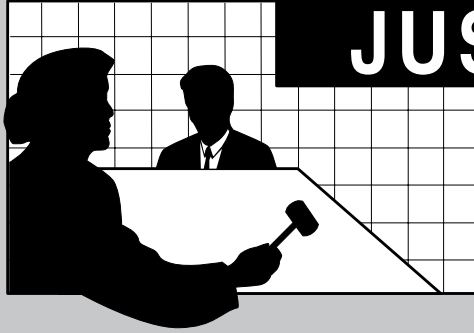


JUDICIAL & CRIMINAL JUSTICE



LAO 
65 YEARS OF SERVICE

2008-09 Analysis

MAJOR ISSUES

Judicial and Criminal Justice



Restructuring Criminal Justice Local Assistance Programs

- The Governor's budget proposes 10 percent across-the-board reductions for criminal justice local assistance programs to achieve about \$60 million in savings. We recommend instead that the Legislature achieve savings of about \$270 million by eliminating or reducing General Fund support for programs that have not demonstrated results, do not serve a statewide purpose, could be consolidated, or could be funded from other sources (see page D-15).



Administration's Population Reduction Proposals Not Best Options

- The administration proposes to release certain inmates from prison early and place them under minimal parole supervision, a policy it terms "summary parole." We recommend alternatives offering a better tradeoff between public safety and budget savings: (1) changing crimes currently classified as "wobblers" to misdemeanors and (2) substituting an "earned discharge" program for the Governor's summary parole proposal (see page D-105).



Realignment of Parole Could Improve Public Safety and Help Address Budget Shortfall

- We propose a nearly \$500 million realignment of responsibility for supervision of low-level criminal offenders from the state parole system to county probation. Our plan is designed to give counties a greater stake in the success of these offenders in the community, thereby reducing their

likelihood of reoffending (see “Part V” of *The 2008-09 Budget: Perspectives and Issues*).



Implementing AB 900’s Infill Bed Plan: Progress and Concerns

- Prison officials have made some progress, but encountered some obstacles, in implementing a \$7.7 billion package of prison construction projects. We raise concerns about how the estimated construction cost per bed for new infill bed facilities has nearly tripled compared to the cost of a prison built a few years ago. We recommend that the infill bed plan be revised after obtaining an independent estimate of construction costs to avoid the possibility of overspending hundreds of millions of dollars for these projects (see page D-138).



Budget Process for Population Changes Needs More Work

- While the prison system has taken some initial steps to improve its current population budget request documents, further work is needed. We recommend several steps to improve the process used to budget for changes in the prison inmate population that will improve their accuracy, efficiency, and transparency (see page D-92).



Specific Cost-Savings Options for the Judicial Branch

- The budget proposes an unallocated reduction of \$246 million for the Judicial Branch. We recommend the Legislature adopt a savings target that is consistent with its own program and spending priorities and take specific actions. Options include suspending State Appropriations Limit adjustments, phasing in electronic court reporting, adjusting the budget for delays in the appointment of new judges, and increasing court revenues (see page D-40).

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OVERVIEW

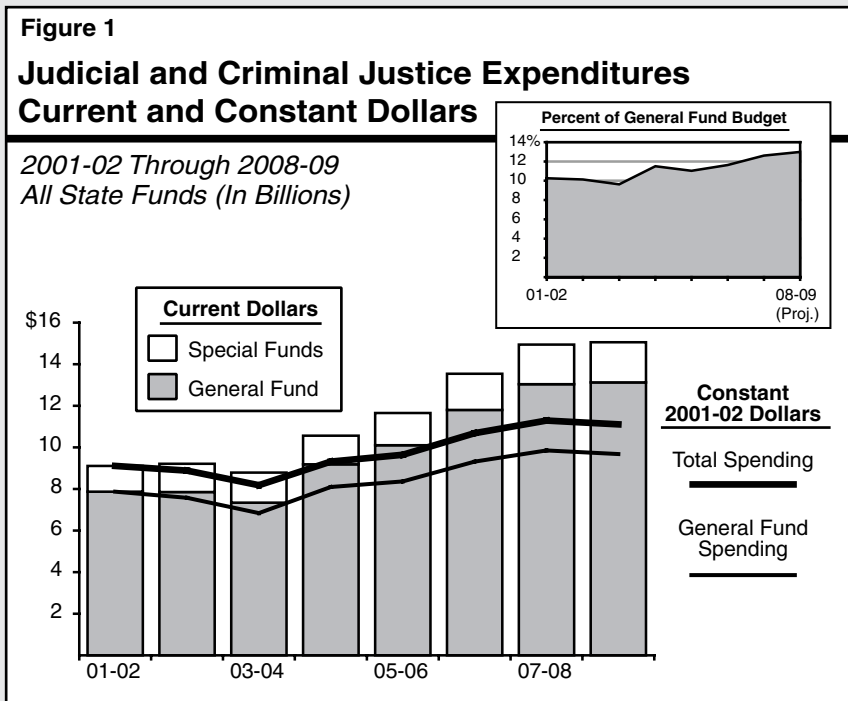
Judicial and Criminal Justice

Combined General Fund expenditures for judicial and criminal justice programs are proposed to increase by less than 1 percent in the budget year. For the major departments in this area, the budget proposes various increases in the support budget that are largely offset with a similar level of reductions. The proposed spending increases reflect (1) inflation adjustments, (2) projected growth in the adult prison population, (3) costs for implementation of various federal court settlements and orders in the prison system, and (4) new and expanded state programs. The major reductions include a proposal for the early release from state prison of offenders who do not have a violent or serious or certain sex crimes on their record, as well as large unallocated reductions in other criminal justice agencies, including the courts and the Department of Justice. The capital outlay budget proposes to shift about \$2.2 billion in lease-revenue bond financing from other prison projects to build medical prison beds and issuing \$2 billion in general obligation bonds for new courthouses.

EXPENDITURE PROPOSAL AND TRENDS

Budget Year. The budget proposes General Fund expenditures of about \$13.1 billion for judicial and criminal justice programs, which is about 13 percent of all General Fund spending. This amount reflects the budget-balancing reductions proposed for these programs by the Governor. This amount—which includes support for operations, capital outlay, and debt service for related facilities—represents an increase of about \$86 million, or less than 1 percent, above the proposed revised level of current-year spending for these programs. As regards specific departments, the proposed General Fund budgets for the California Department of Corrections and Rehabilitation (CDCR) and the Judicial Branch would decline slightly compared to the prior year under the Governor’s budget proposal, while General Fund spending for the Department of Justice (DOJ) would drop 8.6 percent.

Historical Trend. The spending changes proposed by the administration for 2008-09 differ significantly from the historical trend of significant budgetary increases for criminal justice agencies. Figure 1 shows expenditures for judicial and criminal justice agencies since 2001-02. (These expenditures have been reduced to reflect federal funds the state has or is expected to receive to offset the costs of incarceration of undocumented felons.) The figure shows that General Fund expenditures for judicial and criminal justice agencies are projected to increase by almost \$5.3 billion, or 67 percent, between 2001-02 and 2008-09, an average annual increase of 7.6 percent. Special funds expenditures for these programs also grew significantly in this period. As a result, combined General Fund and special fund expenditures are estimated to increase almost \$5.9 billion, or 65 percent, from 2001-02 through 2008-09. State expenditures increased during this period mostly due to (1) the state's assumption of primary responsibility for funding trial court operations, (2) increased labor costs to operate the state corrections system, and (3) court-ordered expansions and improvements of inmate and ward programs, particularly for inmate health care services.



Adjusting for Inflation. Figure 1 also displays the spending for these programs adjusted for inflation (constant dollars). On this basis, General Fund expenditures are estimated to increase by 23 percent from 2001-02 through 2008-09—the equivalent of a \$1.8 billion increase in purchasing power. Combined General Fund and special funds expenditures are estimated to increase by 22 percent during this same period when adjusted for inflation.

SPENDING BY MAJOR PROGRAM

Figure 2 (see next page) shows expenditures from all sources for the operation of major judicial and criminal justice programs in 2006-07, 2007-08, and as proposed for 2008-09. (Capital outlay and debt-related expenditures from general obligation bonds are not included in Figure 2.) As the figure shows, CDCR accounts for the largest share of total spending in the criminal justice area, followed by the Judicial Branch, DOJ, and certain criminal justice programs budgeted as local assistance.

Spending is proposed to decrease by less than 1 percent in CDCR and the Judicial Branch (the Supreme Court, Courts of Appeal, Judicial Council, trial courts, and the Habeus Corpus Resource Center) and decrease more significantly in the other major programs. Under the budget proposal, DOJ would receive the largest dollar decrease in General Fund support. The department would also experience the largest dollar decrease from all sources relative to its estimated current-year spending. However, the largest percentage decrease (10 percent) from the General Fund is proposed for criminal justice local assistance programs.

MAJOR BUDGET CHANGES

Figures 3 (see page 11) and 4 (see page 12) present the major budget changes for judicial and criminal justice programs. These and other changes are described below. The amounts shown below reflect the General Fund decreases proposed for 2008-09 relative to the 2007-08 *Budget Act*.

Budget-Balancing Reductions in Judicial and Criminal Justice Agencies. While the budget provides for various increases in spending (discussed below) to judicial and criminal justice agency budgets, these additional funds are largely offset by proposals for spending reductions to address the state's projected budget shortfall. The biggest reduction in dollar terms (\$256 million) in the budget year would be in CDCR from a proposal for the release, up to 20 months early, from state prison of

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

2006-07 Through 2008-09
(Dollars in Millions)

	Actual 2006-07	Estimated 2007-08	Proposed 2008-09 ^a	Change From 2007-08	
				Amount	Percent
Department of Corrections and Rehabilitation					
General Fund ^b	\$8,957	\$9,849	\$9,835	-\$13	-0.1%
Special funds	70	91	90	-1	-1.1
Reimbursements and federal funds	112	126	153	27	21.4
Totals	\$9,139	\$10,065	\$10,078	\$13	0.1%
Federal Offset for Undocumented Felons					
	\$102	\$102	\$102	—	0.0%
Judicial Branch^c					
General Fund	\$2,005	\$2,236	\$2,216	-\$20	-0.9%
Special funds and reimbursements	931	974	981	7	0.7
County contribution	499	499	499	—	—
Totals	\$3,435	\$3,709	\$3,695	-\$14	-0.4%
Department of Justice					
General Fund	\$399	\$417	\$381	-\$36	-8.7%
Special funds and reimbursements	299	376	368	-8	-2.1
Federal funds	40	42	42	—	—
Totals	\$737	\$835	\$791	-\$44	-5.3%
Criminal Justice Local Assistance^d	\$290	\$293	\$263	-\$30	-10.0%

Totals may not add due to rounding.

a Includes proposed budget-balancing reductions.

b Includes Proposition 98 and excludes capital outlay.

c Excludes Commission on Judicial Performance and Judges' Retirement System contributions.

d Includes all funding in budget Item 9210 except special supplemental subventions.

offenders who do not have a violent or serious or certain sex crimes on their records. An additional \$98 million in savings would be realized by not actively supervising these same types of offenders on state parole. In addition, a \$25 million reduction would be made in local grant programs in the CDCR budget. The budget plan calls for a \$246 million unallocated reduction in the Judicial Branch budget and a \$42 million unallocated reduction in DOJ. Smaller reductions in dollar terms would also be made in the budgets of the Commission on Judicial Performance, the Office of the

Figure 3

Criminal Justice Proposed Major Changes for 2008-09 General Fund

Department of Corrections and Rehabilitation	Requested: \$9.8 billion	
	Decrease: \$13 million	(-0.1%)

- + \$248 million for the full-year cost of programs begun in 2007-08
 - + \$153 million in administrative spending, primarily information technology projects
 - + \$147 million related mainly to compliance with federal court orders and settlements, including activities of the court-appointed Receiver to improve inmate medical care
 - + \$54 million for projected changes in inmate, ward, and parole populations, including funding for out-of-state and female rehabilitation beds
 - + \$35 million to expand prison and rehabilitation programs, including drug and mental health treatment and assessments of offenders
 - + \$20 million to expedite the hiring and training of additional correctional officers
-
- \$256 million from the release, up to 20 months early, from prison of offenders without violent or serious or certain sex crimes on their record
 - \$125 million from eliminating the reserve for the court-appointed Receiver for improvement of medical services for inmates
 - \$98 million from no longer actively supervising certain offenders on parole
 - \$67 million to reflect discontinuation of one-time spending occurring in 2007-08
 - \$62 million from eliminating a 2007-08 inflation adjustment for operating expenses
 - \$25 million from reducing certain county grant programs

Figure 4

Judicial Branch and Department of Justice Proposed Major Changes for 2008-09 General Fund

Judicial Branch	Requested:	\$2.2 billion	
	Decrease:	\$20 million	(-0.9%)
<ul style="list-style-type: none"> + \$126 million for inflation and growth adjustments for trial courts + \$47 million full-year cost of 50 new judgeships created in 2007-08 and start-up funding for 50 additional judgeships proposed for 2008-09 + \$17 million to implement 2006 legislation to better regulate conservatorships 			
—————			
- \$246 million for an unallocated reduction			
Department of Justice	Requested:	\$381 million	
	Decrease:	\$36 million	(-8.6%)
- \$42 million for an unallocated reduction			

Inspector General, the Office of the State Public Defender, the California Law Revision Commission, the Commission on Uniform State Laws, other criminal justice local assistance programs, and reimbursement to counties for part of the costs of costly homicide trials.

CDCR Population, Inflation, and Technical Budget Adjustments. The budget takes into account the projected increases in adult inmate and parole populations that it expects to occur under current laws and policies. (In addition, the budget plan separately proposes measures that would reduce the adult inmate and parole populations.) The spending plan provides funding for an additional 3,000 out-of-state beds for inmates and the start of activation of about 2,000 more community rehabilitation beds for female prison inmates. The spending plan also reflects the continued decline in the number of juvenile wards in state institutions and on parole due largely to recently enacted policy changes that will shift nonviolent juvenile offenders to counties, including the closure of two juvenile facilities. The net fiscal effect of all of these changes is a proposed increase in state spending of \$54 million. The budget adjusts for the full-year cost of new or expanded programs that began operation in the current year

(\$248 million), increases operating expenses and equipment for inflation (\$65 million), and reduces spending to reflect the discontinuation in 2008-09 of one-time spending that will occur in 2007-08 (-\$67 million). It also reflects \$62 million in savings from a 2007-08 *Budget Act* provision that eliminated an inflation adjustment for operations expenses. Additional spending for proposed increases in employee compensation is contained in a separate non-CDCR budget item.

Corrections Court Orders and Settlements. The budget identifies \$142 million in new spending proposals related to federal court orders and settlements affecting CDCR operations. These include *Plata*, relating to inmate medical care (a federal court-appointed Receiver manages this care); *Perez*, relating to inmate dental care; *Farrell* and *L.H.*, relating to juveniles within youth correctional facilities and on parole; *Armstrong*, relating to inmates with disabilities; *Rutherford* and *Lugo*, relating to parole hearings for inmates sentenced to life with the possibility of parole; *Valdivia*, relating to revocation of offenders released on parole; and other cases. The largest single increase in new spending (\$74 million) relates to the *Plata* case, but the administration also proposes not to continue into 2008-09 the \$125 million unallocated reserve provided to the Receiver in 2007-08. Most of these budget proposals relate directly to the CDCR budget.

New Correctional Programs. The budget proposes \$35 million in spending by CDCR to implement the requirements of Chapter 7, Statutes of 2007 (AB 900, Solorio), to expand rehabilitation programs for inmates and parolees. Most of the money would come from funds appropriated by the new law last year. The spending plan increases funding for substance abuse for inmates and mental health services for parolees, expands risk and needs assessments of offenders, and provides information technology systems and support staff to make various improvements in rehabilitation programs. Additional funding is provided in the budget to expand community programs for parolees.

Judicial Branch Spending. The budget proposes several augmentations for the Judicial Branch. These consist of inflation and growth adjustments for trial courts based on the year-to-year change in the State Appropriations Limit (\$126 million), as well as adjustments for the full-year cost of new or expanded programs that began operation in the current year (\$72 million). Part of this funding, as well as some additional new funding, would in combination provide a total of \$47 million for the full-year cost of 50 new judgeships created in 2007-08 and start-up funding for 50 additional judgeships that would be created through new state legislation. The spending plan would also implement 2006 legislation to better protect individuals who are placed into conservatorships because they are not competent to manage their own affairs (\$17 million).

Capital Outlay Proposals for Corrections and Courts. The administration proposes to shift \$2.2 billion in lease-revenue bond financing to the Receiver to provide more resources for construction of prison medical facilities. These monies would be redirected from a prison construction package (also enacted through Chapter 7) originally allocated to build new inmate beds on the grounds of existing prisons as well as reentry facilities designed to help offenders transition from prison back to the community. While specific statutory language for this change has not been provided to the Legislature, we assume this new funding for medical facilities could be used by the Receiver for renovation of clinical and office space for medical operations on the grounds of existing state prisons, as well as coordinating the building of up to 10,000 new medical and mental health beds. The spending plan also proposes to spend \$331 million (including prior unused appropriations) to build a new Death Row complex at San Quentin. Finally, the budget plan includes \$62 million to acquire sites for four new courthouses in Southeast Los Angeles County and Butte, Tehama, and Yolo Counties. The plan assumes that these projects would be funded from a \$2 billion general obligation bond issue that would go on the statewide ballot later this year.

CROSSCUTTING ISSUES

Judicial and Criminal Justice

RESTRUCTURING LOCAL ASSISTANCE FOR PUBLIC SAFETY

The Governor's budget proposes 10 percent across-the-board reductions for most General Fund local assistance programs involving public safety, resulting in General Fund savings of approximately \$60 million in the budget year. In order to better prioritize the allocation of scarce state resources, we recommend instead that the Legislature reject this approach and evaluate funding for public safety programs on a case-by-case basis. Our recommended approach would result in savings of about \$270 million in 2008-09 by eliminating or reducing General Fund support for programs that have not demonstrated results, do not serve a statewide purpose, could be consolidated, or could be funded from other sources.

STATE'S ROLE IN FUNDING LOCAL PUBLIC SAFETY PROGRAMS

For the most part, public safety is a matter of local control in California. While the state establishes laws regarding criminal conduct and sentencing, control and funding for public safety occurs mainly at the local level. The State Controller's Office (SCO) reports that in 2004-05 (the most recent year for which data are available), cities and counties together spent \$24.1 billion on public safety. In contrast, the state is expected to provide about \$3.6 billion in the current year to local governments to support public

safety activities. Local autonomy over financing public safety is consistent with the idea that local communities should have wide discretion and control over policy areas for which the benefits and costs are realized locally. Nevertheless, in some cases it may be appropriate for the state to provide local communities with public safety funding—for example, if statewide objectives concerning crime are concerned.

ASSISTANCE THE STATE PROVIDES TO LOCAL GOVERNMENTS FOR PUBLIC SAFETY

The state provides financial assistance to local governments for various public safety activities, including both law enforcement and programs focused on preventing crime and reducing recidivism. These local assistance programs are funded through different departmental budgets, including the California Department of Corrections and Rehabilitation (CDCR), the Office of Emergency Services (OES), and the Department of Justice (DOJ). Other local assistance is provided through state sales tax revenue and through subvention programs administered by SCO. (In addition, other state agencies, such as the State Department of Education, provide local assistance relating to public safety issues, such as the School Safety Block Grant. However, programs that do not directly involve state or local criminal justice agencies are outside the scope of this analysis.)

Altogether, under the Governor's budget plan, state funding for local public safety would amount to \$3.6 billion in 2007-08 and \$3.7 billion in 2008-09. Under the Governor's budget-balancing reductions, General Fund local assistance for public safety would be reduced by approximately \$60 million in 2008-09. Figure 1 shows local assistance funding in both the current year and the Governor's proposed amounts for the budget year.

As Figure 1 shows, the Governor's proposal includes 10 percent reductions for most General Fund public safety local assistance programs in the budget year. The proposal also includes some program reductions of approximately 4 percent in the current year, particularly in those law enforcement local assistance programs that are administered by OES. These current-year reductions would recover funding for grant assistance that has already been committed, but has not yet gone out to recipients to pay for reimbursable program expenses.

The administration has indicated that the rationale behind an across-the-board 10 percent reduction in the budget year for General Fund programs is to ensure that all programs are treated equally. However, not all programs are the same. Specifically, programs differ in terms of objectives, sources of funding, and overall effectiveness. Rather than making propor-

Figure 1 Local Assistance Funding for Public Safety

(Dollars in Millions)

	2007-08 Budget Act	2008-09 Governor's Budget ^a	Percent Change
General Fund			
Citizens' Option for Public Safety	\$119	\$107	-10%
Juvenile Justice Crime Prevention Act	119	107	-10
Small/Rural Sheriffs Grants	19	17	-10
Local detention facility subventions	35	32	-10
Juvenile Probation and Camps Funding	201	181	-10
Mentally Ill Offender Crime Reduction	45	41	-10
CALGANG	— ^b	— ^b	-10
Multiagency Gang Enforcement Consortium	— ^b	— ^b	-10
War on Methamphetamine	29	27	-10
Vertical Prosecution	16	15	-10
High Technology Theft Apprehension	13	12	-10
Sexual Assault Felony Enforcement	6	5	-10
Rural Crime Prevention	4	4	-10
Gang Violence Suppression	2	2	-10
Spousal Abuser Prosecution	3	3	—
Totals, General Fund	\$611	\$551	-10%
Federal Funds			
Justice Assistance	\$34	\$34	—
Violence Against Women Act	13	13	—
Victims of Crime Act	46	43	-7%
Other	37	35	-5
Totals, Federal Funds	\$130	\$125	-4%
Special Funds/Other			
Local Public Safety Fund	\$2,887	\$3,013	4%
Witness Protection Program	6	6	—
Domestic Violence Restraining Order	2	2	—
Dealers' Record of Sale	— ^b	— ^b	—
Totals, Special Funds/Other	\$2,895	\$3,021	4%
Totals	\$3,634	\$3,693	2%

^a General Fund reductions may not appear to equal 10 percent due to rounding.

^b Less than \$1 million.

tionately equal reductions in funding for local assistance programs, we instead recommend that the Legislature prioritize program reductions according to the following criteria:

- Eliminate programs that are solely a local concern—in other words, those programs that lack specific statewide objectives.
- Eliminate programs that have demonstrated poor results in achieving their goals. For programs that have not reported results, reduce funding by 25 percent and make additional funding beyond the budget year contingent on demonstrating program effectiveness.
- Eliminate General Fund support for programs that could be receiving special funds or funds from other sources.
- Consolidate programs that have overlapping objectives.
- For all programs that do not fall into one of these categories, or for programs that are a high state priority, maintain funding at the current level.

The following sections evaluate the individual General Fund local assistance programs for public safety, including those housed at CDCR, those that are disbursed by SCO, and the related grant programs that are administered by DOJ and OES. In addition, we examine the billions of dollars that are provided to local governments for public safety activities through sales tax revenue that flows to them via the Local Public Safety Fund. In this analysis, we have not evaluated other special fund programs or programs that receive matching federal funds, although, altogether these programs provide tens of millions of additional dollars to local governments.

PROGRAM FUNDS DISBURSED BY SCO

Overview

The SCO provides fiscal control for the receipt and disbursement of public funds. Certain local assistance programs—generally those that allocate funds on a formulaic rather than a competitive basis—are administered by SCO. The SCO disburses the funds directly to local government entities, which then report back to SCO on their expenditure of the funds.

In the current year, SCO will disburse \$292 million in General Fund to local governments for public safety, as well as \$2.9 billion in special funds supported by sales tax revenue. Under the administration's proposal, SCO General Fund programs would each receive a 10 percent reduction,

resulting in the provision of \$262 million for local governments. Under the Legislative Analyst's Office (LAO) alternative approach, the SCO General Fund programs would be eliminated, although the funding from part of one program, equal to \$119 million, would be combined with an existing CDCR program (discussed later in this analysis). Figure 2 summarizes SCO-administered General Fund programs under both the Governor's budget proposal and under the LAO alternative approach to funding criminal justice local assistance programs.

Neither the administration's proposal nor the LAO alternative changes the amount of special fund assistance for local government administered by SCO, which is projected to increase in the budget year due to increased tax receipts. However, in "Part V" of *The 2008-09 Budget: Perspectives and Issues (P&I)*, we outline a proposal to redirect some of these special funds from one local government public safety function to another as part of a plan to shift the parole supervision of lower-level offenders from the state to county probation departments.

