the Governor signed, legislation directing the Youth Authority to close one of its facilities by the end of 2003-04. The legislation also required the department to submit a plan by November 1, 2002 on the process for closing a total of three facilities. The Legislature's action was in recognition of the rapid population decline which the Youth Authority has experienced since 1996. The Legislature received the plan in January 2003.

Decline in Population. As shown in Figure 4 (see next page), the Youth Authority institution population (excluding camps) was 9,639 wards at its peak in 1996 and is projected to be 4,775 wards by the end of the budget year, which represents nearly a 50 percent decline. As such, capacity levels have also declined from approximately 150 percent in 1996 to an anticipated 74 percent in the budget year. By June 30, 2007, the Youth Authority projects a population of 5,200 wards, which is an increase of about 180 wards from the current year. However, while the Youth Authority projects a slight increase in future years, we believe these increases may not materialize for the two reasons discussed earlier. First, the Youth Authority's population projections have historically been higher than the actual population. Second, the Youth Authority's projections do not reflect the impact of the Governor's proposal to adjust upward county sliding scale fees for inflation. The fees are designed to encourage counties to retain less serious offenders, so we would expect the upward adjustment in fees would result in a decrease in the Youth Authority's population projections.

Why Is the Population Declining? There are several factors contributing to the decline in Youth Authority population. First, Chapter 6, Statutes of 1996 (SB 681, Hurtt), implemented a sliding scale fee to encourage counties to retain their less serious offenders in county programs and send their more serious offenders to the Youth Authority. Second, since 1997, the Legislature has appropriated over \$452 million in grants to expand the capacity of local juvenile halls by 2,873 beds, which provides more capacity for counties to retain their youthful offenders in local facilities rather than sending them to the Youth Authority. Finally, in the last few years, counties have received over \$353 million from the state for juvenile crime prevention programs intended to divert juvenile offenders from being committed to the Youth Authority.



We expect these factors will continue to reduce the population over the next couple of years. We note that the Governor's budget proposes to adjust the sliding scale fees for inflation, which should continue to deter counties from sending a large number of less serious juvenile offenders to the Youth Authority. In addition, the Governor's budget proposes to continue funding for the juvenile crime prevention grants at the current-year level of \$116.3 million.

Youth Authority Plan Would Close Three Youth Correctional Facilities. The Youth Authority's plan would occur in two phases. The first phase would close two facilities, the Ventura Youth Correctional Facility and the DeWitt Nelson Youth Correctional Facility in Stockton, by the end of the budget year. The second phase would close a third facility, Fred C. Nelles Youth Correctional Facility in Whittier, by June 2006. For the Ventura facility, the plan would only close the male portion of the facility. A portion of the facility would continue to operate with a female-only population.

The DeWitt Nelson closure would be a two-step process. The Youth Authority would first close the Karl Holton Drug and Alcohol Facility, located at the same Stockton complex as DeWitt Nelson, and transfer wards to facilities throughout the state. Programs and wards from DeWitt

Nelson would then move to the remaining Karl Holton facility, and the former DeWitt Nelson facility would be closed. The DeWitt Nelson name would accompany the transfer of wards and programs to the new facility, formerly known as the Karl Holton Drug and Alcohol Facility. According to the plan, this two-step process is necessary to maintain the DeWitt Nelson programs, which serve a specific population of older wards, while closing the facility at which they are currently administered.

Why Were These Facilities Chosen? According to the Youth Authority’s plan, each of these facilities was chosen for closure for a different reason. The proposed closure of the male portion of the Ventura facility follows the recommendation made in a recent report by the Office of Inspector General (OIG). The OIG concluded that operating a coed facility was problematic and inefficient because programs and services are duplicated to serve both genders. The DeWitt Nelson facility is proposed for closure because it has a high proportion of dormitory living units rather than single bed cells and requires significant capital outlay funding to repair its infrastructure. According to the Youth Authority, moving to a facility with more single bed rooms would reduce the number of behavioral incidents. The Nelles facility is proposed for closure because it has the highest per capita cost (\$56,000) and, as the Youth Authority’s oldest facility, requires significant capital outlay modifications (\$74 million).

Fiscal Impact of Closure Plan. Figure 5 shows the Youth Authority’s estimated savings generated from closing each of the three facilities, by fiscal year. In the budget year, closing Ventura and DeWitt Nelson would

Figure 5				
Youth Authority Closure Plan—				
Fiscal Impact^a				
<i>2003-04 Through 2007-08</i>				
<i>(In Millions)</i>				
	Ventura	DeWitt	Nelles	Total
2003-04	-\$1.2	-\$1.4	—	-\$2.6
2004-05	3.2	1.8	—	5.0
2005-06	5.3	3.6	-\$2.8	6.1
2006-07	5.3	3.6	11.2	20.1
2007-08	5.3	3.6	14.3	23.2

^a Savings (+) / costs (-).

result in costs of \$2.6 million. These costs are mainly associated with transferring wards and employees to other facilities as well as some physical plant adaptations that will be necessary to accommodate transferred programs. In 2004-05, the Youth Authority estimates that closing the two facilities would result in savings of about \$5 million. The savings are primarily generated from the economies of scale that are achieved as a result of the reduction in administration and overhead at the closed facilities. While the additional closure of Nelles generates some initial costs (\$2.8 million) in 2005-06, there are net savings (\$6.1 million) to the state as a result of the first two closures. Beginning in 2007-08, the Youth Authority estimates that the full ongoing savings from the three closures would be approximately \$23 million.

Where Will Employees and Wards Be Transferred? According to the closure plan, wards would be transferred to institutions that can accommodate their specific program needs. For example, wards who are receiving drug treatment at the Karl Holton facility would be transferred to drug treatment programs located throughout the state. Currently, there are about 255 wards at Ventura and 307 wards at Karl Holton that would need to be transferred to other institutions. The closure of the Nelles facility would result in the transfer of 447 wards.

The department estimates that about 150 employees at the Ventura and Karl Holton facilities would be transferred with the wards to nearby institutions. Approximately 400 of the employees would be redirected to positions throughout the department, while about 110 positions would be abolished. With the closure of Nelles, about 140 employees would be transferred with wards to facilities throughout the state, 4 employees would be redirected, and about 270 positions would be abolished.

How Will Closures Affect Capacity Levels? Closing institutions reduces the capacity of beds to house wards in the facilities. Currently, Youth Authority institutions, excluding camps, function at about 79 percent of design capacity. With the closures of the Ventura and DeWitt Nelson facilities, the Youth Authority would function at about 85 percent of capacity using the Youth Authority's population projections. With the closure of the Nelles facility, remaining institutions would function at about 100 percent capacity. Youth Authority institutions have functioned well above 100 percent capacity in the past.

Plan Is Reasonable. Based upon our initial review of the closure plan, the three facilities proposed for closure seem reasonable. Converting to an all female facility at Ventura leaves in place there the Correctional Treatment Center (CTC) that was built to address a recent lawsuit against the Youth Authority for inadequately licensed medical facilities (see page

D-50 of last year's *Analysis* for further discussion). In addition, female wards would also continue to have access at Ventura to an Intensive Treatment Program (ITP) and a Specialized Counseling Program (SCP) for their mental health needs. It would be costly to relocate these programs and complicated by the presence of male wards at other institutions.

The DeWitt Nelson closure is reasonable because of the safety concerns of the high proportion of dormitory living units and the significant capital outlay costs that are projected for its maintenance. In addition, DeWitt Nelson has special programs that are easily transferred to the Karl Holton facility and other institutions. There are no programs such as a CTC or ITP that would require major physical plant alterations if transferred to another institution.

Again, as with the previous two facilities, there are advantages to closing Fred C. Nelles as opposed to other institutions. One major advantage to closing Nelles is the avoidance of a significant amount of capital outlay modifications (\$74 million). Nelles also has the highest per ward cost (\$56,000) of any of the nonreception center facilities.

Issues for Legislative Consideration. While we believe that the closure plan seems reasonable upon our initial review, we have identified several issues for further legislative review. First, because the report was only recently released, we have not had an opportunity to review in detail how the fiscal estimates were calculated. Specifically, it is not clear how the initial costs of each closure were calculated. Second, the department is estimating that it will take about 405 days to fully implement each phase of the plan. However, since the release of the report the department has indicated that the time frames could be shorter, which would reduce the estimated closure costs. By the time of budget hearings, the department may have a more accurate estimate of the timeframe to close each institution. Third, while we recognize the importance of establishing an all female facility at Ventura, it is not clear why DeWitt Nelson is proposed for closure before the Nelles Facility. According to the Youth Authority's estimates, the state would realize significantly more savings from the closure of Nelles as opposed to DeWitt Nelson.

Analyst's Recommendation. For the reasons stated above, we recommend that the Youth Authority report at budget hearings on the following: (1) the basis for the 405 day time frame for implementation of each of the two phases and (2) the feasibility of closing the Nelles facility prior to the DeWitt Nelson facility.

PROGRAM ISSUES

Failure to Comply With English Language Learner Program Jeopardizes Federal Funds

We withhold recommendation on the Youth Authority's proposal to certify teachers for English Language Learner services pending federal approval of the department's action plan to address program deficiencies. We further recommend that the Youth Authority report at budget subcommittee hearings on (1) the status of the action plan submitted to the federal government and (2) additional funding that will be necessary in the budget year and subsequent years for the English Language Learner program to comply with federal law.

Background. As part of its education program, the Youth Authority is required by state and federal law to identify, assess, and provide instructional services to wards who have limited English proficiency through its English Language Learner program. The Youth Authority estimates that about 24 percent of its population require English Language Learner services (about 1,300 wards).

In 1999, the Office of Civil Rights (OCR) within the U.S. Department of Education reviewed the English Language Learner program for its compliance with Title VI of the Civil Rights Act of 1964. The OCR found "significant compliance concerns." For example, it found that staff were not adequately trained to identify students who have a primary or home language other than English and that there was no overall structure or design to provide a core curriculum to English Language Learner students.