Figure 2

SCO's^a General Fund Local Assistance for Public Safety

(In Millions)

	2008-09		
	2007-08 Budget Act	Governor's Budget	LAO Alternative
Citizens' Option for Public Safety	\$119	\$107	—
Juvenile Justice Crime Prevention Act	119	107	— ^b
Small/Rural Sheriffs Grants	19	17	—
Local detention facility subventions	35	32	—
Totals	\$292	\$263	—

^a State Controller's Office.

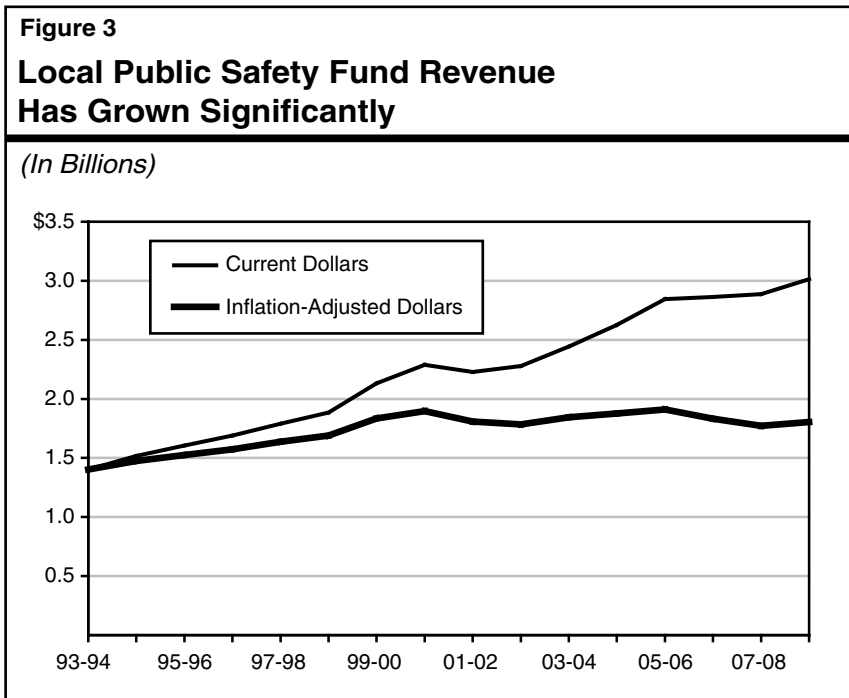
^b The LAO alternative recommends consolidating this program and a program in the California Department of Corrections and Rehabilitation (CDCR). As a result, these funds appear in the CDCR budget under the LAO alternative.

Local Public Safety Fund

Background. In 1993, the Legislature proposed and the voters enacted Proposition 172, which amended the State Constitution to include a one-half-cent sales tax to help finance local public safety. The Legislature proposed the measure in order to mitigate the effects of a shift in local property taxes that prompted fears that local governments might have

to reduce expenditures on public safety. The revenues collected from the sales tax accumulate in the Local Public Safety Fund, which SCO then disburses to individual counties according to the county's proportion of total state taxable sales. Local governments can use the money to supplement certain specified public safety budgets, such as those of the police, sheriffs, and district attorneys.

Significant Growth in Fund Revenue. When established in 1993-94, the Local Public Safety Fund provided approximately \$1.4 billion to local governments. Over time, as sales tax revenue has increased due to both economic growth and general price inflation, the fund has grown significantly (see Figure 3). In 2007-08, the fund is projected to provide approximately \$2.9 billion, increasing to \$3 billion in 2008-09. This translates into an increase of \$1.6 billion since the fund's inception, which, even after adjusting for inflation (1993-94 dollars), still results in a \$700 million increase. In percentage terms, the fund has grown, on average, by 5.2 percent annually, which is well above the average annual rate of inflation of 3.5 percent (as measured by a U.S. index for state and local government purchases).



Administration's Proposal. The Governor's budget plan proposes to make no change in this subvention program. This would result in an increase in state spending for these purposes of about \$125 million in 2008-09.

LAO Recommendation. We recommend no changes to this program, given that these are special funds. However, we do recommend that the Legislature consider the historical \$700 million increase in the purchasing power of these funds when evaluating the level of funding that should be provided to other local assistance programs for public safety. Also, in the 2008-09 P&I, we discuss the possibility of redirecting a portion of these special funds from cities to counties as part of a proposal to shift the community supervision of certain low-level offenders from state parole to county probation.

Citizens' Option for Public Safety/ Juvenile Justice Crime Prevention Act

Background. Under the Citizens' Option for Public Safety (COPS) program, counties and cities receive state funds, on a population basis, to augment primarily local funds for district attorneys, county jail construction and operation, and front-line law enforcement. An oversight committee in each county is responsible for reviewing local government expenditures of funds to ensure statutory compliance and reporting on expenditures annually to SCO.

In 2000, the Legislature modified the structure of the COPS program by enacting Chapter 353 (AB 1913, Cardenas), which added a new juvenile justice component, commonly referred to as the Juvenile Justice Crime Prevention Act (JJCPA). The JJCPA program provides funding to local governments for services that target at-risk juveniles, juvenile offenders, and their families. Additional reporting requirements for the JJCPA program include an annual report that each county must submit to the Corrections Standard Authority (CSA), which then must compile an overall annual report on the program's effectiveness and outcomes.

By statute, funding is divided equally between the COPS program and the JJCPA program. Thus, of the \$238 million awarded in 2007-08, the COPS program received \$119 million and the JJCPA program received \$119 million.

The COPS Program Lacks Goals and Performance Measures. The authorizing legislation for the COPS program references a "compelling need for additional resources to be applied at the local level for the purpose of ensuring public safety." Beyond this statement of purpose, the statute contains no definable goals or performance measures by which

to judge this use of state resources. The expenditure reporting requirements only reveal information about how each local recipient spends its funds—for example, on equipment or personnel. (The most recent report available dates back to 2003-04.) Since there are no program evaluations by which to judge the program, its impact on public safety is unknown. In addition, the program appears to take what is largely a local government responsibility—police protection—and shift some of the cost to the state, without a strong policy rationale for doing so.

The JJCPA Program Duplicates Other Juvenile Justice Grant Program. In contrast to the COPS program, the JJCPA program does have a specific statewide objective—lowering the rate of juvenile crime. By statute, CSA must report annually on the program's effectiveness in improving six outcomes, such as lowering juvenile arrest and incarceration rates. The most recent annual report shows some success in meeting three of the six outcomes. For example, the report finds that arrest rates for juveniles enrolled in JJCPA programs are 4 percent lower than arrest rates for a control group of youth. However, we note that the JJCPA program appears to provide funding that is duplicative with another juvenile crime reduction program described later in this section, the Juvenile Probation and Camps Funding.

Administration's Proposal. The Governor's budget proposes a 10 percent reduction in the COPS and JJCPA programs for 2008-09, which would bring funding down to \$107 million for each program.

LAO Recommendation. We recommend eliminating the COPS program and consolidating the JJCPA program and the Juvenile Probation and Camps Funding program. In the case of the COPS program, we find it difficult to justify using state resources to fund public safety services that lack a specific statewide objective and that have no identifiable results to evaluate. In contrast, the JJCPA program has well-defined statewide objectives and some success in demonstrating results. However, the funding is duplicative with funding provided through another local assistance program targeting juvenile crime. Instead of linking the JJCPA program with the unrelated COPS program, we recommend the enactment of state legislation to eliminate the COPS/JJCPA programs and consolidate the JJCPA and the Juvenile Probation and Camps Funding (see further discussion of this program later in this analysis).

Small/Rural Sheriffs Grant Program

Background. By statute, the Small/Rural Sheriffs Grant program appropriates \$500,000 annually from the General Fund to each of 37 county sheriff departments, for a total annual appropriation of \$18.5 million. The program includes no reporting requirements on the expenditure of

funds or the effectiveness of the funding. The only stated objective in the authorizing statute is to “enhance law enforcement efforts.”

Administration’s Proposal. The Governor’s proposal is to enact legislation to reduce the grant amounts from \$500,000 to \$450,000 in the budget year, for a total appropriation of about \$17 million, a reduction of 10 percent.

LAO Recommendation. We recommend the enactment of legislation to eliminate the Small/Rural Sheriffs Grant program. Much like the COPS program, this program lacks identifiable and specific statewide objectives and does not report on its effectiveness at enhancing public safety.

Local Detention Facility Subventions

Background. Booking fees are charges that counties impose on cities and other local agencies to recover the costs associated with booking persons into the county jail. The Legislature first authorized the use of such charges over a decade ago and, since that time, it has provided some fiscal relief for cities facing these fees. Currently, the state restricts counties from charging booking fees and, in exchange, provides counties with subventions intended to offset the resulting loss in revenue.

However, under state law, this arrangement depends on the total annual appropriation provided by the state for such subventions. In years in which the state allocates \$35 million or more in subventions to counties to support local detention facilities, counties are prohibited from charging booking fees. In years in which the state allocates less than \$35 million, counties may charge booking fees in proportion to the amount appropriated that is less than \$35 million. The Legislature appropriated \$35 million in subventions in 2007-08.

Booking Fees on Cities Create Incentives for Efficient Use of Jail Space. Booking fees have been the source of much political wrangling among the state, counties, and cities. From a strict fiscal accountability perspective, booking fees make sense since they force cities to pay for some of the costs that they create when they send arrestees to county jail. In addition, booking fees result in a more cost-effective use of public resources. For example, they encourage cities to keep low-level offenders, such as those detained for public drunkenness, in municipal jails rather than sending them to county detention facilities. These city jails typically have much lower operating costs than county jails.

Administration’s Proposal. The Governor’s budget proposes a 10 percent reduction, dropping the funding level to about \$32 million in 2008-09. The administration proposal does not change the statutes relating to booking fees.

LAO Recommendation. We recommend that the state eliminate the subventions it provides to counties not to charge booking fees since no statewide criminal justice objectives are being achieved through these subventions. In addition, we recommend that the Legislature change state law to clarify that counties are authorized to charge booking fees up to the actual administrative cost of a booking. Doing so will provide cities with the proper incentives for using county jail space efficiently and to ensure that the costs of bookings are borne where it is most appropriate—at the municipal level.

PROGRAMS ADMINISTERED BY CDCR

The CDCR is responsible for enhancing public safety by providing for the incarceration and supervision of criminal offenders and by providing rehabilitative programs to reintegrate offenders into the community. As such, the department administers certain local assistance programs to help it meet these goals.

In 2007-08, CDCR will administer \$246 million in General Fund local assistance grants. Under the administration's proposal, these grants would be cut by 10 percent to a funding level of \$221 million. Under the LAO alternative approach to funding criminal justice local assistance programs, these General Fund grants would increase to \$304 million. Figure 4 summarizes General Fund local assistance grant programs under the Governor's proposal and the LAO alternative.

Figure 4			
California Department of Corrections and Rehabilitation			
General Fund Local Assistance for Public Safety			
<i>(In Millions)</i>			
	2007-08 Budget Act	2008-09	
		Governor's Budget	LAO Alternative
Juvenile Probation and Camps Funding	\$201	\$181	\$304 ^a
Mentally Ill Offender Crime Reduction	45	41	—
Totals	\$246	\$221	\$304

^a The LAO alternative consolidates this program with the Juvenile Justice Crime Prevention Act program and reduces the combined funding by 5 percent to reflect administrative savings.

The CDCR also administers federally funded local grant programs totaling \$13 million. Neither the administration's proposal nor the LAO alternative would affect these federally supported programs.

Juvenile Probation and Camps Funding

Background. The CDCR provides \$201 million to counties for public safety programs targeting juveniles. Of this amount, \$168 million is directed to support various county probation programs for at-risk youth, juvenile offenders and their families, and another \$33 million is allocated separately to counties to assist in their operation of juvenile camps and ranches. The authorizing statute stipulates a fixed allocation amount for each county for the probation support program, but allows the camp-specific funding to vary annually based on the proportionate number of occupied camp and ranch beds in each county. The CSA is responsible for administering the program funds, which, for administrative purposes, it refers to as the Juvenile Probation and Camps Funding (JPCF).

The JPCF Overlaps With Other Juvenile Justice Grant Program. As noted in our earlier discussion of the COPS/JJCPA program, much of the funding provided to juvenile programs through the JJCPA program is duplicative with JPCF funding (see Figure 5 (see next page) for a comparison of the two programs). However, unlike the JJCPA program, the JPCF program is not required to report on specific outcome measures. The latest annual report from CSA only contains statistical information on the number of youths entering and exiting programs—it does not contain data on actual youth crime outcomes, such as arrest and incarceration rates. Thus, it is not possible to assess the program's effectiveness. Nevertheless, the program's similarities to the JJCPA program, which has demonstrated results, as well as the overall declining juvenile crime rate over the past several years, indicate that the program likely is effective at reducing juvenile crime.

Administration's Proposal. The Governor's proposal is to reduce JPCF funding by 10 percent, or about \$20 million in the budget year to approximately \$181 million.

LAO Recommendation. Given the similarities between the two programs, and the results demonstrated by the JJCPA program, we recommend that the Legislature consolidate funding for the two juvenile crime reduction local assistance programs, and provide them with a total of \$304 million in funding. This level of funding is the sum of the budgets of the two programs (before the Governor's proposed reductions), reduced by 5 percent to reflect anticipated administrative savings. We also recommend that the Legislature adopt budget trailer bill language creating a statutory framework for the consolidated program similar to the existing JJCPA

statute. For example, the program would continue to require the regular reporting of program outcomes and encourage collaboration among local agencies. The program would also continue to allocate \$33 million to camps and the remainder to juvenile crime reduction programs. We recommend, for administrative purposes, placing the consolidated program in CDCR and retaining the JPCF name.

Figure 5		
Comparison of JJCPA and JPCF^a		
	JJCPA	JPCF
2007-08 funding	\$119 million	\$201 million
Allocation of funding	Based on county population	Program funds allocated by county fixed in statute; camp/ranch funds vary based on occupied beds
Programs supported	162 programs	145 programs, plus 67 camps/ranches
Youths served	105,000	170,000
Cost per youth	\$937	\$992 ^b
Examples of services	Mental health services, anger management, gang intervention, and drug and alcohol education	Mental health assessments, family mentoring, life skills counseling, gang intervention, and drug and alcohol education
Reporting requirements	Annual	Annual
Outcome measures	Six, including juvenile arrest rate	Program completion
Outcome results	Arrest rate lowered by 6 percent	41 percent program completion
<p>^a JJCPA = Juvenile Justice Crime Prevention Act and JPCF = Juvenile Probation and Camps Funding.</p> <p>^b LAO estimate.</p>		

Mentally Ill Offender Crime Reduction Grant Program

Background. The Mentally Ill Offender Crime Reduction Grant (MIOCRG) program was designed as a demonstration grant project to aid counties in finding new collaborative strategies for more effectively responding to the mentally ill offenders who cycle through already over-

crowded county jails. Services provided through the MIOCRG program vary by project but have often included housing support, employment training, benefits advocacy, and day treatment. Different projects target different populations, but most projects focus on soon-to-be-released offenders transitioning out of custody.

In 2007-08, the program received a \$30 million appropriation that, when combined with \$40 million in funds left unspent from the previous year, resulted in \$70 million being available. The administration budgeted \$40 million of the total available for 2007-08 and reverted the \$30 million remaining for the current year to the General Fund. As of the end of the first quarter of 2007-08, however, counties had only spent approximately \$3 million of the available \$40 million.

Special Funds Available for MIOCRG Programs. Passed in 2004 by the voters as Proposition 63, the Mental Health Services Act funds county services for mentally ill individuals. While the act prohibits spending funds on individuals incarcerated in state prison or on parole, there are no restrictions on using the funds to pay for services for offenders in county jail or on probation, the target group of MIOCRG programs. In fact, the statute explicitly states that counties “shall consider ways to provide services to those established pursuant to the Mentally Ill Offender Crime Reduction Grant Program.” As of September 2007, close to \$300 million remained in Proposition 63’s Mental Health Services Fund for investment in community mental health programs such as MIOCRG.

Administration’s Proposal. The Governor is proposing to reduce MIOCRG funding to about \$41 million in 2008-09, which is a reduction of 10 percent from a \$45 million base.

LAO Recommendation. Since special funding is available to support these program services, we recommend that, effective for the last quarter of the current fiscal year, the Legislature eliminate General Fund support for the MIOCRG program and encourage counties concerned with the resulting loss of funding to pursue replacement funding available through the Mental Health Services Fund. We estimate that this approach would save \$10 million in the current year and \$45 million in the budget year.

PROGRAMS ADMINISTERED BY DOJ

The DOJ is responsible for ensuring that the laws of the state are uniformly and adequately enforced. In order to achieve this objective, DOJ provides assistance to local communities through several grant programs. The combined total budgeted for local assistance programs administered by the DOJ from all fund sources is just over \$11 million. The single DOJ local assistance program that relies on the General Fund is used to sup-

port vertical prosecutions and is discussed below in the section on OES programs, because it relates to a similar OES grant program that also helps fund such prosecutions. In addition to these grant programs, there are other programs that are tantamount to local assistance. For example, under the California Methamphetamine Strategy (CALMS) program to combat methamphetamine production, DOJ works with local law enforcement agencies to investigate and prosecute crimes.

PROGRAMS ADMINISTERED BY OES

Since 2003-04, OES' Law Enforcement and Victim Services (LEVS) division has administered criminal justice grant programs formerly managed by the Office of Criminal Justice Planning. In 2006-07, these programs provided more than \$75 million of General Fund support. This local assistance is in addition to approximately \$150 million of state special fund and federally funded local assistance grants administered by LEVS in the same year. Generally, the administration proposes to cut all General Fund supported LEVS programs by about 4 percent in 2007-08, and to cut all General Fund supported LEVS programs by 10 percent in 2008-09. The following analysis evaluates OES' General Fund law enforcement-related local assistance programs. (We did not evaluate the victims services-related local assistance provided through OES' LEVS division.) In total, our recommendations result in a General Fund savings within OES' budget of approximately \$28 million in 2008-09, as compared to the administration's proposal for these programs. An accounting of proposed program expenditures is shown in Figure 6.

War on Methamphetamine Program

Background. The California Multi-Jurisdictional Methamphetamine Enforcement Team (CAL-MMET) program, which is also known as the War on Methamphetamine program, provides additional resources to county sheriff's offices for investigators and prosecutors specializing in methamphetamine offenses, as well as support staff, equipment, training, and facilities. In 2001, the Central Valley region was identified as an area of the state with a relatively high concentration of methamphetamine activity. Following that designation, the CAL-MMET program was funded at a base level of \$9.5 million General Fund for six counties in the Central Valley region—Sacramento, Fresno, Kern, San Joaquin, Stanislaus, and Tulare Counties. In 2006-07, the CAL-MMET program was expanded statewide on a two-year, limited-term basis from 6 counties to 40 counties at a cost of an additional \$20 million from the General Fund annually, bringing total program costs to about \$29 million.

Figure 6**Office of Emergency Services
General Fund Local Assistance for Public Safety***(In Millions)*

	2008-09		
	2007-08 Budget Act	Governor's Budget	LAO Alternative
War on Methamphetamine/CAL-MMET ^a	\$29.4	\$26.5	\$7.1
Vertical Prosecution Block Grant ^b	16.2	14.6	19.0
High Technology Theft Apprehension	13.3	12.0	10.0
Sexual Assault Felony Enforcement	5.7	5.1	—
Rural Crime Prevention	4.1	3.7	3.1
Gang Violence Suppression	1.8	1.6	—
Multiagency Gang Enforcement Consortium	0.1	0.8	—
CALGANG	0.3	0.3	0.3
Totals	\$70.9	\$64.6	\$39.5

^a The California Multi-Jurisdictional Methamphetamine Enforcement Team.

^b Under the LAO alternative, the Department of Justice's budget would be reduced by \$3 million in 2008-09 related to this program.

Administration's Proposal. In total, the administration's proposal would result in an appropriation of about \$27 million from the General Fund to the CAL-MMET program in the budget year. This funding level reflects administration proposals to (1) continue permanently the \$20 million in limited-term funding for the program which would otherwise expire at the end of the current fiscal year and (2) then cut the overall \$29 million level of funding by \$2.9 million as part of its budget reductions.

Program Duplicates Existing Funding at DOJ. At the same time that additional CAL-MMET funding was provided to OES, the DOJ's Bureau of Narcotics Enforcement CALMS program received a permanent augmentation of about \$6 million from the General Fund and 30 positions for related efforts to combat the spread of methamphetamine, particularly in rural areas of the state. This funding continues at \$4.5 million in 2008-09.

Program Evaluations Unavailable Until October 2008. When the Legislature provided the increased funding for both the CAL-MMET and CALMS programs in 2006-07, it required evaluations of each program by January 2008 (to be performed by California State University, Sacramento). The reports were intended to assist the Legislature in making determi-

nations about future program funding. To date, no evaluation of either program has been completed, and the administration reports that the evaluations are not expected to be completed until October 2008.

Most U.S. Methamphetamine Production Shifted to Mexico. According to the Drug Enforcement Administration, methamphetamine production in the United States appears to be on the decline. Recent federal and state laws regarding the sale and purchase of precursor and essential chemicals used in the manufacture of methamphetamines have resulted in a decline in the number of clandestine “meth” labs nationwide. Larger labs, in particular, have shifted production to Mexico.

Legislation May Be More Effective Than Policing Production. Research by the Drug Enforcement Administration suggests that the most promising means of eliminating the smaller meth production labs is to cut off their supply of meth precursor chemicals, key ingredients in the manufacture of methamphetamine. Those states significantly restricting the availability of these meth precursor chemicals—typically, pseudoephedrine and ephedrine—have seen a dramatic decrease in the number of smaller methamphetamine labs. For example, Oklahoma has employed a 9 grams per month, per customer limit to reduce production. California currently has a 9 grams per purchase limit, rather than a monthly limit.

LAO Recommendation. Given the duplication of funding, overall reduction of meth production in the United States, and the lack of the required reports on program performance, we recommend that the Legislature (1) reduce base funding for the CAL-MMET program by 25 percent (\$2.4 million General Fund) in 2008-09, and (2) reject the administration’s proposal to continue permanently the limited-term funding for the program. This would provide the program with \$7.1 million from the General Fund in the budget year. Additionally, we recommend that the program administer grants to counties on a competitive basis so that available funds can go where there continues to be the highest level of meth production. The CAL-MMET program may be reevaluated by the Legislature at a later date once it has received and reviewed the required evaluation reports.

Vertical Prosecution Grant Program

Background. The OES Vertical Prosecution Block Grant program is designed to allow (1) a prosecutor to focus on a reduced number of cases—including narcotic vendor, career criminal, child abuse, statutory rape, and elder abuse cases—and (2) the same prosecutor to follow the case from filing through sentencing. The DOJ also administers a vertical prosecution grant program. Specifically, the DOJ’s Spousal Abuser Prosecution Program (SAPP) provides \$3 million for grants to district attorneys and city attorneys for the vertical prosecution of domestic violence offenses.

Studies have shown that vertical prosecution maximizes the likelihood of successful convictions.

Administration's Proposal. The administration proposes a 10 percent reduction to the OES vertical prosecution program in the budget year. This would result in General Fund savings of about \$1.6 million and would continue funding at about \$15 million.

LAO Recommendation. Since grants are distributed statewide and the vertical prosecution is a proven model, we recommend that the Legislature reject the administration's proposed reduction to this OES program. Rather, we recommend that DOJ's SAPP (\$3 million) be consolidated with OES's Vertical Prosecution Grant Program (\$16 million) and maintain the combined funding for the OES and DOJ programs at their existing level. We also recommend that the \$150,000 currently provided to DOJ from the General Fund to administer the SAPP grants be eliminated as efficiency savings. This proposal would result in a \$19 million General Fund program allocation through OES's budget item.

High Technology Theft Apprehension and Prosecution Program

Background. High technology crimes are defined as being those crimes in which technology is used as an instrument in committing a crime, or in which technology is the target of a crime (examples include computer hacking and intellectual property theft). Historically, the High Technology Theft Apprehension and Prosecution Program provided about \$10 million from the General Fund to support five local high technology crime task forces, and two related database and training projects.

In 2001, the Legislature expanded the program to include five regional identity theft units that focus solely on identity theft crimes. As a result, funding for the program increased to \$13.3 million from the General Fund. Under the program, equal grant allocations go to high technology task forces in Marin, Los Angeles, Sacramento, San Diego, and Santa Clara Counties (each task force gets about \$2.5 million), with additional resources allocated to DOJ and the California District Attorneys Association to maintain a crime database and to provide training. The General Fund portion of program funding has a 25 percent local government match, bringing total program funds to \$16.6 million.

Administration's Proposal. The administration's budget proposes a 10 percent reduction in funding for this program in the budget year (for a General Fund reduction of \$1.3 million). The result would be approximately \$12 million of continued General Fund support for the program, for total program funding of at least about \$15 million when the local matching funds requirement is taken into account.

\$10 Million in Spending Focused on 1,500 Victims. In 2006-07, the program's high technology task forces investigated about 1,000 crimes involving about 1,500 victims at a General Fund cost of \$10 million. This means that on average, the state spent more than \$10,000 per investigation, or \$6,800 per victim on these types of crimes. The identity theft task forces, which were funded with \$3.3 million of General Fund support, investigated about 1,400 cases statewide which involved nearly 17,000 victims of identity theft. This means that on average, the state spent more than \$2,300 per identity theft investigation, or about \$200 per victim.

LAO Recommendation. As a result of the high cost to the state of investigating each case, and to better target funding in this program, we recommend that the Legislature reduce total General Fund support to this program by 25 percent (\$3.3 million General Fund) by reducing the funding provided for high-tech theft cases. Our recommendation would hold harmless the amount of existing funding to identity theft units and to DOJ for the crimes database. This would result in approximately \$10 million General Fund support for the program (\$3.3 million for identity theft units, \$6.7 million for other high-tech crimes units, and \$60,000 to DOJ for crimes database).

Sexual Assault Felony Enforcement Teams Program

Background. The Sexual Assault Felony Enforcement (SAFE) program provides funds to certain county sheriff's departments to monitor habitual sexual offenders and to collect data to determine if law enforcement is effective in reducing violent sexual assault offenses. The SAFE program was authorized by Chapter 1090, Statutes of 2002 (AB 1858, Hollingsworth). The 2006-07 Budget Act appropriated \$5.7 million from the General Fund for the first time to support a total of seven SAFE teams in Los Angeles, Riverside, Sacramento, San Luis Obispo, Santa Clara, Shasta, and Tulare Counties. Program funding is allocated based on each county's share of the offending population, and may only go to those counties that have 200 or more registered sex offenders. There is no local match requirement. San Diego, Alameda, and San Mateo Counties operate SAFE teams without state funds from this program.

Administration's Proposal. The administration proposes a 10 percent cut in the program in the budget year. This would result in General Fund savings of about \$570,000 and would continue funding at \$5.1 million in the budget year.

New Program Augments Existing Funding. The SAFE program recently allocated its first grant funds (May 2007) due to various program delays in the initial year of the program. As a result, performance data

on this program is limited. Until 2006-07, Santa Clara and Los Angeles Counties SAFE teams operated without state funds.

LAO Recommendation. The state has only recently begun to provide funds for this program. Prior to 2006-07, SAFE teams had been funded entirely with local agency funds. Thus, we recommend this program be eliminated in the budget year. This would result in \$5.7 million in General Fund savings.

Rural Crime Prevention Programs

Background. The state supports two rural crime prevention programs—the Central Valley Rural Crime Prevention Program and the Central Coast Rural Crime Prevention Program. These programs provide a combined total of \$4.1 million from the General Fund to 12 local district attorney’s offices and to one sheriff’s department to support investigations and arrests related to agricultural crime. In particular, the funding targets the theft of agricultural equipment, livestock, and produce. There is no local match requirement. Grant recipients include the district attorney’s offices in the eight Central Valley counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare; four central coast counties of San Benito, Santa Barbara, Santa Cruz, and San Luis Obispo; and the Monterey County Sheriff.

Administration’s Proposal. The administration proposes a 10 percent cut to the program in the budget year, resulting in a General Fund reduction of \$410,000 to the programs. This reduction would result in the allocation of \$3.7 million to the programs in 2008-09, with approximately \$3 million provided to the Central Valley Rural Crime Prevention Program and \$720,000 to the Central Coast Rural Crime Prevention Program.

Funding Is Not Tied to Crime Rate. The majority of funding for rural crime prevention is provided to Central Valley counties and is allocated based on that county’s percent of agricultural production within this group of Central Valley counties. The formula does not take into account relative property crime rates in each county. The remainder of the funding is allocated to coastal counties based on eligible counties’ historical funding levels and crop valuations.

Some Counties Have Lower Property Crime Rates Than the State Average. Some current-year recipients of grant funds for rural crime prevention have property crime rates less than the statewide average. For example, Santa Barbara, San Luis Obispo, Kings, San Benito, Madera, and Monterey Counties have property crime rates per 1,000 population that are lower than the average rate of property crime in the state.

LAO Recommendation. Funding for the Central Valley Rural Crime Prevention Program and the Central Coast Rural Crime Prevention Program is split into two separate grant programs even though the recipients are similar and grants are provided for the same purpose. As such, we recommend that program funding be consolidated into a single rural crime prevention grant. We further recommend that future grant allocations be tied to both agricultural production and property crime rates. As noted above, a number of counties receiving funding have property crime rates that are less than the rate of property crime in the state. Consequently, we question the need to continue the funding at its current level of \$4.1 million. Instead, we recommend reducing the grant by 25 percent—for General Fund savings of \$1 million in 2008-09. All counties currently receiving funding can remain eligible; however, the administration should prioritize the reduced grant dollars to counties facing the largest rural crime rates. Since the majority of current funding is allocated according to statute, any changes would require a budget trailer bill.

Gang Violence Suppression Multi-Component Program

Background. The Gang Violence Suppression Multi-Component (CVSMC) Program awards grants to projects that divert potentially dangerous gang activity into more positive and constructive behavior. This collaboration must include law enforcement, probation, prosecution, education, and prevention components. The program currently has a 10 percent local match requirement and grants are allocated on a competitive basis. The Cities of Oxnard and Sacramento and the Counties of Los Angeles and Napa were grant recipients in 2007-08.

Administration's Proposal. The administration proposes a 10 percent cut to the program in the budget year. This would result in General Fund savings of about \$180,000 and would continue funding at \$1.6 million.

Recent State Efforts to Coordinate Approach to Antigang Funding. The 2007-08 Budget Act appropriated \$9.5 million from a state special fund, the Restitution Fund, for the California Gang Reduction, Intervention, and Prevention (CAL-GRIP) Program. (The Restitution Fund receives its revenues mainly from restitution fines and orders paid by offenders convicted of crimes in California.) In the budget year, the administration proposes to continue this CAL-GRIP funding and create the Office of Youth and Gang Policy within OES, headed by a new state antigang coordinator, to allocate the CAL-GRIP grants.

LAO Recommendation. In light of recent efforts to coordinate and consolidate antigang grant funds in a single source, we recommend that the Legislature eliminate General Fund support for the CVSMC Program

in the budget year, and instead encourage past recipients to apply for CAL-GRIP funds.

Multi-Agency Gang Enforcement Consortium Program

Background. The Multi-Agency Gang Enforcement Consortium (MAGEC) program aims to reduce gang activity in the County of Fresno.

Administration's Proposal. The administration proposes a 10 percent cut to the program in the budget year. This would result in General Fund savings of about \$9,300 and would continue funding at \$84,000.

LAO Recommendation. As noted above, the 2007-08 Budget Act provided increased antigang funding from sources outside of the General Fund. As with the CVSMC, we recommend eliminating General Fund spending for MAGEC and instead encouraging the current recipients to apply for CAL-GRIP funds.

CALGANG Program

Background. The CALGANG program is a statewide database that provides gang intelligence information to local, state, and federal law enforcement agencies in order to solve gang-related crimes.

Administration's Proposal. The administration proposes to reduce by 10 percent the grant funding for the CALGANG database. This would result in a reduction of \$30,000 to the program and a 2008-09 funding level of \$270,000 General Fund.

LAO Recommendation. We recommend that the Legislature reject the administration's proposal to cut the grant for maintenance of the CALGANG database since it serves a statewide purpose. Our proposal would fully fund the project with \$300,000 from the General Fund.

SUMMARY OF LAO RECOMMENDATIONS

The Governor is proposing across-the-board cuts of 10 percent in the budget year for most local assistance public safety programs that altogether yield about \$60 million in savings. We recommend instead that the Legislature evaluate the merits of each program individually in order to achieve more significant cost reductions. Figure 7 (see next page) compares our recommended approach to the Governor's proposal. Our recommendations yield about \$208 million more in General Fund savings than the Governor's budget plan by eliminating or reducing funding for programs that have not demonstrated results, could be consolidated, do not serve a statewide purpose, or could be supported by a special fund.

Figure 7**Comparison of Proposed Funding Levels Under Governor's Budget and LAO Alternative***(In Millions)*

Programs	2008-09		
	2007-08 Budget Act	Governor's Budget	LAO Alternative
State Controller's Office			
Citizens' Option for Public Safety	\$119	\$107	—
Juvenile Justice Crime Prevention Act ^a	119	107	—
Small/Rural Sheriffs Grants	19	17	—
Local detention facility subventions	35	32	—
California Department of Corrections and Rehabilitation			
Juvenile Probation and Camps Funding ^a	\$201	\$181	\$304
Mentally Ill Offender Crime Reduction	45	41	—
Department of Justice			
Spousal Abuser Prosecution ^b	\$3	\$3	—
Office of Emergency Services			
War on Methamphetamine	\$29	\$27	\$7
Vertical Prosecution ^b	16	15	19
High Technology Theft Apprehension	13	12	10
Sexual Assault Felony Enforcement	6	5	—
Rural Crime Prevention	4	4	3
Gang Violence Suppression	2	2	—
CALGANG	— ^c	— ^c	— ^c
Multi-Agency Gang Enforcement Consortium	— ^c	— ^c	—
Totals	\$611	\$551	\$343
The LAO alternative saves \$208 million more than the Governor's proposal.			
^a Under the LAO alternative, these two programs and their funding are consolidated but the combined level of funding is reduced by 5 percent to reflect administrative savings.			
^b Under the LAO alternative, these two programs are consolidated.			
^c Less than \$1 million.			

DEPARTMENTAL ISSUES

Judicial and Criminal Justice

JUDICIAL BRANCH (0250)

The California Constitution vests the state's judicial power in the Supreme Court, the Courts of Appeal, and the trial courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state-supported. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts. Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle), shifted fiscal responsibility for the trial courts from the counties to the state. California has 58 trial courts, one in each county.

The Judicial Branch consists of two components: (1) the judiciary program (the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center), and (2) the Trial Court Funding program, which funds local superior courts.

The *2005-06 Budget Act* merged funding for the judiciary and Trial Court Funding programs under a single "Judicial Branch" budget item. It also shifted local assistance funding for a variety of programs, including the Child Support Commissioner program, the Drug Court Projects, and the Equal Access Fund from the Judicial Council budget to the Trial Court Funding budget.

Budget Proposal. The Judicial Branch budget proposes total appropriations from all fund sources of just under \$3.7 billion in 2008-09. This is a decrease of \$14 million, under one-half percent below revised current-year

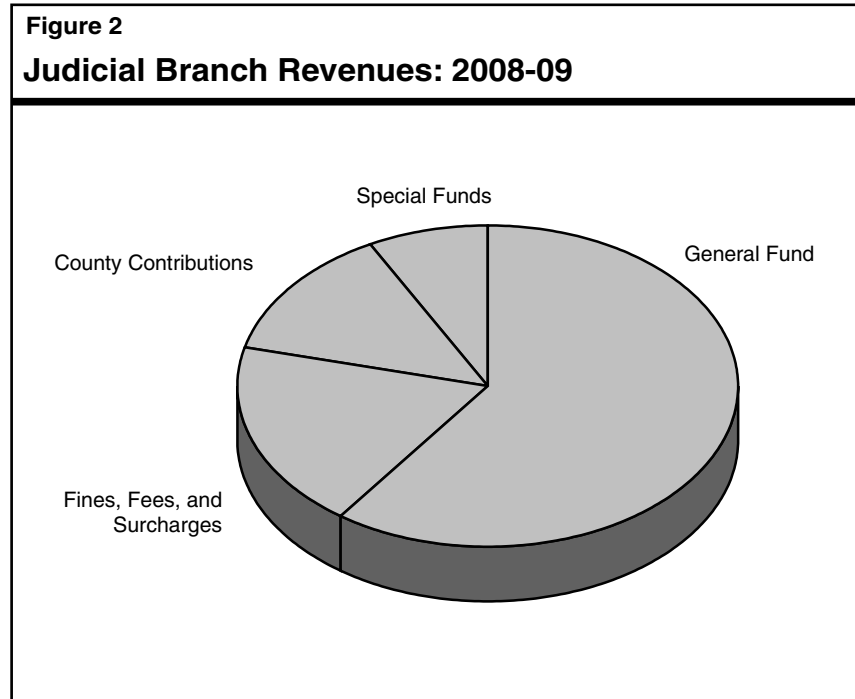
expenditures. As illustrated in Figure 1, the budget proposes an unallocated reduction of about \$246 million in General Fund support that is applied to the budget after proposals that would increase the amount allocated to the judicial branch from the General Fund. The net effect is total General Fund expenditures of \$2.2 billion, a decrease of about \$20 million, or less than 1 percent, below estimated current-year expenditures. Total expenditures from special funds and reimbursements are proposed at about \$1 billion, an increase in spending of about \$7 million, or less than 1 percent. The counties' contribution of support remains unchanged at almost \$500 million.

Figure 1					
Judicial Branch Funding—All Funds					
<i>2006-07 Through 2008-09 (Dollars in Millions)</i>					
	Actual 2006-07	Estimated 2007-08	Proposed 2008-09	Change From 2007-08	
				Amount	Percent
Judiciary Program					
Supreme Court	\$42	\$45	\$48	\$3	6.7%
Courts of Appeal	187	201	219	18	9.0
Judicial Council ^a	155	201	248	47	23.4
Habeas Corpus Resource Center	13	14	15	1	7.1
Subtotals	(\$397)	(\$461)	(\$530)	(\$69)	(15.0%)
Trial Court Funding Program					
Unallocated cut	—	—	-246	—	—
Totals	\$3,434	\$3,709	\$3,695	-\$14	-0.4%

^a Includes funding for the Judicial Branch Facility Program.
Detail may not add due to rounding.

Approximately 92 percent of total Judicial Branch spending is for the Trial Court Funding program, and the remainder is for the judiciary program, although this split in funding could change depending upon how the proposed General Fund reduction of \$246 million was eventually allocated. Figure 1 shows proposed expenditures for these two major

program components (the Judiciary Program and the Trial Court Funding program) in the past, current, and budget years, while Figure 2 shows the revenue sources for the entire Judicial Branch.



Proposals to Increase and Decrease Judicial Spending. The major increases in spending proposed in the Judicial Branch budget are annual adjustments for growth and inflation (\$126 million), adjustments for the cost of new or expanded programs (\$72 million), and increases for the cost of implementing recent legislation to increase oversight of conservators and guardians (\$17 million). Most of these proposals for increased spending are for the Trial Court Funding program.

The Governor's budget also includes a proposed unallocated reduction of approximately \$246 million in General Fund support in the budget year. At the time this analysis was prepared, the Judicial Branch had not presented a plan indicating what programs it planned to reduce in the event such a reduction was adopted.

COST-SAVING OPTIONS FOR THE JUDICIAL BRANCH

The Governor's budget proposes an unallocated reduction of \$246 million in General Fund support for the Judicial Branch. The Legislature should adopt a savings target of greater or lesser than this amount that is consistent with its own overall program and spending priorities and with consideration for any funding priorities identified by the courts. The Legislature should also evaluate the impact of spending reductions on court services.

Putting the Proposed Reductions in Perspective. As noted earlier in this analysis, the 2008-09 budget plan proposes a \$246 million reduction in the Judicial Branch budget. The spending reduction is not allocated among the various components of the judiciary, consistent with the administration's policy of leaving out such specifics for "General Fund budgets not under the control of the administration."

The 10 percent reduction is proposed to be applied against the workload budget for the courts, as estimated by the Department of Finance. This is generally consistent with the administration's approach for applying 10 percent reductions to a number of other state programs and departments. In the case of the Judicial Branch, the proposed \$246 million reduction in the budget for the courts is applied *after* \$226 million in spending increases have been incorporated into the judicial budget. Thus, the net effect of the spending plan, as proposed by the Governor, is a fairly minor reduction in support of less than one-half percent when compared with the previous year's budget.

Whether the courts should absorb a cut of this magnitude, or one that is larger or smaller in scale, is fundamentally a question relating to the Legislature's own spending and program priorities. The administration has proposed that the courts themselves determine how this reduction would be achieved. While we believe the Legislature should carefully consider the advice of the courts when setting their funding level, should it choose to make a reduction, how any cut is made is also an important decision for the Legislature. A budget reduction of this size could significantly affect trial court operations, with civil cases disproportionately bearing the brunt of any delays in trials that resulted from a shortfall in available resources. That is because statutorily enforced time lines would force the judicial branch to give criminal cases higher priority in order to prevent the dismissal of charges against defendants.

A Number of Budget-Balancing Options Exist. With these factors in mind, we outline several possible approaches for the Legislature to consider in implementing a major reduction for the Judicial Branch that our analysis suggests would help the state to achieve its savings goals while

minimizing (but by no means eliminating) the impacts on services to the public. These options include suspending State Appropriations Limit adjustments and using significant existing fund balances at the trial court level to buffer against loss of state funding. They also include the adoption of cost-saving operational changes in trial courts, adjusting the budget for delays in the appointment of new judges, and increasing court revenues. The fiscal effect of these options, which we discuss in more detail below, are summarized in Figure 3. They could result in as much as \$176 million in savings in 2008-09 and as much as \$358 million in ongoing savings upon their full implementation.

Figure 3		
LAO Options for Cost Savings in the Judicial Branch		
<i>(In Millions)</i>		
Option	2008-09 Fiscal Impact	Annual Ongoing Savings^a
Suspension of SAL ^b	\$126	\$126
Electronic court reporting	13	111
Court security	—	100
Delays in judicial appointments	15	—
Civil filing fee increase	21	21
Totals	\$175	\$358

^a When fully implemented.
^b State Appropriations Limit.

Suspension of Automatic Funding Increase for Trial Courts

The Legislature should consider the option of suspending, on a one-time basis, automatic adjustments in funding for the trial courts. This option would result in state savings of \$126 million in 2008-09 that would grow modestly in subsequent years.

Background. Chapter 227, Statutes of 2004 (SB 1102, Committee on Budget), changed the process for budgeting the Trial Court Funding program. The state shifted from the traditional state budget process—in which annual adjustments are separately requested and approved based on demonstrated need—to a process in which the amount of new funding for this program is based on a formula and does not require demonstration of need. The adjustment is made based upon the SAL, a measure to limit the overall growth of certain state government costs that is also used to adjust

the budgets of certain other agencies. The SAL growth rate is multiplied by an adjusted cost of operating the trial courts for the previous year. The result is the additional amount of General Fund support the state must allocate to the trial courts, over and above the amount allocated the previous year. For a more in-depth discussion of SAL adjustments, please see page D-15 of the *Analysis of the 2006-07 Budget Bill*.

Trial Courts Have Significant Revenues and Reserves. As directed by the *Supplemental Report of the 2006-07 Budget Act*, the Administrative Office of the Courts (AOC) submitted a report on individual trial court financial statements for 2006-07. The report suggests that, on a collective basis, trial courts are in a strong financial condition. Specifically, in 2006-07, the aggregate amount of revenue received by the 58 superior courts exceeded their expenditures in that same fiscal year by \$54 million. In addition, the total amount of assets that remained unspent in 2006-07 totaled \$590 million. Only about \$235 million is classified as having being restricted by contractual or statutory obligations, leaving \$355 million that had not been obligated. Data for 2007-08 revenues, expenditures, and fund balances will be forthcoming in December 2008.

Legislative Option. Given the state's fiscal difficulties, the Legislature should consider the option of suspending the SAL adjustment for 2008-09 and letting the trial courts use their considerable reserves to buffer against the loss of state funding. This action could have some effect on information technology and other types of projects to improve court operations, as the courts have indicated they plan to use the unobligated funds for such projects. On the other hand, we believe the trial courts could prioritize the use of their reserves to move forward with their highest priority projects even with a suspension of the SAL adjustment. Because the SAL spending increase received by the trial courts is calculated, in part, on the General Fund support provided in the previous year, a one-time suspension of the SAL would lead to ongoing and modestly growing savings. The Legislature would have to adopt trailer bill legislation to suspend SAL for 2008-09, but no further legislative action would be needed to achieve these ongoing savings.

Electronic Court Reporting

The state has the option of saving a substantial amount of funding, and of better meeting the reporting needs of the courts, if it transitioned from court reporters to electronic methods of recording court proceedings. This approach could result in net state savings of \$13 million in 2008-09 that could grow over the subsequent fiscal years to as much as \$111 million annually.

Background. Current law requires the use of certified shorthand reporters to create and transcribe the official record of most court proceedings. Typically, the court reporter is the sole owner of all the equipment necessary to perform his or 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 or 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. In addition to paying for the first copy, the court must also pay a reduced rate for additional copies. In 2006-07, the total amount spent on such transcripts was nearly \$26 million, while the total amount spent on salaries and benefits for court reporters was about \$202 million.

In contrast, electronic court reporting involves using video and or audio devices to record the statements and testimony delivered in the courtroom. Depending on the system used, a monitor may be assigned to oversee the proper functioning of the equipment and provide replays of statements upon request of the judge, though some systems are available that can be used without a monitor. Following a proceeding, typed transcripts can be created by transcription services for use by court staff, attorneys, or in any subsequent appeal. However, the actual recordings created during the proceeding can also be used in a manner similar to a transcript, and the sales of these recordings can generate the court additional revenue.

Electronic Reporting a Well-Established, Cost-Effective Practice. Electronic court reporting is in widespread use in many state and Federal courts, including the U.S. Supreme Court. Moreover, electronic court reporting was demonstrated to be cost-effective in a multiyear pilot study carried out in California courts between 1991 and 1994. 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. The project 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. For a more complete discussion of electronic court reporting, its use in other states, and the results of the Judicial Council study, please see the *Analysis of the 2003-04 Budget Bill* (page D-22).

Electronic Court Reporting May Help Address Short Supply of Court Reporters. A persistent problem facing the courts is the short supply of certified shorthand reporters, who, by statute, are the only individuals qualified to make transcripts of most trial court proceedings. In 2005, the Judicial Council released the findings of its Reporting of the Record

Taskforce. The taskforce indicated, based on comments from trial court officials, that the pool of court reporters has been dwindling since the mid-1990s and is insufficient to meet their needs.

According to the Bureau of Labor Statistics, it can take anywhere from two to three years to become proficient in court reporting techniques. By statute, an individual can only become a certified shorthand reporter if he or she passes an examination administered by the Court Reporters Board of California. Eligibility for the exam is limited to those who have some experience, or have passed the state hearing reporters examination, or those who have past certification from one of several different sources. The number of people passing the exam has declined since the mid-1990s. In November 1995, a high of 309 individuals successfully passed the examination required to become a certified shorthand reporter, while in October 2007 only 38 achieved passing scores. The dwindling supply of reporters is compounded, as is pointed out in the report, by the fact that those passing the exam may choose to seek work outside of the courts in professions like closed captioning, deposition reporting, or in providing translation services to the hearing-impaired.

In contrast, the Bureau of Labor Statistics indicates that electronic court reporters usually learn their skills on the job. There is currently no certification requirement for electronic court reporters in California. As a result of these factors, the pool of eligible candidates for electronic court reporting would likely be both larger and more easily expanded than the pool of eligible candidates for court reporting.

Electronic Court Reporting Could Save the State Millions Annually. Based upon our past review of other states and the pilot project mentioned above, 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. Our inflation-adjusted analysis of the pilot study indicates that, if electronic court reporting had been operational in 2006, the state would have saved nearly \$89 million on trial court operations. This represents an estimated savings of nearly 60 percent for reporting activities. Even greater savings may now be possible with more modern technology that has become available since the California pilot projects. According to estimates from the 9th Circuit Court of Florida, the cost of providing all 20 Florida circuit courts with court reporters is around \$36 million, but would be only \$5 million if those courts used electronic reporting—a potential savings of 86 percent.

Legislative Option. To both address the shortfall in the supply of court reporters and reduce state costs for trial court operations, we recommend that the Legislature consider the option of directing the courts to begin now to implement electronic court reporting in California courtrooms.

In order to allow transition time, one approach would be to direct that 20 percent of courtrooms in California switch to electronic court reporting on an annual basis. After factoring in the estimated one-time costs of the equipment, our analysis indicates that this may result in nearly \$13 million in savings during 2008-09. By 2010-11, annual savings from the switchover to electronic reporting could reach \$53 million. If electronic court reporting were fully operational in all California courtrooms we estimate that savings could reach \$111 million on an annual basis. This option would require a statutory change.