As a result, and in order to continue to receive federal funds, the state developed a Voluntary Resolution Plan to address the compliance issues. However, in 2001, OCR conducted a follow-up review of the Youth Authority's compliance and noted significant concerns with the Youth Authority's implementation of the plan. Because OCR found continued noncompliance with Title VI, it required the Youth Authority to submit a written action plan detailing how the deficiencies would be corrected, who would be responsible for implementing each action, the resources necessary for implementation, and the time frames for completion. The OCR indicated that when it is unable to obtain voluntary compliance, it is obligated to take steps to initiate its enforcement mechanisms, which can result in the loss of federal financial assistance (\$6.4 million in the budget year). The Youth Authority submitted its proposed action plan in October 2002 and is waiting for approval of the plan from OCR.

Budget Proposal. The English Language Learner program receives funding annually through the budget process. The amount is based on the projected ward population that will require English Language Learner services. For the budget year, a total of \$723,000 (\$597,000 General Fund, \$126,000 Federal funds) is allocated for the program. In addition, the administration proposes \$1.1 million for a three-year plan to certify all Youth Authority teachers to meet the needs of English Language Learners.

Concerns With Budget Proposal. Based on our review of the department's proposal to certify Youth Authority teachers for English Language Learner services, we have the following concerns. First, at the time this analysis was prepared, the Youth Authority was waiting for OCR's approval of its action plan to address program deficiencies. Thus, it is unclear whether the department's plan will be sufficient to address OCR's compliance concerns. Since the budget proposal is based upon the contents of the plan, and the contents of the plan could possibly be altered by OCR, we believe it is premature for the Legislature to approve funding for this purpose. Second, based upon discussions with the department, the current budget proposal does not appear to address all of OCR's concerns from a funding standpoint. Some of the OCR concerns not addressed by the proposal include the assessment, identification, and monitoring of English Language Learner students, as well as the lack of parent notification. Thus, additional funding may be necessary to comply with federal law.

Analyst's Recommendation. For the reasons stated above, we withhold recommendation on the proposal to certify Youth Authority teachers for English Language Learner services. We recommend that the Youth Authority report at budget subcommittee hearings on (1) the status of the action plan submitted to OCR and (2) additional funding that may be necessary in the budget year and subsequent years for the English Language Learner program to comply with state and federal law.

Administration of Treatment Programs Needs Improvement

Effective rehabilitation and treatment programs for juvenile delinquents have the potential to improve public safety, and reduce future state incarceration costs. Based upon our review of Youth Authority programs, there is little evidence that its programs are effective. Additionally, we find that there is a significant amount of overlap and duplication among programs. In the following section, we discuss these concerns and offer recommendations to improve the potential effectiveness and administrative efficiency of Youth Authority's programs at no or little cost to the state.

Background

The California Youth Authority is responsible for the treatment, training, and education of juvenile offenders who are committed to the state from county courts. The mission of the Youth Authority is to rehabilitate youthful offenders who have committed serious crimes against the public and are headed toward a life of delinquency. According to state law, “offender training and treatment shall be substituted for retributive punishment and shall be directed toward the correction and rehabilitation of young persons.” The benefits of rehabilitation include preventing future crimes by wards that are released from the institutions, thereby improving public safety and the quality of life for California citizens. Rehabilitation also increases the likelihood of these youth growing into productive and contributing members of society. Finally, rehabilitation has the potential to reduce state and local government expenditures for law enforcement and incarceration.

Over the years, the Youth Authority has implemented numerous programs aimed at rehabilitating delinquent youth. Figure 6 provides a description of the “core” treatment programs to which wards can be assigned. By core treatment programs, we mean programs to which wards are frequently assigned, are normally offered at several or all of the institutions, and address the predominant needs of Youth Authority wards.

Administration. The treatment and rehabilitation programs are administered in a decentralized manner. Decisions regarding the structure, duration, and number of slots available for particular programs are delegated to program staff in each of the 11 institutions. With few exceptions, the department’s headquarters has traditionally played a limited role in providing policy guidance in the area of program administration.

Funding. It is difficult to determine the exact level of resources provided for treatment and rehabilitation programs. This is because most Youth Authority programs do not have a separate appropriation in the state budget. Furthermore, most of these program services are staffed by Youth Correctional Counselor positions, who perform other functions, thereby making it difficult to determine how much of their time is spent providing treatment and rehabilitation services. However, for the few programs whose funding is separately identified (ITP, SCP, Sex Offender Program (SOP), and Formal Drug—each of which is shown in Figure 6), the department received approximately \$32.7 million General Fund in 2002-03. This represented 8 percent of the departmental budget.

Figure 6

Department of the Youth Authority Inventory of Core Treatment Programs

Life/Social Skills Programs	Population ^a	Number of Institutions With Program
Anger Management —Teaches wards to control their anger in a socially acceptable way.	835	11
Domestic Violence —Assists wards in understanding and controlling their physical, sexual, and emotional behaviors.	55	4
Employability —Provides skills for successful employment including resume writing, job interviewing, and job searching.	223	9
Gang Awareness —Addresses consequences of gang behavior, and attempts to divert wards from the lifestyle.	553	10
Impulse Controls/Behavior Modification —Teaches wards to identify impulse triggers and react in a socially appropriate manner.	36	5
Parenting —Prepares wards for parenthood, covering such topics as effective communication and stress management.	244	11
Relating to Females —Allows wards to evaluate their past relationships, and learn appropriate interaction skills.	45	3
Social Thinking Skills —Teaches wards to reduce impulsive and disruptive behavior, and skills for successful decision making.	329	7
Victim Awareness —Encourages wards to understand the financial, physical, and emotional trauma they have caused.	322	11
Vocational Training —Provides practical experience in fields such as landscaping, culinary arts, construction, and carpentry.	1,671	9
Substance Abuse Treatment		
Formal Drug Treatment Program —Wards are usually exposed to the Hazelden 12-Step Program.	889	9
Informal Drug Treatment Program —Explores how substance abuse affects the mind, as well as one's family and friends.	569	10
Specialized Programs		
Intensive Treatment Program (ITP) —Wards diagnosed with moderate to major mental illness (schizophrenia, psychosis, and depression) may be placed in an ITP.	159	6
Specialized Counseling Program (SCP) —Designed for wards with less severe mental illnesses than those housed in the ITP.	166	4
Sex Offender Program (SOP) —Wards who have been identified as sex offenders pursuant to statute or who have exhibited symptomatic behavior.	142	3
Informal Sex Offender Program —Counseling for involvement in molestation, a sex crime, or sexually inappropriate behavior.	104	8
^a As of April 5, 2002. Source: Office of Inspector General		

Little Evidence of Program Effectiveness

Programs Lack Evaluation Studies. We found that very little outcome data are available for the treatment programs. Because adequate outcome data are not collected, programs have either never been systematically evaluated or the evaluation is outdated. In a couple of the program evaluations that we reviewed, there were some indications of outcome measures being tracked in order to conduct the studies. However, the outcome data are no longer being tracked by the Youth Authority because resources have not continued to be allocated for these purposes.

As part of our review of core treatment programs, we asked the Youth Authority to provide us with evidence that their programs are effective. We reviewed several reports on the Formal Drug Treatment Program, Employability Skills class, and SOP. While the Employability Skills and SOP reports indicated some levels of success with the participants, the studies' results were still questionable. For example, the Employability Skills study was done in 1986 and based on a small sample size. For the other core treatment programs, no research was provided that indicated the Youth Authority had found these programs to be effective.

Programs Inefficiently Administered

Programs Lack Placement Criteria. During our review, we found that a few core treatment programs, such as ITP and SCP, have placement criteria for determining which wards are likely to benefit from services. However, a number of other programs lack specific placement criteria. These include Anger Management, Gang Awareness, and the Formal and Informal Drug Programs. The absence of placement criteria may prevent wards who most need these services from receiving them, while other wards who have less need for the services, in fact, receive them. Thus, the lack of placement criteria potentially results in a misallocation of resources.

Substantial Overlap in Program Content. In March 2001, the Youth Authority conducted a survey of its programs and identified a total of 98 programs and/or counseling groups at the 11 institutions and four camps. Our review of a sample of these programs indicates that a given institution may have several programs with similar content. For example, the O.H. Close Youth Correctional Facility offers Anger Management, Impulse Control/Behavior Modification, and Social Thinking Skills. Each of these programs focuses primarily on controlling anger and developing decision making skills. At another institution, N.A. Chaderjian Youth Correctional Facility, three separate victim programs are offered including Victim Awareness, Victims Group, and Impact of Crime on Victims. Again, each of these programs mainly focuses on teaching wards the emotional, financial, and physical effects of their crimes on victims. Since

wards may be attending programs with duplicative content, it reduces their time to attend other programs they also may be required to complete prior to their release. In addition, because wards may not have the time to complete all of their required programs before their release, it increases the chances that their parole consideration date will be extended.

Same Program Varies by Institution. In our review of programs, we found that the same program varies in curricula and length from institution to institution. For example, the Victim Awareness class varied in length from 32 hours to 100 hours. The Gang Awareness course varied from 8 hours to 70 hours. Based upon our discussions with the Youth Authority and our review of these programs, we could identify no apparent reason for the variation in program length other than the fact that institutions simply implement the same programs differently.

The variation in program curricula and length is not a problem in and of itself. Institutions should have a certain level of flexibility in this regard. However, too much variation across institutions—particularly in program length—can make it difficult to manage the “flow” of wards through the treatment and rehabilitation system. The ability to effectively treat and/or rehabilitate 5,400 wards (as of January 2003) whose average stay is about 28 months, and who are being asked to participate in a growing number of programs requires among other things effective time management.

Concerns With Administrative Inefficiency. The lack of placement criteria and standardized programs, as well as program overlap, can lead to the misallocation of resources. These inefficiencies can also have a significant impact on a ward’s length of stay at the Youth Authority. The OIG recently released a report examining the impact of treatment programs on wards’ stay at the Youth Authority. As part of their investigation, the OIG selected a sample of 121 wards to review how the Youth Authority and the Youthful Offender Parole Board adjusted lengths of stay to accommodate the completion of treatment programs. In particular, OIG found that 44 percent of wards (53) had their confinement time increased to complete treatment programs. These extensions increase state costs that would otherwise be avoided if treatment programs were completed as originally scheduled.

Accountability Lacking

Headquarters Not Required to Report to Legislature. With the exception of a new mental health program, the Youth Authority is not required to report to the Legislature on the effectiveness of any of their treatment programs. The Legislature is thus unable to consistently monitor the effectiveness of programs to gauge whether funding for the programs has achieved its objectives.