Competitive Bidding for Court Security

In order to allow the courts to gain greater control of rapidly escalating security costs, the Legislature should consider directing the courts to contract for court security on a competitive bidding basis with both public and private security providers. This option would result in only a minor state savings in 2008-09, but potentially in savings of \$100 million or more at full implementation on a statewide basis.

Background. Current law requires trial courts to contract with their local sheriff's department for court security. Courts thus 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, as opposed to the court, negotiates the level of salaries and benefits with the sheriff. These costs have grown rapidly in recent years. Specifically, total security costs have increased from about \$263 million in 1999-00 to about \$450 million in 2006-07, the last year of complete data. This amounts to an average annual increase of 8 percent. Judicial Council staff have attributed the growth largely to negotiated salary increases for sheriff's deputies.

Courts Currently Lack the Ability to Contain Security Costs. Because the courts are required to contract only with county sheriffs, the sheriff has no incentive to contain costs of the security provided, and the courts have no recourse to ensure they do. Establishing a competitive bidding system for court security, in contrast, would provide an incentive for whichever public agency or private firm won the bid to provide court security in the most cost-effective manner possible. A competitive bidding system would also enable courts to exercise more control over the level of security provided to their courts. Courts would be able to select among the proposals offered to them by different security providers, thus allowing them to select the level of security that best meets their needs.

Legislative Option. We believe that allowing courts to contract with private security companies, the California Highway Patrol, as well as local law enforcement agencies would likely result in significant state savings. In a 2003-04 analysis of Los Angeles Superior Court security costs, (please see the *Analysis of the 2003-04 Budget Bill*, page D-17), we estimated that competitive bidding could reduce spending on trial court security from 14 percent to 71 percent, depending upon the mix of public sector and private firms awarded contracts.

It would take time to phase in such a new system, including as much as a year for the preparation of bids and allowing a suitable time for potential private and public sector bidders to respond to such an opportunity. (This delay would also provide sheriffs with some lead time to adjust to the new competitive bidding environment.) Thus, the savings from such a change in 2008-09 would probably be minor, and some new costs might be incurred by the state on a one-time basis to develop a model solicitation for bids and a model contract to implement such new arrangements. The AOC could also incur additional ongoing costs to administer such contracts. However, our analysis suggests that these administrative costs would be exceeded by significant savings on security costs which could begin to be realized in 2009-10. Within a few years, depending upon how this change was implemented, the net savings could exceed \$100 million annually.

Recognizing Delays in the Appointment of Judges

The Legislature should consider adjusting the budget for the trial courts to reflect a more realistic timetable for the appointment of 50 new judgeships created in 2007-08 as well as 50 additional judgeships proposed for 2008-09. This option could reduce state spending by as much as \$15 million in 2008-09.

Background. Chapter 390, Statutes of 2006 (SB 56, Dunn) and Chapter 722, Statutes of 2007 (AB 159, Jones), created 100 new judgeships over a two-year period—2006-07 and 2007-08. Fifty judges were to be appointed in the last month of each fiscal year and were budgeted accordingly. Pending the passage of legislation authorizing them, the budget plan assumes the creation of 50 additional judgeships in 2008-09.

Delays in Judicial Appointments Have Created Significant Savings. Recent history indicates that the appointment of new judges has been out of sync with the funding provided in the budget for these new positions. Delays by the Governor in appointing the first 50 judges established in 2006-07 resulted in savings of nearly \$3 million—ten positions, as of the time this analysis was prepared, still were not filled.

Legislative Option. Currently the Governor is appointing judges at the rate of approximately five per month. At this rate between February 2007 and June 2009 there will be an average of nearly 16 unfilled judgeships at any given time. If the Legislature were to adjust the level of funding provided for these judgeships to reflect the actual rate at which these appointments are being made, while leaving one-time funding available for equipment and facilities costs to accommodate new judges, we estimate this would result in almost \$15 million in savings in 2008-09.

Adjustments in Civil Filing Fees

The Legislature should consider the option of increasing civil filing fees because these state revenues are not keeping pace with the increase in costs of court operations. This option could allow an offsetting reduction in General Fund support for the courts in order to achieve state savings of \$21 million in the budget year.

Background. The trial court system imposes civil fees on parties filing papers related to litigation. For example, the initial filing in a civil case seeking damages is typically \$320, while the charge for filing the legal papers to respond to such a filing is also \$320. The attorney handling a legal action generally pays such fees, except in cases where an individual is representing him or herself and therefore pays the fees personally. The revenue from these fees is intended to offset part, but not all, of the expense incurred by the court that is associated with these cases. These expenses include the administrative costs of setting up hearings, notifying the parties involved, and, in cases where the case goes to trial, the costs associated with conducting the proceedings.

Share of Support for Courts From Civil Fees Has Declined. The trial courts have a variety of funding sources to support their operations, including money collected from the counties that operated the trial courts before the passage of Chapter 850, federal funds, civil and criminal violation assessments, fines, forfeitures, and court filing fees and surcharges. However, the General Fund shoulders the majority of trial court costs, and trends indicate that the General Fund share is growing.

After the enactment of the *2005-06 Budget Act*, when the trial court budget was reorganized into its current form, the General Fund portion of trial court funding was about \$1.4 billion or 53 percent of the total, as can be seen in Figure 4 (see next page). By 2008-09, the General Fund portion is projected to rise to about \$2 billion, around 60 percent of the total. This represents an expansion of General Fund support of more than \$600 million or 42 percent in the span of four years. The total cost of the court system from all fund sources grew by almost \$700 million in this period. Thus, General Fund expenditures have grown disproportionately,

covering about 86 percent of the increase in expenditures on trial court operations.

This large increase from the General Fund indicates that the alternative sources of funding used by the trial courts are supporting a lesser share of trial court costs than they once did. For example, total fine and surcharge revenue deposited in the Trial Court Trust Fund (TCTF), which consists primarily of civil fee revenue for trial courts, was about \$391 million in 2005-06. By 2008-09, the budget projects this to reach \$424 million, representing an increase of 8 percent, in contrast to the 42 percent increase in General Fund support discussed previously.

Figure 4

Trial Court Funding Between 2005-06 and 2008-09

(Dollars in Millions)

	2005-06	2006-07	2007-08	2008-09
Total trial court funding	\$2,714	\$3,037	\$3,248	\$3,411
General Fund	1,446	1,672	1,865	2,047
TCTF ^a fee and surcharge revenue	391	421	429	424
Changes Between 2005-06 and 2008-09	Increase	Percent		
Total trial court funding	\$697	26%		
General Fund	601	42		
TCTF fee and surcharge revenue	33	8		

^a Trial Court Trust Fund.

Fee Increases Not Keeping Up With Inflation. The *Uniform Civil Fees and Standard Fee Schedule Act of 2005* (UCF), part of the *2005–2006 Budget Act*, reorganized many of the existing civil filing fees effective January 1, 2006, increasing some fees to create uniform statewide fee rates. The measure also stipulated that fees would remain unchanged until December 31, 2007. Since fiscal year 2005-06, however, projections of the U.S. State and Local Deflator, a measure of prices associated with goods and services purchased by state and local governmental entities, indicates that prices will have increased by just under 10 percent by 2008-09. Thus, while costs for operating the trial courts have increased, the fees charged to offset a portion of these costs have remained unchanged.

A Modest Fee Increase Could Generate Trial Revenue and Savings. Based on our analysis of estimates provided by Judicial Council staff, an increase just under 10 percent in certain selected filing fees (to reflect the

inflation measure cited above) could generate as much as \$21 million in increased revenue for the trial courts in 2008-09. This would amount to an average increase in fees of about \$26 per filing. Such an increase would help offset the increase in cost of providing services associated with the trial courts and would help reduce the increased reliance on the General Fund. It is possible that such a fee increase could result in a reduction of the number of civil cases filed in court. While this means the courts might forego some additional revenues, the fiscal effect on the courts would likely be a net reduction in costs that would exceed any revenue loss. That is because the selected fees we propose be increased do not fully cover the cost the trial courts bear for the services associated with the filings. Any reduction in revenue due to decreased caseload would probably result in net savings for the trial courts.

Legislative Option. To reduce increasing General Fund expenditures and rising costs of operating the trial courts, the Legislature should consider the option of increasing civil filing fees to reflect inflation since 2005-06. If it takes such an action, the Legislature should also reduce General Fund expenditures for the trial courts accordingly, by about \$21 million in 2008-09.

CAPITAL OUTLAY

Withhold Recommendation on Funding for New Courthouses

We withhold recommendation on four new courthouse projects proposed to be funded with a \$2 billion general obligation bond because two of the facilities they would replace have not been transferred to the state and prior legislation to allow such transfers has expired. In addition, the new projects need to be examined in the context of the state's overall infrastructure plan which is not scheduled for release until March 2008. We further recommend going forward on 11 previously approved courthouses that would be funded from the State Court Facilities Construction Fund.

Proposal. The budget proposes a \$2 billion general obligation bond to acquire, design, construct, or renovate the state's court facilities. If approved by the Legislature, this general obligation bond would be submitted to statewide voters in November 2008. The \$2 billion amount would not fund all facility needs identified by the Administrative Office of the Courts (AOC), but would provide immediate funding to handle what AOC ranks as the most critical infrastructure issues in the state's large inventory of court facilities. In its five-year infrastructure plan, AOC estimated that \$9.7 billion would eventually be needed to bring all the courts up to secure and safe standards and accommodate growth.

Bond Issue Would Support Current and Upcoming Projects. In addition to the continuation of 11 courthouse projects approved by the Legislature in prior years and funded by the State Court Facilities Construction Fund (SCFCF), the Governor's budget includes funding for four new courthouse projects that are proposed to be supported with the new general obligation bonds. Specifically, the budget plan proposes to allocate \$62 million in bond proceeds for land acquisition to start these projects, which are estimated ultimately to cost about \$434 million. These projects are summarized in Figure 1. They would be completed by 2013 if the bonds were approved by the voters later this year.

Figure 1**General Obligation Bond Projects in
2008-09 Governor's Budget***(In Millions)*

Court Project	Scheduled Completion Date	Land Acquisition	Design and Building Costs	Total Project Costs
Tehama County	January 2013	\$16	\$57	\$73
Yolo County	June 2013	8	150	158
Butte County	July 2013	14	65	80
Southeast LA County	July 2013	23	100	123
Totals		\$62	\$372	\$434

The administration also proposes to use the bond issue to complete eight other courthouse projects that have been previously approved. These projects, have been partially funded by SCFCF, a fund supported by court fees and fines. They would cost \$856 million in bond funds to complete. All eight of these court facilities would be completed by 2012. In addition, the budget plan proposes to continue three other ongoing courthouse projects using only monies from SCFCF.

Some Courthouses Not Yet Transferred to State. The Trial Court Facilities Act of 2002 (Chapter 1082, Statutes of 2002 [SB 1732, Escutia]), provided legal authority for the transfer of local court facilities to the state. This authority expired in June 2007, and legislative proposals to extend the deadline for courthouse transfers were not approved. The AOC has indicated that it will again seek such legislation this year to extend the authority for such transfers.

This situation has potential implications for two of the four proposed new courthouse projects, in southeast Los Angeles and Tehama County, that have not transferred to the state (the Yolo and Butte County courthouse facilities have transferred). The *2007-08 Budget Act* specified that counties must transfer their courthouses to the state prior to the release of funds for the projects funded in the budget act. The Legislature has taken the position that it would be inappropriate to move forward with new projects in jurisdictions where such transfers have not been completed. Similar language in the Governor's proposed 2008-09 budget bill places a similar requirement on various other courthouse projects. However, the budget item containing the four new projects does not contain similar language. We are advised by AOC that both the southeast Los Angeles and Tehama

courthouses would be in a position to transfer to the state shortly after any legislation to extend the transfer deadline is enacted.

Analyst's Recommendations. We withhold recommendation on the four new courthouse projects because two of the facilities they would replace have not been transferred to the state and prior legislation to allow such transfers has expired. In addition, the new projects need to be examined in the context of the state's overall infrastructure plan which is not scheduled for release until March 2008.

It is not yet clear whether the Legislature will reauthorize now-expired legislation relating to the transfer of courthouses from counties to the state. If these four projects are ultimately approved, we recommend adoption of language requiring that the courthouses they replace be transferred to the state before funding for the new courthouse projects can be released. This would be consistent with legislative policy and the conditions imposed in the budget bill for other projects.

We also recommend going forward on the 11 other courthouses that have been previously approved by the Legislature.

Proposal to Relocate Headquarters Is Premature

We find that a request for \$432,000 (\$130,000 General Fund) in 2008-09 to support the initial planning costs to relocate the Department of Industrial Relations' headquarters in 2009-10 is premature. The primary purpose of the move is to allow for the expansion of the Administrative Office of the Courts (AOC) and the Department of Justice (DOJ) in the Hiram Johnson State Building in San Francisco. However, neither AOC nor DOJ has presented a plan or justified the need or the costs for the expansion.

We discuss issues surrounding a proposal for the AOC and DOJ to expand into the Department of Industrial Relations' space in the "Department of Industrial Relations" section of the "General Government" chapter.

OFFICE OF THE INSPECTOR GENERAL (0552)

Request for More Funds and Staff Not Justified

The 2008-09 Governor's budget includes four requests for workload adjustments and two budget reduction proposals for the Office of the Inspector General (OIG). Altogether, these requests result in a \$4.5 million net increase in the budget for OIG. We recommend rejecting two of the workload adjustment increases since they are not justified on a workload basis. In addition, we recommend approving the two budget reduction proposals. Our recommendations would reduce the proposed budget for OIG by \$4.5 million. (Reduce Item 0552-001-0001 by \$4,451,000.)

Background. The OIG is responsible for independent oversight of the California Department of Corrections and Rehabilitation (CDCR). The OIG is required by statute and court orders to perform certain activities, such as auditing each correctional institution once every four years. In addition to these responsibilities, the OIG is authorized, but not mandated, to perform other activities, such as special reviews and fraud investigations. In recent years, as it has placed increased priority on oversight of state corrections, the Legislature has increased the number of staff at the OIG significantly, from approximately 40 positions in 2004-05 to nearly 110 positions in 2007-08. The OIG's budget is supported exclusively through General Fund appropriations and is proposed to be about \$26 million in 2008-09.

Governor's Proposals. The Governor's budget requests funding for four workload adjustments and also proposes two budget reductions. In total, these proposals would result in a net increase in the OIG's budget of \$4.5 million compared to the current year, as well as a net increase of 25 positions. We raise no concerns with two of these workload requests, that are for new staff and funds to support court-ordered activities related to medical investigations and attendance at committee meetings pertaining to prison incidents in which staff used force against inmates. The other two

workload-related budget requests are for (1) 20 staff for the office's Bureau of Audits and Investigations (\$3.7 million), and (2) 6 administrative and information technology (IT) support staff (\$690,000).

In addition to these workload requests, the Governor's budget also includes two "budget-balancing reductions," which would result in a total of \$1.7 million in savings. Specifically, the administration proposes trailer bill language to reduce the frequency of certain OIG activities, such as audits and investigations, as well as the elimination of two administrative and eight staff positions consistent with this change in OIG duties.

Insufficient Justification for Two Workload Requests. Our analysis finds that insufficient justification was provided for two of the department's workload requests. First, the OIG used a workload analysis as the justification for the additional auditing and investigations staff requested. However, in response to our questions, the OIG stated that it currently is fulfilling almost all of its mandated and nonmandated responsibilities at its current staffing level. The mandated work that has a small backlog, certain prison and warden audits, is scheduled to be in statutory compliance by 2009-10 without additional authorized positions. Of its nonmandated responsibilities, the OIG stated that it only experienced a backlog of a few special reviews in 2006-07. We find that, because the OIG will be in compliance with its mandated workload by 2009-10 as scheduled, the 20 additional auditing and investigations staff requested are not warranted at this time.

Second, the OIG provided insufficient justification for its request for new IT and administrative positions. The proposal did not include a workload analysis, but instead included only a narrative description to justify the requested support staff. Moreover, there is little evidence that the OIG has been unable to complete its work at its current administrative and IT staffing levels. In addition, our recommendation to deny the additional auditing and investigations staff will result in less of a need for the administrative and IT positions.

Budget Reduction Proposals Result in Additional Savings. Our analysis of the budget reduction proposals in OIG finds that they would result in additional savings for the state while having minimal impact on the office and its work. As a budget reduction strategy, the administration proposes trailer bill language to decrease the frequency with which the OIG performs certain responsibilities, such as reducing the frequency of prison and warden audits from once every four years to once every five years. This reduction in workload would result in the reduction of eight positions. The office reports that there are currently 10 vacancies out of 39 authorized positions for its investigator and auditor classification, a 26 percent vacancy rate. Our analysis suggests that the OIG could reduce

its staff by the proposed eight positions without having to lay off current staff and, especially with the trailer bill language reducing certain workload, still continue to successfully complete all mandated and much of its nonmandated workload.

The administration also proposes eliminating two administrative staff positions in order to achieve budget savings. Given the state's fiscal condition, we have no issue with this proposal and recommend adopting it to achieve additional state General Fund savings.

LAO Recommendations. Based on our analysis, we recommend that the Legislature (1) approve the requests related to court orders, (2) reject the proposed workload-related adjustments for audits and investigations, as well as administration, (3) approve the budget reduction proposal related to audits and investigations, (4) approve the proposed trailer bill language decreasing the frequency of certain OIG responsibilities, and (5) approve the budget reduction proposal that would eliminate two administrative staff positions. Taking these actions would result in General Fund savings of \$4.5 million compared to the Governor's budget.

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.

Budget Proposal. The budget proposes total expenditures of approximately \$791 million from all fund sources for support of DOJ in the budget year, which represents a \$44 million, or about 5.3 percent, reduction from the revised current-year level of spending. Total General Fund support for the department in the budget year is \$381 million, which represents a decrease of about \$36 million, or 8.7 percent, relative to the adjusted current-year level. The spending plan proposes \$328 million in expenditures from special funds, \$42 million from federal funds, and \$40 million from reimbursements.

Spending Reductions Partly Offset With Some Spending Increases. The significant net decrease in the DOJ budget is primarily due to an unallocated budget-balancing reduction of \$42 million General Fund. At the time this analysis was prepared, DOJ had not presented a plan indicating how it planned to reduce its expenditures in the event such a reduction was adopted. In addition, the DOJ spending plan includes about \$15 million in General Fund savings from technical adjustments, reflecting the expiration of limited-term positions or one-time expenditures in 2007-08 that will not continue into the budget year.

About \$7.2 million from the General Fund is allocated within the budget to account for the continuing cost of employee compensation increases that took effect in 2007-08. The budget also includes increases in spending for some particular units within the department, the largest being \$5.4 million budgeted from the General Fund to permanently continue the operation of the Gang Suppression Enforcement Teams (GSET) program. The GSET program was first introduced in 2006-07 with 34 staff on a two-year, limited-term basis. Also, \$4.3 million from the General

Fund would be provided to add about 26 staff to the correctional writs and appeals unit.

COST-SAVING OPTIONS FOR DOJ

The Governor's budget proposes an unallocated reduction of \$42 million in General Fund support for the Department of Justice (DOJ). The Legislature should adopt a savings target of greater or lesser than this amount that is consistent with its own overall program and spending priorities, and with consideration for any funding priorities identified by the department. If the Legislature does choose to enact major spending reductions in this area, there are some options for doing so that would help reduce the direct impact on DOJ's missions of representing the legal interests of the state and protecting public safety.

Putting the Proposed Reductions in Perspective. As noted earlier in this analysis, the 2008-09 budget plan proposes a \$42 million reduction in the DOJ budget. The spending reduction is not allocated to specific programs in the department, consistent with an overall declared budget strategy of leaving out such specifics for "General Fund budgets not under the control of the administration."

The 10 percent reduction is proposed to be applied against the workload budget for DOJ, as estimated by the Department of Finance. This is generally consistent with the administration's approach for applying 10 percent reductions to a number of other state programs and departments. Unlike some other major criminal justice agency budgets, DOJ is not budgeted to receive significant General Fund increases for its programs in 2008-09. Thus, DOJ would realize a significant reduction in General Fund resources in the budget year if the Governor's spending plan is adopted.

Whether DOJ should absorb a cut of this magnitude, or one that is larger or smaller in scale, is fundamentally a question relating to the Legislature's own spending and program priorities. The administration has proposed that the department itself determine how this reduction would be achieved. While we believe the Legislature should consider the department's advice when setting its funding level, the Legislature should also evaluate the impact of reductions on departmental services.

A budget reduction of this size could significantly affect DOJ's operations, which fall primarily into two categories: legal representation of the state and its various departments, and law enforcement. A significant General Fund cut directed to DOJ's legal representation could prompt the department to scale back its legal representation of other agencies. That, in turn, could potentially result in these other agencies incurring equal

or greater costs to contract with private counsel for legal assistance. That makes it likely that any sizeable budget cut to DOJ would be borne mainly by its law enforcement programs.

Some Budget-Balancing Options Exist. With these factors in mind, we outline two possible approaches for the Legislature to consider in implementing a major reduction for DOJ. Our analysis suggests that these approaches would help the state to achieve its savings goals, while minimizing (but by no means eliminating) the impacts on its missions of representing the legal interests of the state and protecting public safety. These options are (1) eliminating the significant number of vacant positions at DOJ, and (2) charging state and local agencies for all, or part of, the cost of the laboratory services provided to them by DOJ. These options could result in state savings of \$13 million in the budget year and as much as \$54 million annually in future years. The fiscal effect of these options, which we discuss in more detail below, are summarized in Figure 1.

Figure 1		
Options for Cost Savings in the Department of Justice		
<i>(In Millions)</i>		
Options	2008-09 Fiscal Impact	Potential Future Savings
Eliminate some vacant positions	\$13.0	\$13.0
Charge forensic laboratory fees	—	41.0
Totals	\$13.0	\$54.0

Reducing High Vacancy Rates in DOJ May Create Savings

To both enhance the Legislature's oversight of state funding and reduce General Fund costs, we recommend the Legislature consider the option of eliminating a number of the vacant positions in the Department of Justice in order to achieve potential ongoing savings of as much as \$13 million annually.

Background. When a department's request for additional positions is approved in the budget process, the Legislature ordinarily appropriates nearly the full amount of the salaries and benefits, as well as funding for the supplies and office space (known as operating expenses and equipment, or OE&E) necessary for the positions. For most types of positions,

the budget typically appropriates 95 percent of the cost of the personnel on the assumption that, in normal circumstances, the department will not be able to fill each position 100 percent of the year due to delays in hiring. If, however, hiring delays are longer or turnover is larger than expected, the department still maintains control of the money it does not use for the unfilled positions.

The way these funds are spent can vary by department but, ideally, the department should use the funds to further the mission for which they were appropriated. That might mean using the funds for additional equipment or paying the overtime expenses of staff required to do the work associated with the vacant positions. Unless specifically requested to do so, departments do not report to the Legislature on the manner in which they use these funds. Large and persistent numbers of staff vacancies in excess of the normal 5 percent salary savings, and large redirections of the funds appropriated to support those positions, can therefore weaken the Legislature's oversight over the expenditure of these funds. (We discuss this statewide vacancy issue in the "Crosscutting Issues" section of the "General Government" chapter.)

DOJ Has a High Vacancy Rate. According to information provided by DOJ, the department as a whole reported a vacancy rate of 15 percent as of January 2008, representing about 863 positions. Based on our analysis, the total value of these positions, including salaries and benefits, but excluding OE&E, is approximately \$57 million. Accounting for the normal 5 percent salary savings, this implies that there is in excess of \$50 million in funds originally budgeted for employee salaries and benefits that is being used by the department on a discretionary basis for other purposes. At the time this analysis was prepared, and due to the complexity of this task, the department was unable to explain exactly how these funds are actually being used.

Within individual units of the department, the vacancy rates can be higher than the 15 percent cited above. This is particularly the case in units with positions that are difficult to fill, such as special agents or criminalists. For example, the Bureau of Narcotic Enforcement has a vacancy rate of nearly 28 percent, primarily due to more than 85 open special agent positions.

Targeted Reductions Could Create Savings. Our analysis of vacancy reports for the department's 61 sections and bureaus indicates that 9 have both high vacancy rates and a large number of unfilled positions, as shown in Figure 2 (see next page). These nine programs have an average vacancy rate of 20 percent and represent about 59 percent of the total vacancies in the department as a whole. The salary and benefits of these positions represent nearly \$32 million.

Figure 2
Nine Department of Justice Sections
Have High Vacancy Rates

As of January 2008

Division/Section/Bureau	Vacant Positions	Total Authorized Positions	Vacancy Rate
Legal Secretaries ^a	25.9	36.9	70%
Bureau of Medi-Cal Fraud and Elder Abuse	34.0	204.0	17
California Bureau of Investigation	23.0	129.5	18
Mission Support Branch	36.1	122.1	30
Bureau of Narcotics Enforcement	114.3	411.8	28
Bureau of Forensic Services	79.0	405.0	20
Criminal Intelligence Bureau	53.0	166.1	32
Hawkins Data Center Bureau	48.0	336.3	14
Bureau of Criminal Identification and Information	94.5	708.0	13
Totals	507.8	2,519.7	20%

^a Referred to by the Department of Justice as Executive Unit.

Our analysis identified 200 vacant positions that could be eliminated for annual General Fund savings of nearly \$13 million. Our analysis focused on positions that have been historically difficult to fill, such as the special agent or criminalist positions discussed previously, as well as on sections that had more than a 10 percent vacancy rate. We assumed that only the salary and benefits portion of the original appropriations would be eliminated, leaving about \$6 million originally budgeted along with these positions for OE&E for continued use by the department. This accounts for situations in which the department might be spending some of these OE&E funds on supplies for individuals in filled positions.

Some General Fund savings from vacancies might be achieved through conversion of positions to special fund support. The DOJ and some particular units within the department have many special fund sources of support. It might be possible to convert some positions now supported from the General Fund so that they are supported from special funds, making it possible in turn to further reduce the department's General Fund appropriation. For example, the Bureau of Firearms has positions that are supported by the General Fund and other positions supported by the Dealers' Record of Sale (DROS) Account, a special fund. Under

our proposed approach, a vacant position in the bureau that is supported by DROS could be filled by transferring a bureau staff member now in a position supported by the General Fund. The newly vacant General Fund position could then be abolished to achieve General Fund savings.

Legislative Option. To both enhance the Legislature's funding oversight and reduce General Fund expenditures, we recommend the Legislature consider eliminating a number of the vacant positions in DOJ in order to achieve potential ongoing savings of as much as \$13 million annually, as shown in Figure 3. There are some key points the Legislature should consider under our proposed approach:

Figure 3
Elimination of Vacant Positions Would Create Savings

(Dollars in Thousands)

Division/Section/Bureau	Vacant Positions Eliminated	Savings
Legal Secretaries ^a	15	\$891
Bureau of Medi-Cal Fraud and Elder Abuse	10	756
California Bureau of Investigation	10	756
Mission Support Branch	20	1,218
Bureau of Narcotics Enforcement	60	4,535
Bureau of Forensic Services	30	2,190
Criminal Intelligence Bureau	25	1,294
Hawkins Data Center Bureau	15	914
Bureau of Criminal Identification and Information	20	907
Totals	205	\$13,461

^a Referred to by the Department of Justice as Executive Unit.

- **Ensure Special Fund Resources Are Sufficient.** As noted earlier, some positions now supported from the General Fund could be shifted to special fund support in order to achieve General Fund savings. In such cases, the Legislature should ensure that the special fund has the resources to sustain the positions in the budget year and beyond.
- **Consider Impact on DOJ Programs.** In reducing funds associated with the vacant positions, the Legislature should direct the department to disclose its current use of the funds and the full programmatic impact of the elimination.

- **Preserve Critical Positions.** The Legislature should determine, after consulting with the department, whether any of the positions slated for elimination are so critical that their importance would outweigh the benefit of any potential General Fund savings.

Charging State and Local Agencies Lab Fees

The Legislature should consider the option of offsetting General Fund support for the Bureau of Forensic Services by requiring state and local agencies to pay for the laboratory services provided them by the bureau. Any fee structure should accommodate small agencies dealing with expensive and complex investigations, adequately protect the bureau financially, and be designed to effectively capture laboratory costs. This option could result in future savings that could reach \$41 million annually.

Background. The DOJ's Bureau of Forensic Services (BFS) operates 11 full-service criminalistic laboratories throughout the state. These laboratories provide analysis of various types of physical evidence and controlled substances, as well as analysis of materials found at crime scenes. The laboratories include a state DNA laboratory in Richmond (formerly located in Berkeley) that is responsible for processing evidence in criminal cases, as well as DNA samples taken from certain violent and sex offenders, and individuals convicted of other felonies, as specified in Proposition 69 (a 2004 initiative approved by statewide voters) for inclusion in its CalDNA database.

While the DOJ labs provide some services to state agencies, they primarily serve local law enforcement agencies in jurisdictions without their own crime labs. These local agencies are found in 46 out of 58 counties representing approximately 25 percent of the state's population. The remaining jurisdictions either maintain their own labs or contract with other agencies for laboratory services.

Services undertaken by the DOJ crime labs for state and local agencies are generally provided at no charge. Two exceptions are that fees for both blood alcohol and some drug toxicology tests have been paid for since 1977 by local agencies from the collection of criminal penalties, such as those collected for driving under the influence convictions. The majority of BFS funding, however, is derived from the General Fund. The budget proposes that over \$64 million in General Fund support be provided to BFS in the budget year, representing 70 percent of the \$92 million budgeted for BFS from all fund sources.

Charging Lab Fees Would Result in Revenues and a Reduction in Workload. By directing BFS to charge local law enforcement agencies lab fees, the Legislature could reduce or eliminate General Fund support for BFS due to (1) the creation of new revenue and (2) a reduction that is likely to result in the number of cases processed by the labs.

Currently, local law enforcement agencies that rely on BFS have no incentive to ration their use of laboratory services, either by sending only their highest-priority cases to the state or by seeking other entities to assist with testing. There is evidence that the charging of fees can have a significant impact on the use by local agencies of BFS forensic services. For example, in 1992-93, when DOJ began to charge local agencies for the cost of processing blood alcohol tests, the number of such tests declined by 29 percent from the previous year. Many agencies started contracting with other providers who charged less than the state, thereby saving both the state and the agency money and reducing the caseload faced by state laboratories.

This strategy appears to be worth broader consideration, given the rising state General Fund costs for providing these services to counties. In 2005-06, BFS received a total of \$41 million in General Fund support for its operations. As discussed above, these costs are projected to climb to \$64 million by 2008-09, representing an increase of \$24 million, or 57 percent, in just three years.

To the extent that the broader imposition of fees reduced DOJ laboratory workloads, it would also help the state to cope with its ongoing staffing difficulties in this unit. Seventy-nine of the 405 staff positions (many of them criminalists) authorized for BFS, or nearly 20 percent, are unfilled, according to information provided to us by the department.

Some Local Governments Provide Their Own Lab Services. We have proposed in the past that the Legislature authorize the charging of fees to other state and local agencies in order to offset DOJ forensic laboratory costs, most recently in the *Analysis of the 1999-00 Budget Bill* (please see page D-133). Because developing physical evidence through laboratory analysis is part of local law enforcement responsibility for investigating and prosecuting crimes, we believe that the costs for these services should be borne by the counties and cities. Law enforcement agencies in 12 counties—county sheriffs, district attorneys, or city police—obtain laboratory services through the operation of their own laboratories or by relying on other agencies. It is also of note that the Federal Bureau of Investigation offers local law enforcement, free of charge, all forensic services in criminal matters, including expert witness testimony, unless the request for assistance originates in a laboratory that could handle the matter itself.

Potential Implementation Issues. If the Legislature were to move toward a fee-based system for financing BFS it would be important to address several key implementation issues:

- **Mitigating Unusually High Costs for Complex Investigations.** Some cases processed by the labs involve significant amounts of physical evidence and are, therefore, very expensive. If local agencies were billed for all costs in such cases, it could create a fiscal hardship for smaller agencies. Any proposed fee schedule would have to address such circumstances.
- **Ensuring Financial Protection for Labs.** If the labs are to be funded by reimbursements, they must be able to ensure full and timely payment of these fees by the state and local agencies for which they provide service. For example, BFS might be reimbursed based on the amount of service provided in the prior year, to prevent disagreement over the total amount owed.
- **Establishing an Appropriate Fee Schedule.** Determining the appropriate basis for allocating the costs of lab services can be challenging for some forensic services. As a result, it would be necessary to undertake a review of the services to determine the appropriate fees that should be charged for each service.
- **Other State Agencies.** The Legislature should adjust the budgets of any other state agencies to account for fees they would pay to BFS for laboratory services.

Legislative Option. We recommend that the Legislature consider the option of reducing General Fund support for DOJ by requiring that BFS charge state and local agencies for the forensic services they provide. If the Legislature moves in such a direction, we also recommend that any resulting fee structure effectively address the concerns we have raised. Resolving these issues could take some time and means that savings are not likely from this change until 2009-10. Eventually, however, depending mainly upon whether the Legislature wished to offset all or only part of BFS's costs for forensic laboratory services with fees, the state could realize savings of as much as \$41 million annually.

WRITS AND APPEALS REQUEST SHOULD BE REDUCED

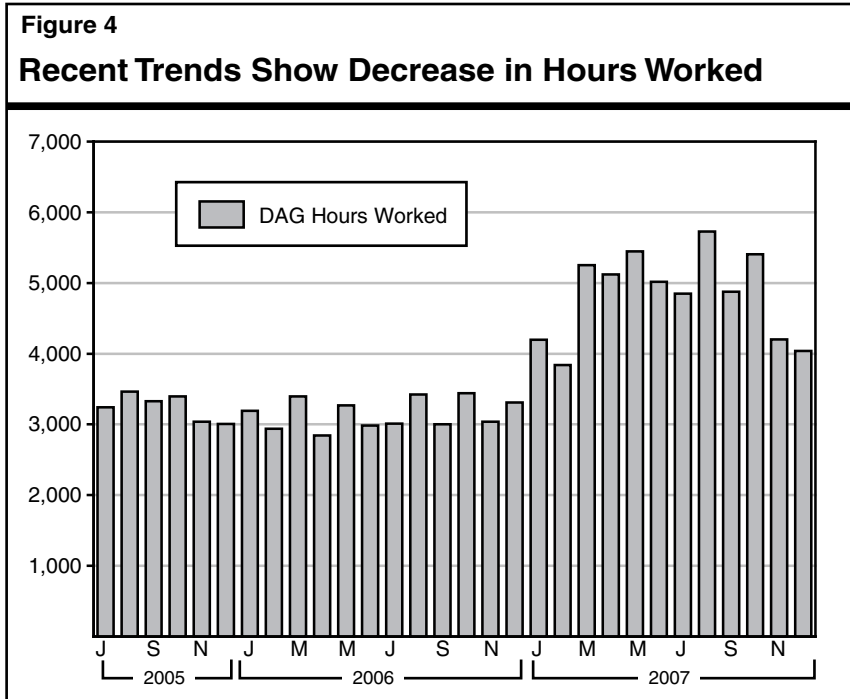
We find that a request by the Department of Justice for additional positions and funding for the Correctional Writs and Appeals section is only partially justified based on recent workload data provided by the department. (Reduce Item 0820-001-0001 by \$1.8 million.)

Background. The Correctional Writs and Appeals section within DOJ is responsible for representing the state in cases in which prison inmates challenge various decisions made by the Governor, the Board of Parole Hearings, and the California Department of Corrections and Rehabilitation. The majority of the section's workload involves so-called "habeas corpus" petitions in which inmates seek their release from prison or raise concerns about the adequacy of the conditions of the prison facilities in which they are confined. The section also handles other types of cases that arise while the inmate is incarcerated, such as petitions that deem inmates to be incapable of making health care decisions for themselves so that they can be administered drugs to improve their mental health.

Budget Proposal. The section has experienced an increase in workload since 2006. The 2007-08 budget plan authorized about 23 positions and about \$3.6 million in additional General Fund support for the section to address these workload concerns. Based on the department's projections that the section will continue to see increasing numbers of habeas corpus challenges, the 2008-09 budget plan requests an additional 26 positions for the section, including 13 Deputy Attorney General (DAG) positions, and \$4.3 million from the General Fund.

The department has indicated in support of its budget request that staffing shortfalls have rendered the section unable to handle its current caseload, forcing its attorneys to seek delays in proceedings rather than directly arguing the inmates' challenges in court. The primary reason for seeking these delays, according to the department, has been its inability to devote an adequate amount of time to each case. The request for 26 new positions, in addition to the total current authorized section staff of 47.5, is based on the department's projection of an increased number of cases as well as a proposed increase in the average number of hours allotted to DAGs for each case they are assigned.

Data Indicate Recent Drop in Workload. As part of our review of the administration's 2008-09 budget request, we requested that the department provide us with monthly data on the hours being worked by DAGs on the correctional writs and appeals workload. While the data provided by the department clearly indicate an increase in workload for the section since 2005-06, the most recent monthly data, as shown in Figure 4 (see next page), show a drop in the number of hours being worked by DAGs. In August 2007, DAGs worked in excess of 5,700 hours. In each succeeding month, however, the total hours devoted to these cases has never exceeded 5,400, and the number was just over 4,000 by December 2007.



As a result, we estimate that the total number of hours of staffing that the section will require for this work is less than is projected in the 2008-09 budget proposal. Specifically, we project that the department would only require 6.5 additional DAGs, as opposed to the 13 requested. Our estimate takes into account the possibility that there will still be some growth in the caseload, and allows for an increase in the average hours that DAGs would work on these cases.

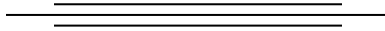
We would also note that, at the time our analysis was prepared, the department still had not filled 6.5 DAG positions—or the equivalent of one-half of the additional DAG positions authorized by the Legislature in the 2007-08 budget plan.

Analyst's Recommendation. Based on our analysis of the section's workload, we recommend that the Legislature only approve half of the requested DAG positions, and accordingly only approve half of the requested support positions. Thus, we recommend a reduction of \$1.8 million and 13 positions in the department's General Fund request for the budget year. If the department also filled the vacant positions it received in 2007-08 in the coming year, as well as the new positions we recommend be approved, it should have sufficient resources to respond to legal challenges filed by inmates.

PROPOSAL TO RELOCATE HEADQUARTERS IS PREMATURE

We find that a request for \$432,000 (\$130,000 General Fund) in 2008-09 to support the initial planning costs to relocate the Department of Industrial Relations' headquarters in 2009-10 is premature. The primary purpose of the move is to allow for the expansion of the Administrative Office of the Courts (AOC) and the Department of Justice (DOJ) in the Hiram Johnson State Building in San Francisco. However, neither AOC nor DOJ has presented a plan or justified the need or the costs for the expansion.

We discuss issues surrounding a proposal for the AOC and DOJ to expand into the Department of Industrial Relations' space in the "Department of Industrial Relations" section of the "General Government" chapter.



VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD (1870)

WHAT DOES THE BOARD DO?

The Victim Compensation and Government Claims Board was first established in 1911 as the Board of Control and was responsible for supervising the business affairs of many different state departments, facilities, and organizations. By 1927 its oversight role had ended and its focus was the adoption of rules and regulations governing contract and tort claims. In 1965, California created the nation's first Victim Compensation Program (VCP), which became the responsibility of the board in 1967, though it did not receive its current name until 2001. Today, the board's primary responsibilities include the state's Government Claims Program as well as the VCP. The Government Claims Program processes claims for money or damages against the state. Generally, anyone who wishes to file a lawsuit against the state or its employees must first go through the process administered under the program. In these cases, litigation against the state can only move forward to the courts if the board rejects or denies a claim.

Victim Compensation Program. The VCP can help pay unreimbursed expenses that result when a violent crime occurs. If an individual involved as a victim in a crime has been injured or has been threatened with injury, he or she is sometimes eligible to have qualifying costs paid for by the board. These costs include medical, dental, mental health, and funeral services, as well as home security, crime-scene cleanup, and emergency relocation costs.

While a victim can apply directly to the board for assistance, victims are generally referred to the board by local government, often by victim advocates that work in county district attorney's offices. The state currently contracts with 21 counties to help assist victims in this process.

In the majority of cases, victims will receive services from providers who then send bills directly to the board. The board has established reimbursement rates it pays to providers. However, these rates may not cover all of the costs the provider has incurred. This is similar to the way many medical insurance reimbursement rates do not fully cover all provider costs.

Restitution Fund. A defendant found guilty of a criminal offense is usually ordered by the court to pay various fines and penalties. The money collected is divided in accordance with state law as determined by a judge, among various recipients, and sometimes includes direct payments of restitution to the victim of the crime. In addition, both state and local government agencies finance a number of programs from the fine and penalty money that they receive. For example, prior to any other distribution, state law requires that 2 percent of all fines and penalties collected in criminal cases be directed toward funding the automation of trial court record-keeping systems. A portion of the money collected from defendants is deposited in the Restitution Fund, which was established to compensate those injured by crime.

The board has a continuous appropriation from the Restitution Fund, which means the money it receives is not subject to appropriation by the Legislature in the annual budget act. The Restitution Fund is the primary source of funding for the VCP. Also, Restitution Fund revenues are used as a match to draw down federal funds under the Victims of Crime Act (VOCA) grant program. The VCP receives 60 cents in federal VOCA grant funding for each dollar spent to provide victims with services. The board deposits this money in the Restitution Fund and uses it exclusively for victims. Beyond the VCP, the Restitution Fund is also a funding source for programs operated by the Office of Emergency Services (OES), the Department of Justice (DOJ), and the State Controller's Office, which are discussed further below.

SHORT-RUN STABILITY, LONG-RUN POTENTIAL FOR PROBLEMS IN THE RESTITUTION FUND

Restitution Funds Balance Could Be Transferred to General Fund in the Short Term

The fiscal projections upon which the Governor's budget plan is based appear to indicate that the Restitution Fund is experiencing a sharp decline in its fund balance. Our analysis of more up-to-date fiscal data indicates, however, that the fund is in stronger shape in the short run and that a portion of its large fund balance could be transferred to the General Fund to help address the state's current budget shortfall.

Background. The Governor's 2007-08 budget plan projected that the Restitution Fund would have a balance of about \$127 million as of June 2007. This sum, well in excess of the reserve needed to operate the VCP, appeared at the time to be growing. However, by later in the year, revised projections indicated that rising expenditures from the Restitution Fund would begin to exceed its relatively stable revenue. As shown in Figure 1, the 2008-09 budget plan assumes that the Restitution Fund balance will drop to \$77 million by June 2008, and slip further to \$49 million by June 2009. If these assumptions were correct, they would imply that the fund was headed for a deficit of nearly \$30 million in 2010-11.

Figure 1

Administration's Budget Assumes Increasing Expenditures Decreasing Restitution Fund Balance

2006-07 Through 2008-09
(In Thousands)

	2006-07	2007-08 Estimated	2008-09 Projected
Total Revenue	\$119,621	\$121,958	\$123,094
Total Expenditures	\$124,902	\$151,301	\$151,192
Office of Emergency Services	(—)	(\$10,215)	(\$10,500)
Department of Justice	(\$2,984)	(6,695)	(6,694)
State Controller's Office	(33)	(34)	(31)
Victim Compensation and Government Claims Board	(121,783)	(134,357)	(133,967)
Statewide general administrative expenditures	(102)	(—)	(—)
Net Fiscal Effect on Fund Balance	-\$5,281	-\$29,343	-\$28,098
Fund Balance	\$106,317	\$76,974	\$48,876

Projections May Overstate Expenditures and Understate Revenue. Based on more recent data made available by the board, it appears that actual Restitution Fund revenues will be higher, and expenditures lower, than were assumed in the Governor's budget. Our analysis of this recent data indicates that the fund may in fact have a balance of as much as \$110 million as of June 2008, and as much as a \$95 million balance as of June 2009. Figure 2 highlights the differences between the projections in the budget and our updated estimates.

Figure 2
Budget May Overstate Expenditures and Understate Revenues

(In Millions)

Year	Budget		LAO Estimate		Difference	
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09
Beginning Balance	\$106	\$77	\$106	\$110	—	\$33
Total Revenue	122	123	136	127	\$14	4
Total Expenditures	151	151	132	142	-19	-9
Fund Balance	\$77	\$49	\$110	\$95	\$33	\$46

Restitution Fund Money Could Benefit the General Fund. The balances we have identified represent 83 percent of what we project to be the total expenditures from the Restitution Fund in 2007-08 and 67 percent of the total expenditures we project for 2008-09. Balances of this magnitude far exceed any likely unforeseen expenditure the fund may incur. Thus, the Legislature has the option of transferring Restitution Fund money to the General Fund to help close the state's current budget shortfall.

We note here, and discuss further below, that over the long term our projections indicate that the Restitution Fund will eventually face a deficit, with or without such a transfer of money to the General Fund. According to our estimates, the Restitution Fund will become insolvent in approximately 2012-13, when it could run a deficit of nearly \$35 million. If as much as \$45 million was transferred from the Restitution Fund to the General Fund in either the current year or the budget year, a deficit would appear one year earlier, in 2011-12. This would still leave the state three years, however, to address this potential, future imbalance—a problem we believe is solvable if the appropriate actions are taken now. Later in this analysis, we discuss further both the cause of this imbalance and some potential solutions that could bring Restitution Fund revenues and expenditures into alignment.

Legislative Option. Given its current large fund balance well in excess of its current operational needs, the Legislature should consider the option of transferring as much as \$45 million from the Restitution Fund to the General Fund in light of the current fiscal condition in the state. A transfer of this amount would still leave the state with three years to address a potential longer-term imbalance in fund revenues and expenditures.

Increased Victim Claims and Support for Other Programs May Leave Fund Short in the Future

If the current expenditure trends continue, the Restitution Fund will be unable to fully support the Victim Compensation Program as well as other programs it now supports, in the long term. We outline several actions that the Legislature could take to help move the Restitution Fund towards long-term solvency.

As discussed above, the Restitution Fund faces a potential shortfall by either 2011-12 or 2012-13, depending upon whether the Legislature chooses to draw down part of the fund's large balances to address the state's current General Fund shortfall. The main source of the problem is the likelihood that expenditures will grow faster than the relatively stable revenues flowing into the fund. These increased expenditures are due to (1) increased awareness of the services provided by the board, (2) various changes in the board's compensation of service providers, and (3) the increased use of the Restitution Fund in recent years to support other new state programs. We discuss these factors below.

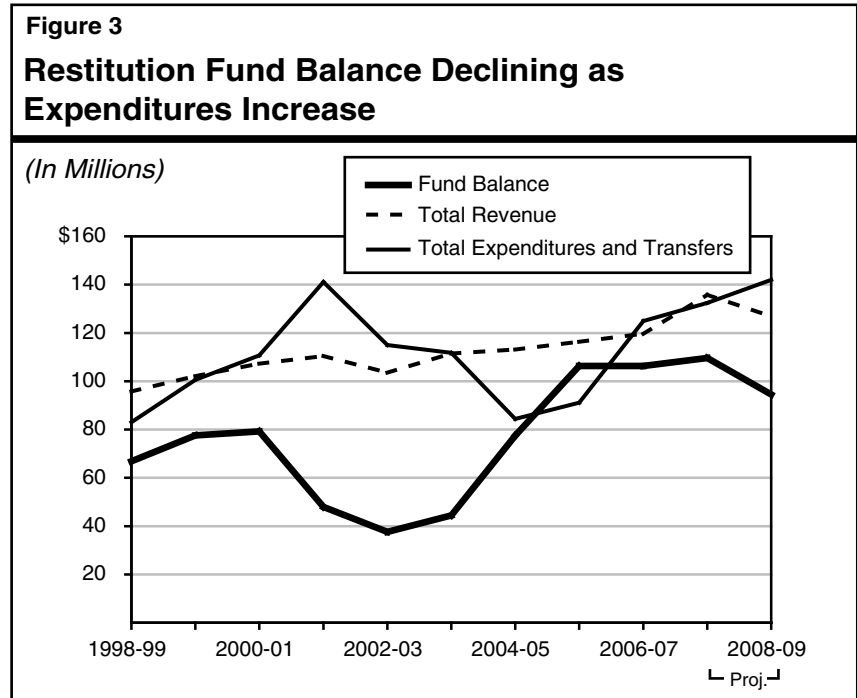
Growing Public Awareness of Program. At any given time, crime statistics suggest, there are many more victims of crime in California eligible for compensation from the board than actually seek it out. In the past, however, increased public awareness of the VCP has increased the number of victims seeking compensation from the board over time. The number of victims seeking compensation increased by more than 1,900, or about 4 percent, between 2005-06 and 2006-07, the last year for which complete data are available.

The increase in the number of individuals filing claims has contributed to an increase in VCP expenditures, as can be seen in Figure 3. The sharp increase in payments to victims following 2001 is attributed by board officials to greatly increased public awareness of victim compensation processes in the wake of the well-publicized reimbursements to families of the victims of the September 11, 2001 terrorist attacks. The board is currently engaged in ongoing efforts to promote the services they offer, and therefore expects the trend of increasing victim claims, and expenditures for those claims, to continue.

Changes in Reimbursements to Providers. Actions taken by the board in recent years to increase reimbursements to various medical providers who provide services to crime victims are another major factor reducing the once-large balances in the Restitution Fund.