Budget Does Not Display Program Expenditures. It is difficult to determine the exact level of resources provided for treatment and rehabilitation programs because most Youth Authority programs do not have a separate appropriation in the state budget. Because specific expenditures are not displayed for treatment programs, it is difficult to assess how funding for programs varies from year to year. In addition, it is also difficult to assess how population changes affect program funding as well.

Recommendations to Improve Rehabilitation and Treatment Programs

We offer a number of recommendations for improving the program effectiveness and administrative efficiency of Youth Authority programs. In light of the state's fiscal condition, we have limited our recommendations to those that we believe could be implemented using the existing resources of the department, including requiring the Youth Authority to standardize program content and length, take steps to evaluate programs, consolidate programs with similar content, develop placement criteria for all treatment programs, and develop a detailed budget display for programs.

Figure 7

Summary of LAO Recommendations For Youth Authority Rehabilitation Programs

- ✓ Adopt supplemental report language for the following:
 - Development of an annual evaluation schedule.
 - Development of placement criteria for all treatment programs.
 - Require the Department of Finance to develop detailed budget display for treatment programs.
- ✓ Youth Authority should submit the following to the budget subcommittees:
 - Plan to standardize program content and length at all institutions.
 - Consolidated list of treatment programs eliminating overlap.

Standardize Program Content and Length at All Institutions. We recommend that the Youth Authority standardize the content of its core treatment programs. This would ensure that all wards who enter the same program receive basically the same curriculum and treatment hours re-

ardless of the institution or who is administering the program. Standardizing program length should also improve the Youth Authority's ability to effectively manage the movement of wards through the system. Finally, it would reduce the likelihood that wards would have their PCDs extended due to failure to complete a program.

At the time this analysis was prepared, the Youth Authority indicated that it was in the process of standardizing its rehabilitation programs. We recommend that the Youth Authority provide the fiscal committees at budget hearings with a plan for implementing standardized program content and length, including a timeline so that progress toward that goal can be monitored.

Take Steps to Evaluate Programs. We recommend the adoption of supplemental report language requiring the Youth Authority to develop a plan for evaluating its core treatment programs. The plan should contain goals and performance measures for its core treatment programs, as well as an evaluation schedule that provides a timeline for evaluation of each core treatment program, and an assessment whether each evaluation can be conducted within existing resources. The department has indicated that it will be conducting program evaluations in the future.

The goals and performance measures for the same program should not vary from institution to institution. In addition, performance measures should be described for each program. For example, the goal of the Employability program may be to make wards more marketable once on parole and to increase long-term employment. The performance measures for this goal might then be: what percentage of parolees who are seeking employment find it, and how many parolees remain employed during a follow-up period of a year?

Consolidate Programs With Similar Content. We recommend that the Youth Authority, at the time of budget hearings, provide the fiscal committees with a list of programs they intend to continue after program consolidation has occurred. Consolidation of programs would be beneficial for several reasons. First, wards would have fewer programs to complete, which would make it less likely that the PCD would be extended in order to complete programs. In addition, the consolidation of programs would also allow wards more time to complete the most necessary programs. The recommended placement criteria system would aid in this endeavor as well.

Second, staff could concentrate on conducting a few programs and develop their expertise. Third, it would be easier for the Youth Authority to conduct staff training on all the programs.

Youth Authority Should Develop Placement Criteria for Core Treatment Programs. In the past, the Youth Authority has used a questionnaire called the Sexual Offender Referral Document (SORD) to determine whether wards should be placed in a SOP. The SORD consists of a number of questions regarding wards' sexual offenses. A numerical score is determined based upon the ward's responses to the questions. If the ward's score met the threshold for placement in the program, the ward was placed in the SOP. Although the Youth Authority no longer uses this approach due to statutory requirements for sex offenders, we believe this type of placement questionnaire serves as a useful model for the other core treatment programs. We recommend that placement questionnaires similar to the SORD be developed for all core treatment programs and that a threshold score be used to determine placement in these programs. The threshold (or placement criteria) should be set at a level that would ensure that wards with the greatest need are placed in the programs.

Such an approach would increase the likelihood that wards are placed in programs on the basis of an objective assessment of their needs. In addition, it would improve the Youth Authority's ability to place wards in programs for which they have the greatest need, thereby maximizing the use of limited program resources.

For these reasons, we recommend that the Legislature adopt supplemental report language that requires the Youth Authority to develop written placement criteria for all core treatment programs. Placement questionnaires for drug treatment are currently available to the Youth Authority. While the Youth Authority may need to develop such instruments for other core treatment programs where they currently do not exist, we anticipate that these placement questionnaires and criteria could be developed within existing resources over the next couple of years. The department indicates that a workgroup has initiated discussions on developing such placement criteria.

Budget Should Display Specific Program Expenditures. We recommend that the Legislature adopt supplemental report language directing the Department of Finance to display treatment program expenditures in the Governor's budget document. We anticipate that this would include expenditure displays for drug treatment programs, specialized treatment programs, and, to the extent possible, programs administered by staff whose support funding is subject to annual caseload adjustments (mainly life/social skills programs listed in Figure 6). This would improve oversight of Youth Authority programs by enabling the Legislature to annually review the level of resources provided to such programs.