Following the large spike in claims after 2001, the Restitution Fund's balance declined steeply, as can be seen in Figure 3. In order to maintain the solvency of the fund, the board decreased the reimbursement rates

it paid to providers of victim services and delayed payments to them in connection with victim claims. As a result, we are advised by the board, a number of providers started to refuse to serve crime victims affiliated with the program and payments out of the Restitution Fund for such claims decreased.



The board has since increased some of the reimbursement rates for providers and is attempting to rebuild its relationship with them, such as by providing them with more timely payments and implementing a new online claim processing system that streamlines the claim process. Also, in 2006, the board increased the availability of mental health services, established dental treatment preauthorization and preapproval, and raised the compensation cap for funeral and burial expenses. The total number of bills received by the board increased by more than 32,000, or nearly 24 percent, between 2005-06 and 2006-07. All of these changes in compensation to providers have contributed to the rising expenditures by the VCP from the Restitution Fund.

Program Expansions. In addition to the VCP, the Restitution Fund has increasingly become a source of support for the recent expansion

of programs operated by several other departments. As a result, about \$14 million in annual costs have been added in recent years.

The DOJ administers the California Witness Protection Program, which primarily reimburses county district attorney's offices for the costs of providing witness protection services. In 2006-07, the Restitution Fund provided \$3 million in annual support for this program. The DOJ currently is budgeted to receive \$7 million from the Restitution Fund in 2007-08, a funding level the Governor's budget plan proposes to maintain in 2008-09.

The OES received new allocations from the Restitution Fund in 2007-08 totaling \$10 million to support a task force combating Internet crimes against children and a statewide anti-gang coordination program. The Governor's budget plan assumes that this level of funding would continue in 2008-09 for these OES programs.

In addition, a one-time expenditure of \$300,000 was made from the Restitution Fund in 2007-08 for the Equality in Prevention and Services for Domestic Abuse Fund. This fund is designed to help provide services to gay and lesbian victims of domestic violence.

As discussed above, the money spent by the VCP on victim services generates additional revenue for the Restitution Fund by drawing down matching federal VOCA grants. This is not the case, however, for DOJ and OES expenditures from the fund. In effect, the total of \$17 million spent on these projects potentially reduces the federal grant revenue the fund would otherwise receive if the money could be spent on qualifying services for victims by as much as \$10 million annually.

Some Steps Could Be Taken Now to Bolster the Fund. Our analysis indicates that there are several actions the Legislature could take to address the long-term solvency problem potentially facing the Restitution Fund.

One such approach would be to reduce the \$7 million annual cost of the witness protection program now being supported from the fund. The DOJ currently has statutory authority to collect matching funds from local agencies to help support the victim witness protection program. The Legislature could change state law to require a larger local match, therefore permitting a reduction in support of the program from the Restitution Fund of several million dollars annually.

Alternatively, it might be possible to leverage funding for the witness protection program to generate additional federal fund revenues for the fund. One of the purposes of the witness protection program is to assist crime victims, as witnesses are often crime victims themselves. Thus, it is possible some of these expenditures may qualify for federal matching funds under the VOCA program, particularly if they were administered

under the board rather than DOJ. The Legislature could direct the board to analyze the fiscal and operational ramifications of such a change, which might offset part of the impact of a reduction in Restitution Fund support for the program.

The Legislature may also wish to review the condition of the Restitution Fund in the next couple of years to determine whether it is healthy enough to continue to sustain these programs. If it is not, the Legislature may wish to consider eliminating the Restitution Fund as a support source for these programs in order to ensure fund revenues and expenditures are in alignment.

Analyst's Recommendations. As noted above, the Restitution Fund is cash-rich in the short term, but faces a longer-term risk of insolvency by 2011-12 or 2012-13. Accordingly, we recommend that the Legislature take actions now that would help move the Restitution Fund towards solvency through the options outlined above to (1) reduce the cost of the witness protection program by increasing the required local match; (2), examine whether the witness protection program can be restructured to draw down federal funds for victim assistance; and (3) review in the next few years whether all of the programs supported from the Restitution Fund, and the higher rates paid to providers of victim compensation services, can be sustained.

In the next section of this analysis, we discuss other potential steps for ensuring the future solvency of the fund by ensuring that administrative costs for the VCP are reasonable and that potential revenues for the Restitution Fund are being collected.

Administrative Costs and Fund Revenues Warrant Scrutiny

The Victim Compensation and Government Claims Board does not separately track the administrative costs of its Victim Compensation Program (VCP) and the Government Claims Program, making it difficult for the Legislature to assess the efficiency of these programs. Also, it appears possible that the collections of Restitution Fund revenues could be improved. Accordingly, we recommend that the Legislature (1) direct the administration to modify the state budget for the board to separately list the administrative expenditures of its programs within the budget, and (2) request an audit to determine if administrative costs of the VCP can be reduced or the recovery of restitution payments can be improved.

Administrative Spending Not Tracked Separately. The Victim Compensation and Government Claims Board does not separately track the administrative costs of the VCP and the Government Claims Program. In

particular, in the VCP, some administrative expenditures and direct payments to crime victims are combined in one state operations budget item and the board does not internally track these expenditures.

This is a problem, in our view, in that administrative costs can be a key measure in determining how efficient programs are in delivering services. Maintaining the lowest reasonable administrative costs is particularly important for the VCP, because such administrative expenses are ineligible for federal VOCA grant matching dollars. Also, given the declining balance in the Restitution Fund, minimizing VCP administrative expenditures can help assure that the maximum amount of money is reaching crime victims and that the Restitution Fund will remain solvent.

VCP Administrative Costs Appear to Be Relatively High. While it is not possible to identify total VCP administrative costs with complete accuracy, for the reasons discussed above, we have attempted to estimate those costs using information contained in the budget. Specifically, we estimate that administrative spending in 2006-07 was about \$39 million, or about 31 percent, of the state and federal funding it receives annually for the program.

Our analysis indicates that VCP administration costs appear to have declined somewhat in recent years. We estimate that they were about 42 percent of program expenditures in 2004-05. However, our analysis suggests that they are still somewhat higher than those administrative costs incurred by victim compensation programs in other states, a fact that was acknowledged by the board in a letter to the Legislature in 2004. As shown in Figure 4, information we found on crime victim assistance programs in eight other states indicated that they reported administrative costs ranging from 5 percent to 32 percent, with an average of 17 percent. We would recommend, however, that the Legislature view this information with caution, because what constitutes administrative costs can vary significantly across different states.

Further Decreases in Administrative Costs Possible. The board is taking some steps to change its operations that could decrease its administrative costs. The board has nearly completed its transition to an Internet-based system for processing claims for compensation from crime victims, which could potentially reduce the time board staff would have to spend in processing requests for compensation. The board also intends to reorganize the manner in which it assigns employees to process claims. Instead of tracking a single claim through every step of the process, the new approach involves assigning employees to become specialists in a specific step in the claim process. However, the effect of these promising new approaches on program operations and administrative expense will be difficult to assess unless these costs are tracked accurately and separately.

Figure 4**California's Victim Compensation Program's Administrative Costs Appear Relatively High***(Dollars in Millions)*

State	Number Of Claims	Total Paid to Victims	Administrative Costs	Percentage Spent on Administration
Texas (2007)	27,746	\$65.6	\$6.1	8.6%
Florida (2005-06)	27,114	22.3	10.4	31.8
Ohio (2007)	8,206	18.1	5.6	23.6
Tennessee (2007)	2,623	12.9	0.7	5.1
Alabama (2006)	2,814	4.0	1.6	28.7
Virginia (2006)	1,902	3.0	0.8	21.0
West Virginia (2006)	1,806	2.2	0.3	13.4
Alaska (2006)	2,814	1.3	0.2	14.0
Average (not including California)	34,401	23.8	4.6	17.3
California (2006-07)	50,339	\$101.2	\$45.9	31.2%

No Recent Program Audits. It is generally sound fiscal management policy for programs involved in large numbers of financial transactions with the public, such as the VCP, to be subject on a regular basis to outside audits. However, we are advised that no outside agency has conducted an audit of the VCP since 2001-02.

Under the current circumstances, including rising expenses that could eventually threaten the solvency of the Restitution Fund, a comprehensive audit of the VCP appears warranted. Such an audit could shed light on the fiscal integrity of the board's procedures for processing victim claims and their relative efficiency. It could also examine whether there are other ways for the board to streamline its processes, reduce administrative costs, and thereby help preserve the solvency of the Restitution Fund.

Opportunity May Exist to Collect Additional Revenues. Our analysis indicates that it may be possible to address part of the Restitution Fund solvency problem by increasing the collection of some of the revenues that flow into the fund from the collection of restitution orders. When a victim who has been provided services by the board is still owed restitution by a defendant, the board can subsequently recover these funds from the defendant to offset the expense to the state of assisting the victim. The board collaborates with various state agencies, such as the Franchise Tax Board, in such activities. It also sometimes partners with counties in such

collection efforts, and in such cases allows the county to keep 10 percent of the amount collected as an incentive for county participation. However, we are advised that when defendants are no longer under the supervision of a probation department or are released on parole, the state and local government lose their practical ability to collect the restitution owed.

The following steps to improve these collections have been proposed and appear to be worth further study:

- Imposing additional financial asset disclosure requirements on criminal defendants.
- Increasing county financial incentives for participation in collection efforts.
- Modeling restitution collection efforts on those used in the collection of child support.
- Extending the ability of state and local agencies to continue collection efforts after a defendant has been released on parole or from probation.
- Improved record keeping on the amount owed by defendants that is accessible to state and local officials involved in collection efforts.
- Encouraging superior court judges to garnish the wages of individuals who are behind in restitution payments.
- Requiring defendants to appear before a judge if they fail to pay restitution, as is currently done in Alameda and Santa Clara Counties.

It is also possible that some of these changes would result in greater direct collection of restitution by crime victims, and lesser reliance on VCP for victim assistance services. In the long term, this could also reduce the financial pressure on the Restitution Fund.

Analyst's Recommendation. To assist the board and the Legislature in tracking the administrative costs of the VCP, we recommend that the Legislature direct the administration to establish separate budget items and displays in the Governor's January 10 budget plan for the administrative costs of the VCP and the Government Claims Program.

We further propose that the Joint Legislative Audit Committee be requested to direct the Bureau of State Audits (BSA) to conduct a comprehensive audit of both the VCP and the Quality Assurance and Restitution Recovery Division to ensure the fiscal integrity of their procedures for processing victim claims, collecting restitution revenue and their relative efficiency. The BSA could also specifically examine if there are further

actions the board could take to increase Restitution Fund collections, as discussed previously.

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

Board Budget Display and Items. It is the intent of the Legislature that the Department of Finance, in preparing the 2009-10 budget plan for the California Victim Compensation and Government Claims Board, establish budget items and displays in the Governor's January 10 budget plan that separate the administrative costs for the Victims Compensation Program from other expenditures for that program, and that similarly separate the administrative costs of the Government Claims Programs from other expenditures for that program. Administrative costs for these two programs shall also be displayed and budgeted separately.

Victim Compensation Program Audit. It is the intent of the Legislature to request that the Joint Legislative Audit Committee commission an audit of the Victim Compensation Program of the California Victim Compensation and Government Claims Board by September 15, 2008.

This audit shall assess the efficiency and effectiveness of the victim compensation process carried out by the program. This portion of the audit should include, but not be limited to, a review of the following matters:

- The relative efficiency of the board's processing of victim claims.
- Recommendations as to how the board might reduce the administrative costs of processing victim claims.

This audit shall also assess the efficiency and effectiveness of the restitution recovery carried out on behalf of and by the board. The audit should include, but not be limited to, an assessment of the following:

- A determination of whether the efforts of the Quality Assurance and Restitution Recovery Division are efficient and cost-effective.
- A determination of whether improvements could be made in the restitution collection process in order to increase revenues.

DEPARTMENT OF CORRECTIONS AND REHABILITATION (5225)

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates eight juvenile correctional facilities, including three reception centers. In addition, CDCR manages 13 Community Correctional Facilities, 49 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and 188 adult and juvenile parole offices, as well as houses inmates in 5 out-of-state correctional facilities.

BUDGET OVERVIEW

Proposed CDCR Operations Budget

The budget proposes total expenditures of \$10.1 billion for CDCR operations in 2008-09 from all fund sources. This is \$14 million, or less than 1 percent, above the revised estimate for current-year expenditures. The department's budget includes increased spending for projected increases in the prison and parole populations, inmate and parolee rehabilitation programs, responses to federal court cases relating to inmate medical and dental care and other issues, peace officer recruitment and training, and inflation adjustments. This additional spending is largely offset by proposed budget reductions, primarily related to reducing the inmate and parolee populations through two policies: (1) release of certain inmates from prison up to 20 months early and (2) summary parole supervision. Figure 1 shows the total operating expenditures estimated in the Governor's budget for the current year and proposed for the budget year.

Figure 1				
Total Expenditures for CDCR^a Operations				
<i>(Dollars in Millions)</i>				
Program	2007-08 Estimated	2008-09 Proposed	Change	
			Amount	Percent
Administration ^b	\$630	\$779	\$150	23.8%
Juvenile Institution and Parole Operations	580	554	-26	-4.6
Adult Institution and Parole Operations	8,761	9,006	244	2.8
Board of Parole Hearings	111	118	7	6.2
Subtotals	(\$10,083)	(\$10,457)	(\$375)	(3.7%)
Budget Reduction Proposals	-\$18	-\$379	-\$361	2,018.9%
Totals	\$10,065	\$10,078	\$14	0.1%

^a California Department of Corrections and Rehabilitation.
^b Includes Corrections Standards Authority and Community Partnerships.
 Detail may not total due to rounding.

General Fund Expenditures. Proposed General Fund operating expenditures for the budget year total \$9.8 billion, a decrease of \$13 million, or less than 1 percent, below the revised current-year estimate.

Federal Fund Expenditures. The CDCR operating budget includes \$29 million in federal funds in the budget year. Most of these funds are distributed to local governments for criminal justice programs. In addition, the Governor's budget assumes that the state will receive about \$102 million from the federal government during 2008-09 as partial reimbursement of CDCR's costs (estimated to be almost \$1 billion in the budget year) for incarcerating inmates in prison who are illegally in the United States and have committed crimes in California. The federal funds are not included in CDCR's budget display, but instead are scheduled as "offsets" to total state General Fund expenditures.

Current-Year Operating Deficiency

The department's budget proposes \$53 million in additional General Fund expenditures in the current year compared to the *2007-08 Budget Act*. This amount is lower than recent budget deficiencies for CDCR, including \$64 million in 2006-07. Figure 2 shows the most significant components of the additional spending estimated for the current year. Each of these proposals is described in more detail below.

Figure 2	
2007-08 General Fund Deficiency	
CDCR^a	
<i>(In Millions)</i>	
Deficiency Item	Amount
Inmate and parolee populations	\$35
<i>Armstrong</i> court order	16
<i>L.H.</i> lawsuit	2
Total	\$53

^a California Department of Corrections and Rehabilitation.

Inmate and Parolee Populations. The administration requests \$35 million for additional operating costs related to projected increases in the inmate and parolee populations. This amount does not include offsetting savings that will occur from the implementation of the administration's budget reductions—20-month early release from prison and

summary parole—that would reduce the inmate and parolee populations. These savings are accounted for in Control Section 4.44 of the budget proposal. We discuss CDCR’s inmate and parole population caseload request in more detail in the “Adult Corrections” section of this analysis.

Armstrong Court Order. The budget identifies \$16 million in costs to develop and implement plans to meet court orders in the case of *Armstrong v. Schwarzenegger*. These court orders require CDCR prisons to be in compliance with the American’s with Disabilities Act and ensure that disabled inmates and parolees have equal opportunity to participate in programs, services, and activities as nondisabled inmates and parolees.

L.H. Lawsuit. The administration requests \$2 million to meet the requirements of the *L.H. v. Schwarzenegger* lawsuit related to the state juvenile parole system. This funding would provide additional staffing and resources to meet the due process rights of state wards in parole-related hearings, improve audio equipment for use in hearings, and develop improved policies and procedures for the state juvenile parole system.

Capital Outlay Budget Proposal

The budget includes \$1.1 billion in state funds for capital outlay projects. Of this total, about \$350 million would be provided through the General Fund. The remaining \$778 million is proposed to be funded through lease-revenue bonds, in particular for projects that have been previously authorized under Chapter 7, Statutes of 2007 (AB 900, Solorio), which provides funding to construct new housing and medical facilities for state inmates as well as local jails.

Of the \$350 million proposed in General Fund spending, about \$317 million is for capital outlay projects previously approved by the Legislature. These funds would be used mainly for infrastructure projects (such as improvements to sewer, water, and electrical capacity) authorized under Chapter 7, as well as to continue various types of projects initiated in past budgets. The budget proposes \$34 million in General Fund spending for new capital outlay projects (such as replacement of dorms, improvements to heating, ventilation, and air conditioning systems, and various minor projects).

Of the \$778 million proposed for lease-revenue bond projects, about \$447 million has already been authorized by recent legislation such as Chapter 7, including \$97 million for the Central Health Services Facility at California State Prison, San Quentin. The remaining \$331 million is to construct a new condemned inmate complex at San Quentin and reflects a significant increase in estimated project costs. The administration pro-

posed, but then withdrew, a similar project from the current-year budget in part due to legislative concerns about rising costs.

The Governor's budget also proposes to change the use of \$2.2 billion in lease-revenue funding already authorized by the Legislature under Chapter 7. Specifically, the administration proposes to divert this funding to the federal court-appointed Receiver overseeing inmate medical care instead of using this funding to construct infill beds and reentry facilities as originally approved by the Legislature. While the Legislature had not received the statutory language related to this change at the time this analysis was prepared, we assume this funding could be used by the Receiver to renovate existing clinical and office space for medical operations on the grounds of state prisons, as well as to build new medical and mental health beds.

Figure 3 displays the administration's spending proposal for capital outlay projects in CDCR for 2008-09.

Figure 3	
California Department of Corrections and Rehabilitation	
Capital Outlay Budget 2008-09	
<i>(In Millions)</i>	
Capital Outlay Project	Amount
Death Row (San Quentin state prison)	\$331
Infrastructure projects	250
Reentry facilities	142
Infill housing	140
Central Health Facility (San Quentin state prison)	97
Other prison medical projects	67
Other projects	100
Total Capital Outlay	\$1,128
Funding Source	
General Fund	\$350
Lease-revenue bonds	778
Total, All Funds	\$1,128
Detail may not total due to rounding.	

Department Has Not Provided Reports to Legislature

The California Department of Corrections and Rehabilitation has not submitted a number of reports required in association with the 2006-07 and 2007-08 Budget Acts. The lack of information hinders legislative oversight of state programs. We recommend that the Legislature direct the department to report at budget hearings on the status of these reports.

The 2007-08 Budget Act, the Supplemental Report of the 2007-08 Budget Act, and other legislation directed CDCR to report on a number of its programs and activities, including spending on lawsuits against the department, implementation of rehabilitation programs, and a master plan for capital outlay projects. The Legislature's purpose in requiring these reports was to exercise legislative oversight by holding the department accountable for its use of funds and staff in achieving statutory objectives and goals. Many of these reports were required to be submitted by January 2008 in order to provide the Legislature with pertinent information as it reviews the department's 2008-09 budget request. For example, the Legislature required the department to provide department-wide performance measures.

At the time this analysis was prepared, the department had not provided 4 of 11 required reports. Figure 4 lists these reports, their due dates, and the status of those reports at the time we prepared this analysis. We

Figure 4

California Department of Corrections and Rehabilitation Status of Legislatively Required Reports

Report Topic	Due Date	Status
Administration		
Capital outlay master plan	1/10/08	Not received
Lawsuit tracking	1/10/08	Not received
Performance measures in budget display	1/10/08	Received
Performance measures in supplemental report	1/10/08	Received
Adult Institutions and Parole		
Prison to employment plan	10/1/07, 1/15/08	Received
Recidivism reduction programs evaluation plan	10/1/07	Received
High-risk sex offender research	1/10/08	Not received
Rehabilitation funds in AB 900 ^a	1/10/08	Received
Payments to released inmates	1/15/08	Received
Rehabilitation and treatment plan	1/15/08	Not received

^a Chapter 7, Statutes of 2007 (AB 900, Solorio).

would also note that there are an additional five departmental reports due to the Legislature prior to the end of the current fiscal year. Topics of these reports include parolee employment, prison operating budgets, and the status of the State Commission on Juvenile Justice. In addition, CDCR has not provided the Legislature with a report that the Governor directed the department to prepare regarding the transfer of medical guarding and transportation officers to the federal court-appointed Receiver for inmate medical services. In 2006-07, the department also failed to provide two legislatively required reports and a third report that was funded with a budget augmentation but not specifically required to be provided to the Legislature. Specifically, these were reports on health care performance measures, telemedicine, and in-prison sex offender treatment.

Analyst Recommendation. It is important that the Legislature have a means of obtaining information it deems necessary to exercise its oversight function in the process of making policy and budget decisions. Therefore, we recommend that the Legislature require CDCR to report at budget hearings on the status of any reports not yet provided, as well as the reasons for the delays

ADULT CORRECTIONS

WHO IS IN PRISON?

There were 173,312 inmates in the prison population as of June 30, 2007. About 93 percent of the population is male. Other demographics of the inmate population include the following:

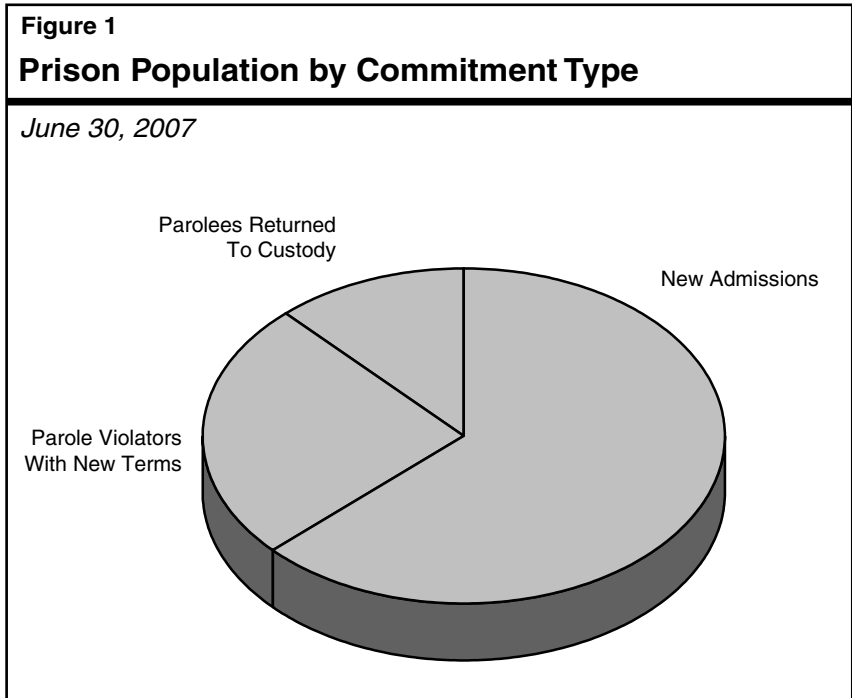
- About 49 percent of inmates are incarcerated for nonviolent offenses.
- About 62 percent of all inmates were committed to prison from Southern California, with about 33 percent from Los Angeles County alone and 8 percent from San Diego County. The San Francisco Bay Area is the source of about 11 percent of prison commitments.
- About 46 percent of all inmates are between 20 and 34 years of age, with the number of inmates falling dramatically starting at age 50.
- Of the total inmate population, about 38 percent are Hispanic, 29 percent are black, and 27 percent are white.
- About 63 percent of the inmates are new admissions from the courts, 25 percent are offenders returned by the courts for a new offense while on parole status, and 12 percent are parolees returned to prison by administrative actions for violation of their conditions of parole (see Figure 1 on next page).