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 \$254 million for OCJP in 2003-04, including \$64.6 million from the General Fund. The total budget reflects a net decrease of \$12.7 million, or about 5 percent, below estimated current-year expenditures. The General Fund amount is approximately \$6 million, or 8.3 percent, below the current year revised amount. The overall reduction is largely the result of the Governor's proposal to shift the Domestic Violence Program from OCJP to the Department of Health Services (DHS). In addition, the budget proposes to reduce public safety and victim services local assistance programs by about \$3.4 million.

State Should Shift OCJP Functions to Other Departments

We recommend shifting the Office of Criminal Justice Planning (OCJP) programs to other departments because OCJP's mission and programs overlap significantly with those of other departments and because of OCJP's history of poor performance in the administration of its programs.

OCJP's Role in Criminal Justice. Currently, OCJP is the designated state agency for the administration of several large federal grant programs. The federal grants include the Violence Against Women Act, Victims of Crime Act, Byrne Act, and the Juvenile Justice and Delinquency Prevention Act. As the lead agency responsible for the administration of

these federal grants, the OCJP provides quarterly financial and annual programmatic information to the federal government on these programs. The OCJP also provides staff support to several advisory committees. In addition to these federal programs, OCJP administers numerous other state initiated programs aimed at addressing public safety, victim services, and juvenile justice. For the most part, OCJP is a vehicle for disbursing federal and state funds to local government and community-based organizations, as compared to directly administering programs.

Bureau of State Audit (BSA) Finds Department Severely Lacking in Its Primary Functions. At the request of the Legislature, BSA issued an audit report in October 2002 examining how well OCJP administers its programs. In particular, the BSA was requested to review how the department makes decisions on which grant applicants to approve or deny for receipt of federal and state funds. The BSA also investigated OCJP's program monitoring and evaluation process. Overall, the BSA audit found that while OCJP met some of its responsibilities in administering state and federal grant programs, it failed to meet other important responsibilities. The findings generally fall into two categories: those relating to the applications review process, and those relating to program evaluations.

- ***Application Review Process Lacking.*** According to BSA, OCJP lacked established guidelines and a structured review process for denying funding to applicants based on past performance. In addition, OCJP did not provide consistent and prompt oversight of grant recipients. The OCJP had not performed planned site visits, sometimes did not follow up with grant recipients that failed to submit required reports on time, had not promptly reviewed required reports, and had not ensured that grant recipients promptly implemented corrective actions.
- ***OCJP's Evaluation Process Lacking.*** The BSA also found that OCJP had not properly planned its evaluations or managed its evaluation contracts. As regards evaluation planning, OCJP did not have a planning process in place to prioritize evaluations of those grants that do not have mandated evaluation requirements. Also, the office did not have guidelines stating what an evaluation should include or what an evaluation should accomplish. As regards evaluation contracts, OCJP failed to develop measurable deliverables in its scope of work in two contracts, and consequently it had no way of ensuring that it would receive what it needed from these evaluations. Finally, BSA concluded that during the past three years, OCJP's evaluation branch spent \$2.1 million on activities that culminated in evaluations of uneven quality, content, and usefulness.

Significant Programmatic Overlap. The OCJP programs fall into three broad categories: victim services, public safety, and juvenile justice. The primary mission of the victim services programs is to help victims overcome the trauma of crime and to help communities prevent violent crimes. For the most part, this is achieved by providing grants—mainly federal grants, such as Violence Against Women Act grants—to state, local, and community-based organizations for the administration of programs. This mission, or components thereof, is shared by other state agencies, such as the DHS and the California Victim Compensation and Claims Board (CVCCB). The CVCCB, for example, works with local governments and community-based nonprofit victim support organizations to provide education and outreach to victims of crime. Some of these same counties and community-based organizations receive grants from OCJP for the provision of victim-related services.

Through its public safety programs OCJP provides funds and technical assistance to law enforcement agencies throughout the state, including district attorney's offices, sheriff's departments, and probation departments. These funds help support crime prevention and targeted law enforcement activities. Other departments, most notably the Board of Corrections (BOC) and the Department of Justice (DOJ), share these same broad goals and objectives. Below we discuss specific examples of overlap and program duplication in law enforcement and juvenile delinquency programs.

In terms of the public safety mission, there is evidence of overlap of effort between DOJ and OCJP. For example, both OCJP and the DOJ have programs that target methamphetamine-related crimes. The OCJP administers the War on Methamphetamine program, while DOJ administers the California Methamphetamine Strategy (CALMS). The programs share the same goal in that both seek to reduce and eradicate the illegal production of methamphetamine through increased arrests, prosecutions, and lab seizures. The only major difference is that OCJP provides funds to local government, while DOJ funds state-level law enforcement officers who provide technical assistance to the local agencies in support of their law enforcement efforts. In addition, it should be noted that both programs are maintaining or developing a database to track the locations of labs and the number of seizures.

Based upon our assessment, we can find no benefit to having these programs administered by separate departments. From both an administrative and cost-efficiency perspective, it would be more beneficial to have all of the existing methamphetamine activities under one department, thereby reducing the likelihood of duplication and improving the level of coordination between state and local agencies.

As regards juvenile justice programs, the OCJP administers about \$30 million in federal funds that support several programs aimed at reducing juvenile delinquency and juvenile crimes, including the Juvenile Justice and Delinquency Prevention program, the Juvenile Justice-Project Challenge Grant program, and the Community Delinquency Prevention program. These programs generally provide local assistance to counties and other agencies to conduct programs that are intended to decrease juvenile delinquency. These OCJP programs are very similar to programs administered by the BOC, in particular the Juvenile Crime Enforcement and Accountability Challenge Grant Program and the Crime Prevention Act of 2000 which are designed to reduce the threat of juvenile crime and delinquency.

In recognition of the overlap between OCJP and DHS, the Governor's budget proposes to transfer the Domestic Violence Program from the victim services branch of OCJP to DHS. We believe the Governor's proposal is a good first step toward addressing the duplication between OCJP and other agencies. However, as we discuss below, the state could potentially achieve greater efficiencies through complete consolidation of OCJP into other agencies with related goals and similar programs.

Consolidating Should Improve Service Delivery and Efficiency. We believe that consolidating OCJPs programs into other departments that have the same goals, and/or serve similar constituencies would likely improve these programs and result in program efficiencies. For example, consolidating both of the methamphetamine programs into one division at DOJ should result in program efficiencies since one department would oversee all aspects of the program. Likewise, consolidating all juvenile justice programs into one division at BOC, would allow local governments that receive existing BOC funds as well as OCJP funds to apply to one department for these grant funds instead of two. Furthermore, BOC staff could use their knowledge of the programs available in these communities to maximize the use of these resources.

In view of its poor performance record and overlapping functions with other state agencies, we recommend that OCJP programs be transferred to other state departments, as shown in Figure 1. We believe that such a consolidation would likely improve service delivery and efficiency.

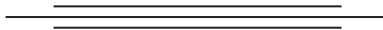
Estimated Administrative Savings. In addition to improving service delivery and efficiency, program consolidation would result in General Fund savings, as well as freeing up additional federal funds to support victims and law enforcement programs. For 2002-03, OCJP had 163 authorized positions distributed as follows: 28 in the executive office, 49 in administration, and 86 for program operations. We recommend that all of the program positions be transferred to the recommended departments,

Figure 1**LAO Recommended Transfer of OCJP Programs**

Program	Current	LAO Recommendation
Victim Programs	OCJP	Victim's Compensation Board
Juvenile Justice Programs	OCJP	Board of Corrections
Public Safety Programs	OCJP	Department of Justice

thus retaining all program capabilities necessary to carry out the shifted programs. Within the executive office, we recommend eliminating 17 positions, and moving 11 positions to the affected departments. Of the 49 administration positions, we recommend eliminating 34 positions and transferring 15 (1 Staff Services Manager, 1 Staff Services Analyst, 1 Information Systems Analyst, 1 Accounting Technician, and 1 Office Technician to each of the departments to which programs would be transferred). In total, this results in a reduction of 23 positions and salary savings of \$2.9 million. When staff benefits and operating expenses and equipment are incorporated, total savings are approximately \$5.3 million. Based on the 29 percent General Fund share of state operations costs at OCJP, General Fund savings from this consolidation are estimated to be \$1.5 million, leaving \$3.7 million in federal funds that could be used for programs.

Conclusion. The OCJP is primarily a vehicle for disbursing federal funds, and the department's mission and programs overlap with those of other departments. Moreover, OCJP has a history of poor performance in the administration of its programs, which the recent BSA report confirms is still a problem. Shifting OCJP's functions to other department as we recommend would likely improve the efficiency of state government and save an estimated \$1.5 million (General Fund). It would also free up an estimated \$3.7 million in federal funds (currently used for administration) that could be used to expand existing public safety, juvenile justice, or victim services programs or to establish new programs.



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Trial Court Funding

- D-15 ■ **Court Security Realignment Has Problems.** Recommend rejection of proposed shift of court security costs (\$300 million) from the General Fund to realignment revenues, because the proposal is not a realignment of responsibilities, but a swap of funding sources.
- D-17 ■ **Court Security Flexibility Proposal Has Merit, but Does Not Go Far Enough.** While we agree with the need for increased court flexibility with regard to the management of court security, we do not think the Governor's proposal provides enough flexibility. We recommend the Legislature amend the proposed trailer bill language to (1) require courts to contract for court security on a competitive basis, and (2) allow courts to contract with private security, as well as local law enforcement and the California Highway Patrol.
- D-19 ■ **New Court Security Fee Raises Concerns.** We recommend that the Judicial Council report at the time of budget hearings on how the court security fee will be implemented and the potential impact this will have on access to the civil courts and other state and local programs.

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- D-19 ■ **Undesignated Fees: Important Step Forward, but Risky Estimate.** We agree in concept with the Governor's proposal to transfer undesignated fee revenue from the counties to the courts, particularly where the court incurs the cost of providing the service. However, given the uncertainty of the \$31 million estimate of transferred fee revenues, we recommend Judicial Council report at budget hearings on the potential impact to courts if the revenue falls short of the estimated \$31 million.
- D-22 ■ **Electronic Reporting Has Merit, but More Detail Needed.** While we agree in concept with the Governor's proposal to implement electronic reporting in the trial courts, we recommend Judicial Council report at budget hearings on key issues relating to how the plan would be implemented.
- D-25 ■ **Legislature Needs Plan for Unallocated Reduction.** We recommend the Judicial Council report at budget hearings on the potential impact of the proposed 2003-04 unallocated reduction for the trial courts, its plan for allocating the reductions, and action that can be taken to minimize the negative impact on access to the courts.