INMATE AND PAROLE POPULATION MANAGEMENT ISSUES

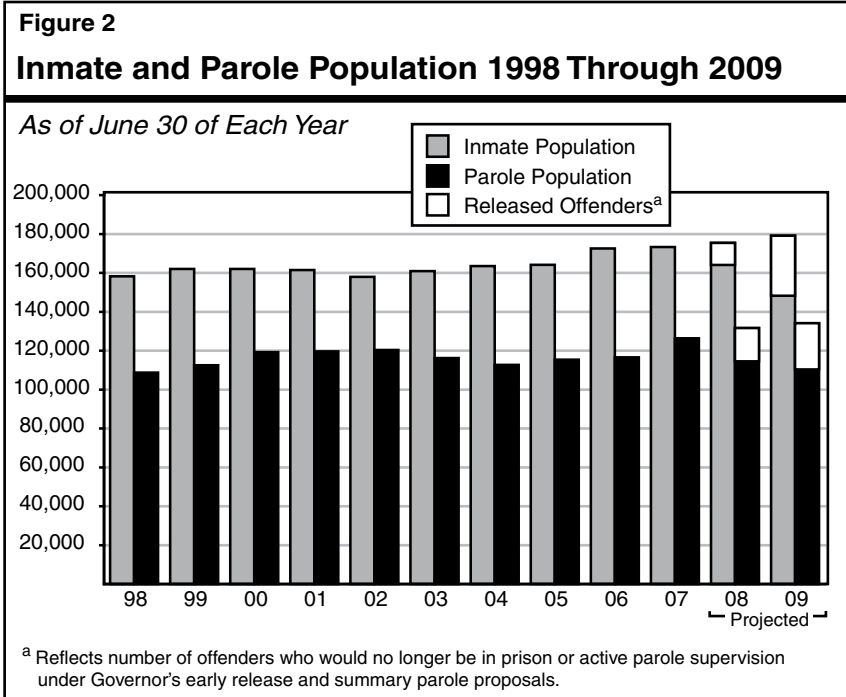
Inmate Population Projected to Increase

The California Department of Corrections and Rehabilitation (CDCR) is projecting the inmate and parole populations to increase in the current and budget years. The inmate population is projected to grow more slowly

than was projected in the spring, while the parole population is projected to grow more quickly. These projections do not take into account a separate proposal by the administration for the early release of some inmates from prison and to not actively supervise certain offenders on parole which would significantly reduce the inmate and parole populations.



Inmate Population Projected to Increase. As of June 30, 2007, CDCR housed 173,312 inmates in prisons, fire and conservation camps, community correctional facilities, and out-of-state facilities. The CDCR forecasts the inmate population will increase to 179,105 by June 30, 2009, a projected two-year increase of 5,793 inmates, or about 3 percent, compared to the beginning of the current fiscal year. The projected increase in the inmate population is the result of a recent trend of increasing admissions to prison from county courts, as well as more parole violators returned to prison through the state's administrative returns process. Figure 2 shows the year-end inmate and parole populations for the period 1998 through 2009, with and without the Governor's population reduction proposals.



Parole Population Projected to Increase. As of June 30, 2007, CDCR supervised 126,330 persons on parole. As shown in Figure 2, CDCR projects the parole population to increase to 134,092 by the end of the budget year, an increase of 7,762, or 6 percent. This increase is primarily a result of the increase in the number of inmates released to parole after serving their prison sentence.

Impact of Governor's Policy Proposals Affecting CDCR Populations. The administration's budget includes two policy changes—20-month early release and summary parole—that would significantly reduce the inmate and parole populations by a combined 47,000 offenders in 2008-09. (See our discussion of the Governor's population reduction proposals later in this chapter.) While the Governor's budget includes estimates of the direct fiscal impact of these policies on the costs of prison and parole operations, the reduction in the inmate population is not reflected in the department's bed plan. That means it is unclear whether new contracted beds that are proposed are, in fact, necessary given the number and security level of offenders that will remain in the prison system.

Similarly, the budget plan does not reflect the Governor's budget proposals (discussed in more detail in our analysis of the "Department of Alcohol and Drug Programs" in the "Health and Social Services" chapter)

to reduce funding for Proposition 36 and drug court allocations to counties. Because Proposition 36, an initiative approved by voters in 2000, and drug court programs allow offenders to receive drug treatment in lieu of their incarceration in prison (or county jail), the proposed reduction in spending for these programs could begin to increase the prison population during the budget year.

Costs of Projected Population Growth. The CDCR is requesting additional funds of about \$18 million in the current year, growing to \$111 million in the budget year related to changes in adult inmate and parole populations. This does not include the fiscal impact of the early release and summary parole proposal which is accounted for in Control Section 4.44 of the budget act. These proposals largely reflect the additional costs to incarcerate the projected increase in the inmate population, in particular by expanding the use of contracted out-of-state and female community correctional facilities.

Housing the Projected Growth in Inmate Population. The Governor's budget proposes a housing plan to accommodate the additional inmates that CDCR expects to receive by the end of the budget year. The plan has the following major elements:

- ***Out-of-State Beds.*** Over the course of the current and budget years, the department's housing plan includes the activation of about 7,000 contracted beds operated in facilities in other states, reaching a total of 8,000 by the end of the budget year. State inmates began filling those beds in late 2006. As of December 31, 2007, CDCR had about 2,100 inmates housed in out-of-state facilities, an increase of about 1,000 from the beginning of the fiscal year.
- ***Female Rehabilitation Community Correctional Centers (FRCCs).*** The department proposes to contract for a total of 1,300 FRCCC beds by the end of the budget year, growing to 2,000 beds in future years. The FRCCs would be secure facilities designed to house low-security, female offenders and provide programs and services designed to reduce the likelihood that these offenders reoffend after their release to the community.
- ***Overcrowding of Existing Prison Space.*** The housing plan assumes that the activation of additional contracted community beds in the current and budget years will allow the department to reduce the number of inmates placed in temporary housing by about 2,200. Historically, CDCR prisons utilize gymnasiums, dayrooms, and other space as temporary housing to accommodate overcrowding.

Reentry Facilities Not Included in Bed Plan. The department's budget includes some funding in the current and budget years related to opening two reentry facilities—a 600-bed facility in Stockton (the conversion of the Northern California Women's Facility) and a 48-bed facility in San Francisco. The funding provided for these facilities is for a pre-activation team in Stockton and program operations at the San Francisco facility. However, the additional beds provided in these facilities are not incorporated into the department's bed plan described above. If these new reentry facilities are activated as proposed, the department's bed plan will have to be revised to account for the additional beds available elsewhere in the prison system.

Potential Risks to Accuracy of Projections. As we have indicated in past years, the accuracy of the department's latest projections depends upon a number of factors, changes to any of which could result in significantly higher or lower populations. These factors include sentencing laws, crime rates, and local criminal justice practices. For example, these projections do not take into account a recent court case alleging that CDCR has tens of thousands of inmates who have incorrectly calculated release dates. If this challenge is upheld by the courts, it could result in some number of inmates being released from prison earlier than they otherwise would, thereby reducing the inmate population relative to the department's current projections.

Caseload Will Likely Require Further Adjustment

We recommend a \$55 million reduction in the 2007-08 and 2008-09 budget requests for caseload funding because recent data indicate that the population is trending lower than the department's projections. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision. (Reduce Item 5225-001-0001 by \$55 million.)

Actual Inmate Population Has Declined. The fall 2007 projections, which are the basis for the Governor's budget proposal, anticipated that the inmate population would grow by about 400 inmates during the first half of 2007-08. Instead, the inmate population has declined by almost 1,900 inmates during the past six months. The fall 2007 projections anticipated that the parole population would grow by about 3,100 parolees during the first half of 2007-08. However, the parole population grew by less than 600 over this period. If these trends hold, population-related spending in the budget plan could be overstated by as much as \$55 million in both the current and budget years.

Analyst's Recommendation. Given the recent inmate population trend, we recommend the Legislature act to reduce the budget in the

current and budget years by \$55 million. The administration should also provide fiscal estimates of the impacts on corrections of proposals to reduce funding for Proposition 36 and drug courts. We would note that CDCR will issue population projections in spring 2008 which form the basis of its May Revision proposal.

BUDGET PROCESS FOR POPULATION CHANGES NEEDS MORE WORK

Last year, the Legislature enacted budget bill language directing the California Department of Corrections and Rehabilitation to improve its current population budget request in order to make it a more transparent document for legislative oversight. While the department has taken initial steps to comply with legislative direction, there is additional work still needed. Accordingly, we recommend several steps that would significantly improve the process the department uses to budget for changes in the inmate population that will further enhance transparency, as well as provide for a more accurate budget request and a more efficient budgeting process.

Current Steps in the Population Budgeting Process

Prison and Parole Budgets Adjusted for Changes in Population. The budget for a prison is determined by several factors, including its mission, security level, programs, facility design, and size. Each prison has a budget that includes a base complement of funding and staff necessary to manage and operate the facility, and includes support for administrative, security, and other functions. In addition, like many other state departments, CDCR receives additional budget adjustments to account for changes in caseload, in particular changes in the number of inmates and parolees housed and supervised by the department. These adjustments generally include resources for food, clothing, inmate health care, administration, and security staffing. Figure 3 shows the amount of funding provided in the Governor's budget for the caseload-related changes. As shown in the figure, the Governor's population budget request (as it is known) also includes funding for other issues, including inmate mental health caseloads, contracted facilities, and the state's juvenile ward and parolee population.

The CDCR's process for creating the population budget request is one that takes several months and is completed twice each year as part of the state's standard budget process. The first time is as part of the Governor's budget request submitted January 10 of each year, and the second is as part of the May Revision. We describe the basic steps of the process in more detail below.

Figure 3**Summary of Population Budget Request Changes
California Department of Corrections and Rehabilitation***(In Millions)*

	2007-08	2008-09
Adult Institutions	\$9	\$81
Caseload changes	(17)	(24)
Contracted facilities	(3)	(59)
Reentry facilities	(1)	(4)
Mental health population	(-15)	(-15)
Miscellaneous adjustments	(3)	(9)
Adult Parole	\$7	\$28
Caseload changes	(11)	(20)
Mental health population	(3)	(6)
Miscellaneous adjustments	(-6)	(2)
Board of Parole Hearings	\$1	\$2
Division of Juvenile Justice	\$3	-\$58
Totals	\$20	\$53

Detail may not total due to rounding.

Population Projections. The process of identifying necessary budgetary changes begins with the identification of what change in the inmate and parolee populations is likely to occur. To this end, in the summer of each year, CDCR staff analyze data on recent and historical trends that affect inmate and parolee populations, including numbers of court admissions, parole revocations, average time served by offenders in prison, and discharges from parole. Using this data, CDCR projects the inmate and parolee populations over the next several years. Department staff update their projections in the winter to serve as the basis of the May Revision adjustment. Figure 2 (earlier in the “Adult Corrections” analysis) shows the actual inmate and parolee populations in recent years, as well as the department’s most recent population projections.

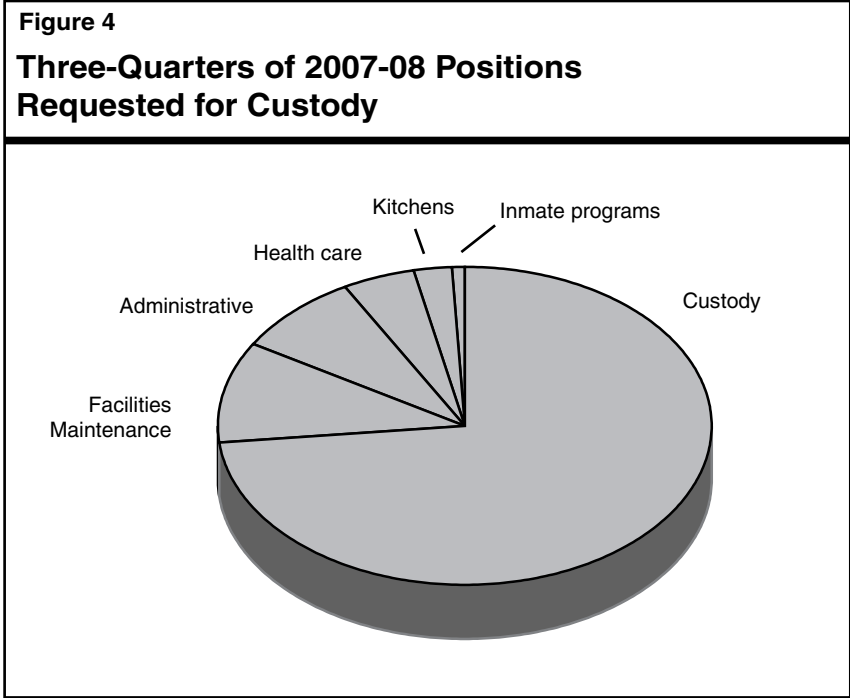
Institution Activation Schedule (IAS). Using the population projections, the department then creates the IAS for the prisons. The IAS takes the inmate population projections, as broken down by gender and security level, and specifies which housing units at each prison will have to activate or deactivate beds (in the case where the inmate population is projected to decrease) each month in order to accommodate the change

in population in both the current and budget years. For example, if the projections show that the population of Level III inmates is going to be higher by 20 inmates in March, the IAS might specify that Ironwood State Prison (Blythe) would “double-cell” (placing a second inmate in one cell) at 20 additional cells in its Facility A. Alternatively, the IAS might show that the prison would add 20 more beds to its gymnasium to accommodate the additional inmates.

Staffing Packages Requested for Institutions. Once staff at each institution know how many inmates are projected to be sent to them at various points in the year based on the IAS, they identify how many and what type of positions they would need to provide security and operate other services. Similarly, if the IAS shows that there will be fewer inmates sent to the prison in a year than they now hold, the staffing packages identify what positions at that prison will be cut from the budget. Historically, the department provides for changes in staffing levels based on a ratio of about one staff position for each six inmates. Department policy requires that at least 6 percent of those positions included in each staffing package be for health care staff. Most of the remaining positions are for custody staff, particularly correctional officers, though institutions have flexibility to request other classifications if those would better meet their operational needs. As shown in Figure 4, approximately three-quarters of positions requested by the department in the January 2007-08 budget request were for custody staff. (We would note that this example only includes positions requested for staffing packages related to new activations at adult institutions, and does not include deactivations or other ratio adjustments that are usually made as part of the budget request.)

Staffing Packages Reviewed by Headquarters. After these staffing packages are developed by prisons, they are sent to CDCR headquarters, where they are reviewed by managers. Once approved, headquarters staff identify the budget costs associated with each staffing package and assemble them into the total population budget request. The 2008-09 population budget request includes about 300 separate estimates for activations and deactivations.

Population Budget Request Sent to Legislature. The department’s population budget request includes, in addition to costs based on approved staffing packages, resources for other caseload-related issues, including parole agent caseloads, case records and other ratio-driven staffing needs, juvenile offender populations, and contracted bed usage. As with all budget proposals, the population budget request must be approved by the Department of Finance (DOF) and is then sent to the Legislature for consideration. The entire population budget request generally fills about four, four-inch binders, but the department provides the Legislature an abridged version that was included in two binders this year.



Continuous Adjustments Made to IAS as Actual Population Changes Materialize. As should be expected, the actual population that arrives in state prisons is almost never exactly the same in number or breakout by gender and security level as is projected by the department. Therefore, the IAS has to be updated on an ongoing and continuous basis in order to determine where to assign inmates and what beds need to be activated or deactivated at each institution to accommodate the change in the inmate population that actually occurs. These adjustments, as well as the revised population projections, are the basis of the revised IAS that is included in the May Revision population budget request.

State’s Approach Is Ineffective, Inefficient, and Lacks Transparency

Our analysis of the department’s process of creating its population budget request finds that it is an ineffective approach to identifying the actual budgetary needs of the department, is an inefficient use of department staff time, and fails to provide a transparent budget document for legislative review. We discuss each of these shortcomings in more detail below.

Ineffective Approach to Identify Actual Budgetary Needs

Population Projections Done Too Early to Be Accurate Basis for Budget Request. Because the department's process is complicated and requires many steps to complete, the department is forced to start its population projections—the fundamental basis of the population budget request—very early. The January budget is based on population trends tracked through the prior June and, thus, do not take into account the most recent seven months of data. Consequently, the projections are often inaccurate. For example, the department's Fall 2007 projections were already too high by more than 2,000 inmates by the time the January 10 budget plan was released. In this example, a 2,000-inmate discrepancy represents only a difference of about 1 percent in the overall size of the inmate population. Certainly, projections can never be perfect predictors because of the many complex factors affecting the department's actual caseloads, including crime rates, actual arrests, demographics, court activities, and parole actions. However, a less complicated and more streamlined population budgeting process might allow the department to gather several more months of trend data before completing its projections, thereby improving the likelihood of more accurate projections and, therefore, budget requests that are closer to the funding level the department really needs.

IAS Inaccurate and Potentially Unnecessary. The population budget request includes the IAS, which, as discussed earlier, indicates how many beds will be activated or deactivated at specific facilities at each prison in order to accommodate the projected change in the population. However, prison beds are rarely opened on the schedule laid out in this document. Instead, the activation of new beds is done on a weekly and monthly basis based on the actual population changes that occur, the security and special needs of the incoming population, and changes in availability of beds (for example, due to the repair of cell doors). Therefore, the IAS usually provides little useful information about how the funding provided under the budget would actually be distributed among institutions while making the budget request unnecessarily complicated.

Notably, after completing the IAS and calculating the corresponding changes in staffing costs, the department makes a "below-the-line" budget adjustment to tie its total funding request to a separately calculated aggregate estimate of the change in spending that will result from the projected changes in the inmate population. This aggregate estimate is based on CDCR's marginal cost to incarcerate an inmate. For example, in the Governor's January 10 budget plan for 2008-09, this below-the-line adjustment is a \$78 million increase for the budget year. This means that the exercise of doing the IAS is largely irrelevant to the amount of funding actually requested in the budget. Moreover, it is not clear that the department's

aggregate estimate of necessary spending changes, which is based on an assumed marginal cost of incarcerating additional inmates, are accurate. For example, the current estimate includes outdated assumptions of costs for certain operating expenses and equipment, such as pharmaceuticals for inmates.

Fixed Staffing Ratio Unresponsive to Operational Needs. In developing the staffing packages that tie to its population budget request, the CDCR has for more than 20 years utilized a fixed ratio that assumes that, for about every six additional inmates projected to come to a prison, that prison will get one additional staff position. However, it is no longer clear that this ratio is appropriate for the modern CDCR. Based on discussions with department staff, the existing fixed ratio methodology appears to date back to a time when corrections, prisons, and population growth were very different from today, particularly given the makeup of the existing population, overcrowding, and expanding health care and programming missions.

One of the key potential problems with the methodology is that it is not responsive to the variation in missions and operations among the state's 33 prisons. For example, some prisons specialize in housing violent and dangerous inmates; some are reception centers that assess and classify inmates when they first arrive at prison; some focus on providing rehabilitative programs; some are for female offenders; and one is the department's primary health care facility for inmates. The one-size-fits-all fixed staffing ratio currently employed does not recognize these differences in missions among prisons, perhaps resulting in some prisons being overstaffed, while others are comparatively understaffed. To the extent that prisons are overstaffed compared to what they need to operate effectively, the state is incurring unnecessary costs. Even understaffed prisons could result in unintended costs. For example, they may have to rely more heavily on overtime (a more expensive option than regular time) to make up for having fewer positions than their missions might necessitate.

Many States Do Not Make Population Adjustments at All. Interestingly, it appears that California's population budgeting process may be somewhat unique nationally. Based on our review of the available literature, as well as conversations with practitioners in other state correctional agencies, many other states do not change staffing levels based on incremental changes in population. Instead, most other states base staffing levels on regular assessments of what staff is necessary to operate housing facilities and programs. It is not clear whether this unique approach to budgeting for CDCR is justified.

Inefficient Use of Staff Resources

The population budget request—produced twice annually—consists of a document that is literally thousands of pages long and requires many hours of CDCR staff time to produce. This includes staff in headquarters and at each institution to develop the IAS, generate and review staffing packages, and produce fiscal estimates. While it is certainly necessary for departments to dedicate staff resources to developing any budget proposal, it is unclear that the amount of staff time dedicated to the current process is really the most efficient use of these resources, particularly given that the final product, as described above, is largely ineffective. A simpler and more streamlined process might allow the department to reprioritize some of these staff resources for better use, such as providing more time to dedicate to the development and analytical review of policy-driven budget change proposals (BCPs).

Lack of Transparency

Length and Complexity Inhibits Careful Review by Administration and Legislature. The length and complexity of the population budget request make it difficult to understand how individual components of the total request tie back to the population projections upon which they are ultimately based. In part, this difficulty is due to the several intermediate steps the current process requires—in particular the creation of the IAS and staffing packages. In addition, complexity is created because there is frequently little detail provided on how individual components of the population budget were calculated or the underlying assumptions and methodologies. Moreover, it is apparent from our discussions with CDCR budget staff that the current methodology is not always well understood even by them. This may be due in part to the complexity of the process as well as the amount of staff turnover that has historically occurred in that office.

Importantly, there is evidence that the complexity of the current process contributes to significant errors. For example, in reviewing the May Revision last year, the Legislature discovered that the department had inadvertently been overestimating its staffing need for mentally ill inmates, a \$22 million General Fund mistake in the 2007-08 budget proposal that had regularly occurred since 2005-06. Whatever the specific reasons for these errors, this particular example raises concerns that other large mistakes could be embedded in the population requests that might not be easily identified by DOF or legislative staff in the short time periods that they have to review them.

Population Budget Has Historically Included Non-Caseload Funding Requests. Legislative staff have long been concerned that the department

has sometimes included funding requests in the population budget that were not directly a result of caseload changes, but rather policy decisions made by decision makers in CDCR headquarters or institutions. Legislative staff have voiced concern that the population budget request be strictly a technical funding request reflecting only caseload-driven costs.

Separating out technical caseload-related changes from policy decisions is, admittedly, not a simple task in a department in which nearly every change in CDCR is to some degree “population-related.” However, many population-related issues are also driven by policy decisions. For example, funding needs for the correctional officer academy, administrative segregation housing, and medical guarding, while legitimately issues related to population, also are areas greatly affected by department policies and operations, such as staff vacancies, disciplinary procedures, and the quality of health care inside prisons. As such, it may be appropriate that these types of requests be presented to the Legislature separately as policy BCPs.

Status of Recent Efforts to Improve the Process

Recognizing that CDCR’s population budget proposals needed to be improved, the Legislature adopted budget bill language in the *2007-08 Budget Act* that requires CDCR to work with legislative staff and DOF to improve the population budget request by defining what issues are allowable in the population request and make it a more transparent document to allow for improved legislative oversight. The department, legislative staff, and DOF staff met several times during the summer and fall to discuss ways to improve the population request, and the department committed to making improvements.

The Governor’s 2008-09 budget proposal includes some initial changes in the way that components of the population budget request are presented. While the length, underlying methodologies, and issues included in the 2008-09 request are generally unchanged from prior years, the request is improved in how it displays some of this information. In particular, the revised document more often than before provides concise, accurate narrative descriptions, as well as the underlying assumptions and methodologies for its calculations. According to the department, the new display that it has begun to use is modeled on caseload budget requests for social services programs. The department also reports that it has dedicated a staff position in its budget office to continue to work on improving its own population budget request. Further, CDCR reports that it intends to make some additional improvements by the May Revision and in the budget year in order to complete the steps necessary to improve its population budgeting process.

Further Steps Necessary to Improve Population Budget Methodology

We recommend that the Legislature adopt language in the 2008-09 budget bill directing the department to continue its current efforts to improve the transparency of the population budget request. The language would also require the department to significantly change its population budget methodology by developing new funding formulas for changes in the inmate population to replace the current reliance on the Institution Activation Schedule and staffing packages.

CDCR Should Continue Current Efforts to Improve Transparency

The department should continue its current efforts to improve the transparency of the population budget request—meaning, its ability to be easily reviewed and understood. In particular, this should include utilizing its new display for additional components of the budget request, such as parole revocation caseload. Also, CDCR should continue its work with legislative staff and DOF to determine which components might be more appropriate to be presented separately as BCPs rather than being included in the caseload request.

In addition, the department should continue to look at whether some of the underlying caseload methodologies could be improved. For example, the calculations for changes in the parolee caseload currently do not include adjustments for each of the various types of caseloads that parole agents actually carry. Specifically, the budget generally assumes a caseload of 70 parolees for each parole agent. However, most parolees are actually on caseloads that range from about 50 parolees to 150 parolees per parole agent, depending on their risk factors. Making these changes would likely make the department's request more transparent and would more easily allow for legislative review and oversight.

State Should Develop New Method for Changes in Prison Population

While the department's current population budget request includes some improvements that make it somewhat more transparent, the changes made do not address the underlying problems associated with the complex and ineffective process the department uses to estimate the fiscal needs associated with inmate population changes. The department reports that there was insufficient time during the fall to significantly reform the central components of the budget request.

We agree that making such changes is a significant undertaking and should be done thoughtfully. However, reforms to the process for budget-

ing for inmate population change could yield significant benefits. Therefore, we offer our recommended approach below for moving ahead with further changes to the process. It is our intent that these recommendations serve as a starting point for further discussions among CDCR, legislative staff, and DOF so that, with additional analysis, the population budget request can be improved. Therefore, we recommend that the Legislature adopt budget bill language directing CDCR, legislative staff, and DOF to again work collaboratively, this time to redesign the methodology for budgeting for inmate population changes.