Department of Justice

- D-27 ■ **Youth Authority Lawsuit Funding Unjustified. (Reduce Item 0820-001-0001 by \$4.3 million.)** We recommend deletion of \$4.3 million requested for the defense of the California Youth Authority's class action lawsuit because the parties will probably reach settlement, and adoption of budget bill language to allow the Department of Justice to submit a funding request in the event that settlement is not reached.

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- D-28 ■ **Crime Lab Fee Proposal has Merit, but Needs Implementation Plan.** We find that the Governor's proposal to charge local law enforcement agencies for forensic services provided by state laboratories has merit. However, a number of implementation issues need to be addressed. We recommend that the Department of Justice and the Department of Finance provide the Legislature with the details of the proposal prior to budget hearings.

Department of Corrections

- D-32 ■ **Inmate Population Projected to Stabilize.** The California Department of Corrections is projecting the inmate population to grow in the second half of the current year before stabilizing.
- D-37 ■ **Caseload May Require Further Adjustment.** We withhold recommendation on the 2003-04 budget request for caseload funding. Recent data indicate that population is trending lower than the department's projections. Inmate population may be overstated in the budget year. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision.
- D-38 ■ **Release Elderly Inmates to Parole. Reduce Item 5240-001-0001 by \$9 Million.** Given the high cost of housing *nonviolent* elderly inmates, and research showing the high rates of parole success among older inmates, we recommend the Legislature release *nonviolent* inmates over 55 years of age to parole. In addition to saving approximately \$9 million in the budget year, this would reduce prison health care costs, and reduce prison overcrowding, thereby increasing the level of safety in California prisons.

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- D-42 ■ **Work Credits Earn Inmates Early Release. Reduce Item 5240-001-0001 by \$70 Million.** We recommend that the Legislature adopt trailer bill language to allow inmates in the Reception Center and inmates involuntarily unassigned to earn day-for-day work credits because it will reduce departmental operational costs in the budget year and give the department increased ability to manage inmate behavior, thereby increasing institutional safety.
- D-46 ■ **Federal Funds Assumption May Be Unrealistic.** The Governor's budget assumes that the state will receive \$154 million from the federal government for the costs of incarcerating undocumented felons. There is considerable uncertainty regarding this assumption given that the President's 2003-04 budget did not include an appropriation to fund this program.

Department of the Youth Authority

- D-51 ■ **Ward and Parolee Populations Declining.** The Department of the Youth Authority's institutional population declined in the current year. It is projected to continue to decline modestly in the budget year to 5,095 and then increase slightly to 5,520 by 2006-07. Youth Authority parole populations are expected to decline in the budget year to 3,960 and continue to decline to 3,220 parolees in 2006-07.
- D-52 ■ **Ward and Parolee Population Projections Will Be Updated in May.** Withhold recommendation on a \$3.4 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. Further caseload funding decreases are likely due to the Governor's proposal to adjust county sliding scale fees for inflation.

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- D-52 ■ **Closure Plan Would Close Three Institutions by 2005-06.** The Youth Authority recently submitted its closure plan which would close the male portion of the Ventura Youth Correctional Facility and the DeWitt Nelson Youth Correctional Facility by the end of the budget year and close the Fred C. Nelles Youth Correctional Facility by the end of 2005-06. We recommend that the Youth Authority report at budget hearings on the timeframe for implementation of each of the closures and the feasibility of closing Fred C. Nelles prior to DeWitt Nelson.
- D-58 ■ **Failure to Comply With English Language Learner Program Jeopardizes Federal Funds.** We withhold recommendation on the Youth Authority's proposal to certify teachers for English Language Learner services pending federal approval of the department's action plan to address program deficiencies. We further recommend that the Youth Authority report at budget subcommittee hearings on (1) the status of the action plan submitted to the federal government and (2) additional funding that will be necessary in the budget year and subsequent years for the English Language Learner program to comply with federal law.
- D-59 ■ **Administration of Youth Authority Programs Needs Improvement.** We found little evidence of the effectiveness of Youth Authority programs. We also found that programs lack placement criteria, have substantial overlap, and that the same program varies in content and length at different institutions. We recommend the adoption of supplemental report language requiring the department to (1) develop placement criteria and (2) a plan for evaluating the department's core treatment programs, as well as (3) requiring the Department of Finance to display program expenditures in the Governor's budget document. We further recommend that the Youth Authority provide at

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budget hearings a plan to standardize program content and length at all institutions.

Office of Criminal Justice Planning

- D-67 ■ **State Should Shift OCJP Functions to Other Departments.** We recommend shifting the Office of Criminal Justice Planning (OCJP) programs to other departments because OCJP's mission and programs overlap significantly with those of other departments and because of OCJP's history of poor performance in the administration of its programs.