This new methodology will include several steps, including streamlining the process to complete the population projections later, eliminating the IAS and staffing packages, and using more precise budget formulas that take into account the different populations and missions of individual prisons.

Entire Process Must Be Streamlined. As discussed earlier in this analysis, the inmate population projections that form the underlying basis of the population budget request often prove inaccurate. These inaccuracies are probably at least in part due to the fact that, under the current process, work on the projections must begin many months in advance of the release of the budget request.

To address this key problem, we offer recommendations in more detail below that would streamline the entire population budgeting process, thereby allowing the department to begin and complete its projections later. This would allow the department to incorporate more recent data into its projections and, in all likelihood, improve the accuracy of the population budget request. In addition, we would note that the department has contracted with two academic experts to provide recommendations on how to improve the department's projections model. If incorporated into their projections, these recommendations may also help to yield more accurate projections.

Eliminate the IAS for Budgeting Purposes. The IAS serves an important ongoing operational purpose for the department by helping to determine into which institutions new inmates will be placed. However, as we have explained, the IAS is both burdensome and largely irrelevant to the population budgeting process. Therefore, we recommend that the IAS no longer be used as part of the population budget request, and that it be replaced with a new and simpler budgeting methodology.

Elimination of the IAS would allow CDCR to halt the time-intensive process of producing, reviewing, and costing out staffing packages—the bulk of the documentation in the department's multivolume population budget request. As we have noted, the end product does not reflect the resources that will actually be utilized at institutions.

We would anticipate that in lieu of the IAS, the Legislature would receive a higher level summary of the department's plan to house inmates. For example, this aspect of the budget estimate could display how many inmates the CDCR plans to house through overcrowding of existing prison facilities, in contract beds, in out-of-state beds, and through activation of new prison facilities. This summary information would enable the Legislature to more easily determine whether the budget request is based on cost-effective and reasonable choices as to how inmates would be housed.

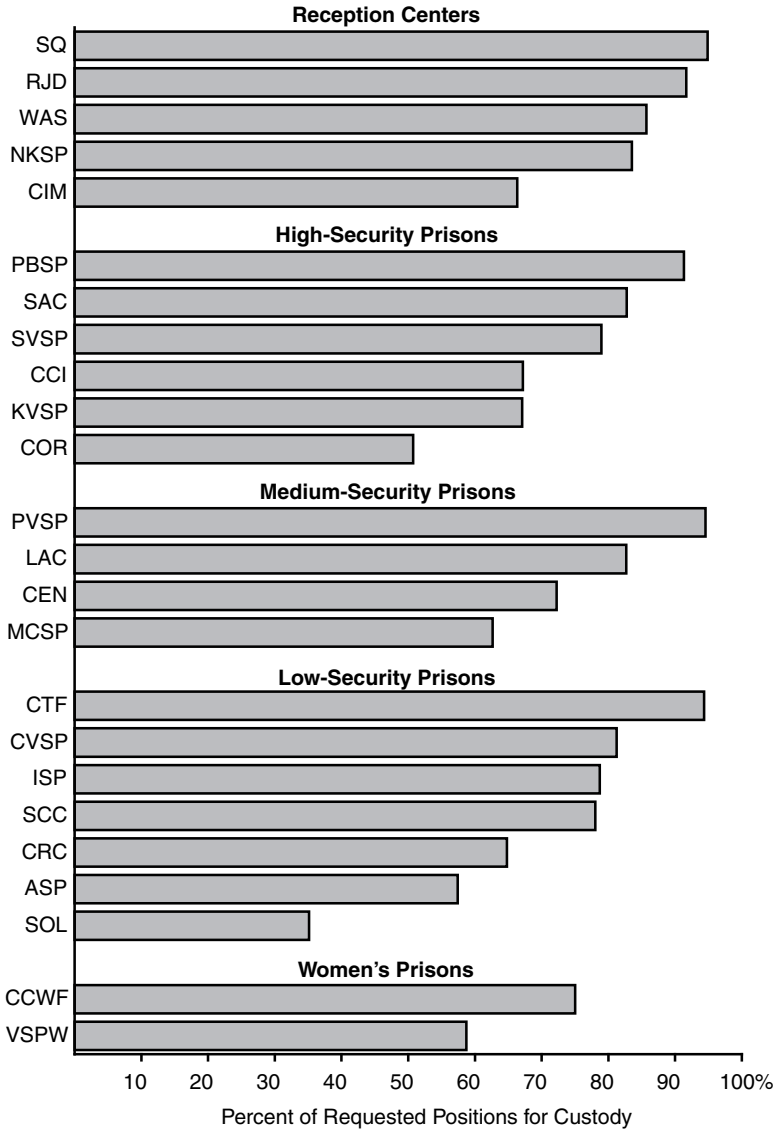
Use Formulas for More Precise Budgeting of Resources. Instead of calculating extensive staffing packages to identify the staffing and costs necessary to meet projected changes in population, we recommend that the department—working together with legislative staff and DOF—develop funding formulas to estimate in the aggregate the fiscal resources required for the projected change in the inmate population. These funding formulas would apply a distinctly different staffing ratio for each gender and security level in the prisons rather than rely on the one-size-fits-all historical ratio of one added staff member for every six inmates. For example, an increase in high-security inmates would provide for more staff and funds being added to the budget request than a similar increase in low-security or female inmates.

Number and Mix of Staffing Funded Could Change. The specific funding formulas to be used under our approach would be developed by CDCR based on historical staffing patterns and its expertise in correctional operations. These formulas might result in a different number of staff being added at a particular institution when the population increased instead of the number they would receive under the standard six inmate-to-one staff ratio described earlier.

The revised formula may also be based on a different mix of staffing classifications than before. Clearly, based upon our review of the January population budget request for 2007-08, most new positions funded through the new formula would continue to be custody staff. However, the mix of staff could vary due to the security levels, missions, programs, and priorities of institutions. As shown in Figure 5, the custody positions sought for prisons based on their 2007-08 budget requests varied significantly across institutions, including significant variation between prisons with similar security levels and missions. This suggests that it may be beneficial for the proposed new funding formulas to allow for some flexibility in the classification of positions provided through the population budget requests.

Figure 5
Significant Variation in Requests for Custody Positions

By Prison^a
(2007-08)



^aThe full name for each prison can be found on the department's Web site:
www.cdcr.ca.gov/visitors/facilities/index.html.

Aim for Changes to Be Cost-Neutral. In designing new funding formulas, the state should aim to make the reallocation of staffing be cost-neutral, so as to not result in additional costs to the state or fewer resources for the department. In the future, when the state's overall fiscal condition has improved, these formulas could easily be adjusted if, for example, CDCR were able to demonstrate that the formulas significantly underfunded a particular security level of inmates.

Allocate Funding Through Headquarters. This approach would require that these resources be allocated to CDCR headquarters rather than to individual institutions, with CDCR headquarters, in turn, allocating funding to individual institutions as actual population changes unfolded. Just as is done now, budget adjustments would be made in the January and May Revision population requests to reflect the difference between the actual and projected population in the prisons, as well as to reflect changes in the projected population.

Adopt Budget Bill Language to Ensure Continued Progress. To date, CDCR staff has worked collaboratively with legislative staff and DOF to improve its population budget request. Moreover, department officials have continued to express commitment to making further changes. To ensure that these efforts continue along the lines we have proposed, we recommend the Legislature adopt the following budget bill language:

Item 5225-001-0001—California Department of Corrections and Rehabilitation. The California Department of Corrections and Rehabilitation (CDCR) shall continue its efforts in consultation with legislative staff and the Department of Finance to create a more accurate and transparent population budget request for caseload-related funding. In particular, CDCR shall identify appropriate funding formulas to use to estimate staffing levels and funding associated with changes in the projected inmate population. These formulas shall be presented to the Legislature no later than January 10, 2009 so as to be considered during budget deliberations. If approved, these formulas shall be incorporated into CDCR's budget request for the following year.

Resources and Operations Would Be Better Aligned. While there would clearly be challenges in moving CDCR to a new population budgeting system, we believe our recommended approach would better align resources with actual operations and provide a much more transparent budgeting process. In particular, we believe our proposed changes would provide a more effective way to estimate the fiscal demands of changes in the inmate population because (1) the population projections could incorporate more recent data trends, (2) the IAS and below-the-line adjustments would no longer be necessary, and (3) the budget funding provided would more accurately align with the actual operation needs of different missions and security levels rather than being based on the fixed six-to-one

ratio that is currently used. The CDCR staff workload would be reduced, potentially resulting in savings on administrative costs, because the staffing formulas would be far simpler than the current extensive processes involving the creation of the IAS and staffing packages. Finally, the use of funding formulas would provide for a more transparent budget document because it would be far simpler for the Legislature to review these funding formulas, than to sort through the multiple volumes that currently make up the population budget request. In so doing, the Legislature will better be able to fulfill its oversight role, as well as ensure that the document budgets funding for CDCR operations consistent with its actual and projected inmate and parole populations.

ADMINISTRATION'S POPULATION REDUCTION PROPOSALS NOT BEST OPTIONS FOR PUBLIC SAFETY

In order to achieve significant budget savings in corrections, the administration proposes to release certain inmates from prison early and place them under minimal parole supervision, a policy that is termed "summary parole." We note significant public safety risks and operational concerns with the current proposals, and recommend alternatives that we believe offer a better tradeoff between public safety and the achievement of budget savings. In particular, we believe it would be more appropriate to change crimes currently classified as "wobblers" to misdemeanors and to substitute an earned discharge program for the Governor's summary parole proposal.

Budget's Population Reduction Proposals

The administration proposes two policies—20-month early release and summary parole—to significantly reduce the state's inmate and parolee caseloads and reduce operational costs in CDCR by an estimated \$354 million in the budget year with \$758 million in ongoing savings in subsequent years. We describe these two proposals in more detail below.

Twenty-Month Early Release. The administration proposes to release specified inmates from state prison up to 20 months prior to their scheduled release date. If an offender who had been sent to prison had less than 20 months to serve, they would be released if a screening of their record determined they were not excluded from early release. The proposal excludes inmates from early release if they have a current or prior conviction for (1) serious or violent offenses; (2) sex offenses requiring registration under Penal Code 290; or (3) other specified crimes, including offenses related to weapons, child and elder abuse, and manufacturing certain drugs. The

proposal also excludes inmates who have been found to have committed one of these crimes while in prison, even if they were not convicted for the offense in court.

Summary Parole. The administration proposes to place generally the same offenders who would qualify for early release on “summary parole.” Currently, almost all offenders released from prison are placed onto parole and assigned to a parole agent’s caseload. The frequency of contact between the parolee and his parole agent depends on certain risk factors of the offender, particularly his criminal history and mental health. Under summary parole, the specified offenders would technically remain parolees but would not be actively supervised by a parole agent or subject to return to prison through the state’s administrative revocation process operated by the Board of Parole Hearings (BPH) unless they were also convicted of a new crime in the criminal courts. Offenders on summary parole would be subject to search and seizure by local law enforcement, as well as drug testing, just as they are now.

Projected Caseload and Fiscal Impacts of Proposals. The administration estimates that these two proposals will significantly reduce the inmate and parolee populations over time, beginning with relatively small reductions in the current year, but with much more significant reductions in the budget year and thereafter. Figure 6 shows CDCR’s estimate of the population reductions likely to occur under these proposals, including a combined reduction of 63,000 inmates and parolees by 2009-10. This is approximately a 20 percent reduction in the state prison and parolee populations. Figure 7 shows the department’s estimate of the net savings that are likely to occur as a result of the reduction in inmate and parolee caseloads, and includes offsetting administrative costs in the current year (\$16 million) and ongoing (\$5 million) to review the case files of offenders to determine which are eligible for early release and summary parole.

Figure 6

**Proposed Reductions in Average Daily Population
California Department of Corrections and Rehabilitation**

Proposal	2007-08		2008-09		2009-10	
	Inmates	Parolees	Inmates	Parolees	Inmates	Parolees
20-month early release	348	—	22,159	—	26,136	—
Summary parole	503	1,491	6,249	18,522	8,635	28,174
Totals	851	1,491	28,408	18,522	34,771	28,174

Figure 7**Savings From Budget Reduction Proposals
California Department of Corrections and Rehabilitation***(In Millions)*

Proposal	2007-08	2008-09	2009-10
20-month early release	\$4.3	\$256.4	\$526.7
Summary parole	13.6	97.9	231.5
Totals	\$17.9	\$354.3	\$758.2

Major Problems With Administration Proposals

We have identified significant public safety and operational concerns with the administration's early release and summary parole proposals. We acknowledge that any option that reduces the number of offenders in state prison or that reduces the level of parole supervision is likely to involve some tradeoff in terms of public safety. But, as the experiences of other states have demonstrated, it is possible to make reasonable choices about the deployment of the state's prison and parole resources that minimize the practical risks to public safety while achieving significant reductions in prison and parole caseloads and state costs. We are concerned that the particular way in which the administration proposes to implement early release and summary parole does not offer the best such tradeoff for public safety. We conclude that better alternatives are available (including other forms of early release) that also would result in significant budget savings.

In particular, we are concerned that the administration's proposal would negatively affect public safety by creating a gap in the state's criminal justice system and by reducing incentives for low-level offenders to take advantage of diversion programs. In addition, we found that the administration's proposal is incomplete. Many aspects of how these proposals would be implemented have not yet been fully developed by the administration, making it difficult to fully evaluate the operational and fiscal impacts of these proposals. We discuss each of these concerns in more detail below.

Proposal Creates a Gap in Criminal Justice System. Under current state law, there are three basic kinds of crimes: felonies, misdemeanors, and infractions. A felony is the most serious classification of crimes and

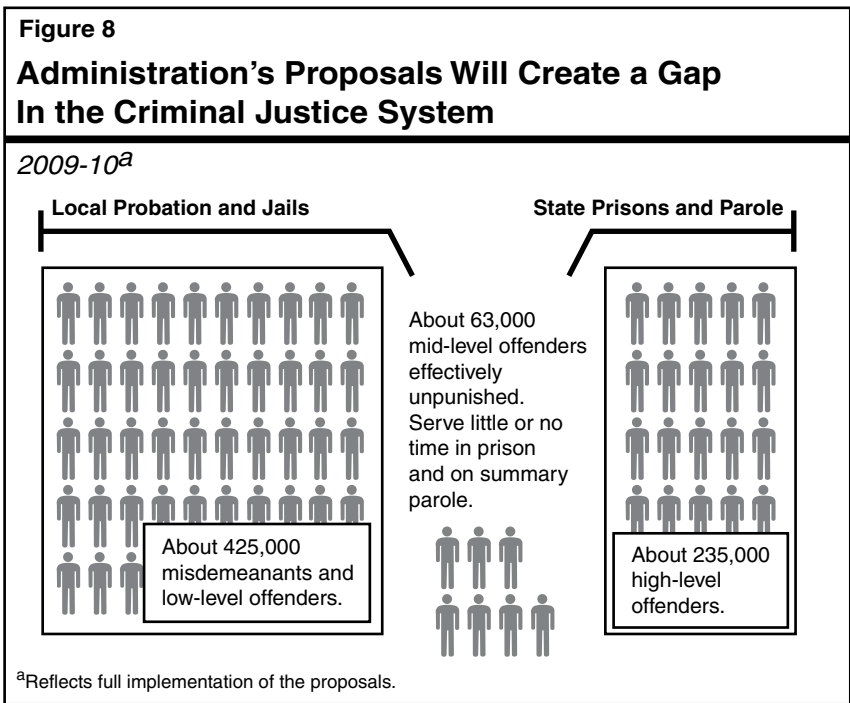
is defined as those crimes for which offenders can be sentenced to state prison. Felonies can also result in a sentence to county jail, a fine, supervision on county probation in the community, or some combination of the available punishments. Some felonies are designated in statute as violent or serious crimes that can result in additional punishment, such as a longer term in state prison. Misdemeanors are considered less serious and can result in a jail term, probation, a fine, or release to the community without probation but with certain conditions imposed by the court. Infractions, which include violations of certain traffic laws, do not result in a prison or jail sentence.

The administration's proposals target certain offenders—those who have not been convicted of specified offenses, including serious or violent felonies—for early release from prison and summary parole. The appeal of this approach is that it targets those inmates and parolees who are lower level offenders compared to other state inmates and parolees who have a more serious criminal history. Yet, by targeting this particular group of offenders in the way proposed, the administration's proposals create a significant gap in the state's range of criminal sanctions. Specifically, local corrections—jails and probation, primarily—will continue to supervise misdemeanants and many low-level offenders, while prisons will continue to house the most serious felons. However, under these proposals, about 63,000 mid-level offenders—those with no serious, violent, or sex offenses in their criminal history—would effectively go unpunished, serving little or no time in prison and not actively supervised on parole. This is because many of these offenders normally serve prison terms of up to 20 months and would thus be immediately eligible for release and summary parole. Consequently, these mid-level offenders would, on the whole, receive less punishment and supervision than lower-level offenders in county jails and on probation who are serving longer terms. Figure 8 illustrates the gap created in the criminal justice system by the combination of 20-month early release and summary parole.

This gap in the criminal justice system means that some offenders will essentially go unpunished for their crimes because they will serve only a minimal amount of time in prison before they are released to summary parole. It also increases the likelihood that offenders will go unpunished for any additional crimes they commit while on summary parole. This is because the proposed summary parole policy would require local prosecutors to bring new charges in court for new criminal activity before a parolee could be returned to prison. However, if that new criminal activity is another low-level drug or property crime, the offender would serve little or no time in prison for the new criminal court conviction because of the administration's 20-month early release policy. Moreover, it is unclear to what degree local prosecutors will spend their resources to prosecute

these offenders in the first place if it will not necessarily result in a prison sentence. Under the administration proposal, the BPH could revoke these offenders if there was a new criminal conviction. However, the department has not provided the Legislature with details as to how it would implement this provision.

This situation is likely to reduce the incentive for offenders on summary parole to abstain from committing new nonserious, nonviolent felonies. This concern is particularly relevant because there would be no mechanism under this proposal to encourage or require offenders on summary parole to participate in programs that could reduce their likelihood to reoffend.



Reduces Incentives for Offenders to Participate in Prison Diversion Programs. These proposals would also have the unintended consequence of reducing the incentive for some low-level offenders, at the time of their sentencing, to elect to participate in diversion programs such as Proposition 36, drug courts, and mental health courts. Currently, a major incentive for many felons to participate in these programs is that the alternative to participation would be incarceration in state prison followed by parole supervision. However, under the administration’s early release and summary

parole proposals, many of these offenders might view a prison sentence as a better alternative than a diversion program because they would serve little or no time in prison and be unsupervised on parole.

Research on these diversion programs generally show them to be effective programs at reducing the recidivism rates of participants. If fewer offenders participate in them because they have lost the incentive to do so, their involvement in crime will be greater and public safety will be harmed.

Implementation Plan Not Developed. We are also concerned that several important aspects of how these new policies would be implemented have not been developed by the administration. These details are important for the Legislature to have in order to evaluate the full implications of the major policy changes proposed by the administration, as well as to compare those proposed changes with any alternative proposal that would significantly reduce the inmate and/or parolee populations, such as those alternatives discussed later in this analysis.

First, the department has not provided the Legislature with an estimate of how the population reduction would affect the number of beds needed at each security level, at reception centers, or for female offenders. Similarly, the department has not estimated how the policies would affect the number of remaining inmates to be housed outside of the state's 33 prisons, such as in conservation camps, minimum support facilities, or contracted facilities within and outside of California. In fact, the magnitude of the inmate population reduction that would occur could potentially allow the state to close prisons, and the department has suggested that it might consider closing down some prisons or parts of prisons that are particularly old or decrepit. However, CDCR has provided no details as to which facilities these would be or how much in additional savings these closures would generate to the state. These questions are particularly important because the department is simultaneously moving forward with the development of plans to construct more prison beds as authorized by Chapter 7, Statutes of 2007 (AB 900, Solorio), commonly referred to as "AB 900," which provided \$6.1 billion to construct as many as 40,000 additional prison beds. We discuss the potential impact of these policy proposals on AB 900 construction plans in the "Capital Outlay" section of the CDCR analysis.

Second, the department has acknowledged that these policy changes would have a significant impact on the number and type of rehabilitation programs that are needed in state prisons and for parolees in the future. Currently, many programs, particularly parole programs, are oriented toward lower-level state offenders, exactly the population that would be largely removed from the system under these proposals. As a result, many programs might need to be redesigned or relocated to meet the needs of

the remaining population, and some programs may need to be eliminated or replaced with different rehabilitation strategies altogether. In addition, the sudden shift of a large group of offenders from prison to summary parole raises the question as to the extent resources would continue to be needed in the community to assist those released on summary parole with drug treatment, education, assistance in finding a job, or mental health treatment. To date, the department has not provided the Legislature with an outline of what program changes would be necessary, an estimate of how long it would take to make these changes, or an analysis of their fiscal implications.

Third, the administration reports that these policy changes would result in a reduction of about 5,900 positions, thereby requiring staff layoffs, most of which would be of custody staff such as correctional officers and parole agents. The department's estimates of fiscal savings assume that it takes approximately nine months to layoff the affected staff. However, the department has provided little information to substantiate the exact extent of these layoffs or how these layoffs would occur. For example, to what extent would the department propose to close beds it contracts for in the community, potentially reducing the number of layoffs necessary for state employees? How would the layoffs affect the need for resources for recruitment, training, and the correctional officer academy?

Fourth, we would note, and the department has acknowledged, that there exist significant inconsistencies between this proposal and other funding requests contained within the Governor's budget. Presumably, significant inmate and parolee population reductions such as those proposed would result in a reduced need for resources for activities related to training, parole revocation caseloads, and administration. However, the department's budget requests significant new funding for many of these activities, including correctional officer recruitment and training, BPH caseloads, and human resources administration staffing. If the Legislature were to move forward with the administration plan, or any alternative approach to reduce the inmate and parole populations, a number of additional budget adjustments would be warranted. Our analysis suggests that these additional savings could exceed \$100 million annually.

Some Fiscal Impacts Not Included. As discussed above, there are a number of operational questions that are unaddressed by the administration, many of which have fiscal implications that could significantly increase or decrease the level of savings that would actually be achieved under its proposals.

In addition, other factors could increase the actual savings level achieved from adopting these proposals. For example, the population reductions could result in cost-avoidance related to delaying or eliminat-

ing the need for future construction of prison facilities. In addition, the administration's fiscal estimate of its early release proposal assumes the department would achieve no savings related to inmate medical care from releasing tens of thousands of inmates early. However, there would be savings if a population reduction resulted in even a small reduction in medical costs for inmates, such as for nurse registries or specialized treatment provided outside of prison walls. Notwithstanding the potential for medical care savings, we recognize that the department's inmate medical program—including its budget—is under the control of a federal court-appointed Receiver who may not agree to a reduction in his medical budget even if a significant number of inmates were released from the prison system early.

On the other hand, there could be some factors that result in reduced savings relative to the administration's estimates. For example, their fiscal estimates do not assume any costs related to parole violators who return to prison upon a conviction for a new crime. To the degree that occurs, the department's fiscal estimates could be overstated. The magnitude of these offsetting fiscal impacts is unknown.

Better Options Available to Reduce Inmate and Parole Populations

Should the Legislature conclude that reductions in state correctional populations should be part of the package of actions necessary to address the state's budget shortfall, our analysis indicates that there are better options available to achieve significant budget savings that minimize the impact to public safety. The option we think best meets these criteria is to change sentencing law to make "wobblers"—crimes that can be sentenced as either felonies or misdemeanors—punishable as misdemeanors only. We describe this option, as well as identify other possible approaches, in more detail below. We also recommend substituting a policy of earned discharge from parole in lieu of the administration's summary parole approach.

LAO Alternative: Change Wobblers to Misdemeanors

Definition of Wobblers. Current law makes some crimes punishable as misdemeanors—where jail, probation, and/or fines are the criminal punishments allowed—or as felonies—where a sentence to state prison is defined. These crimes are sometimes referred to as wobblers. The sentencing decision on wobblers is left up to the criminal court, with the court's decision generally based on the specific circumstances of the crime and the criminal history of the offender. Most wobblers are property or drug

offenses and include crimes such as forgery, petty theft with a prior theft, and some drug possession offenses.

Recommended Approach. Should the Legislature choose to identify inmate population reductions as a strategy to achieve budget savings, we would recommend changing criminal penalties to make wobblers misdemeanors instead of the administration's 20-month early release proposal. While this approach would limit the discretion judges now have to send persons convicted of wobblers to prison, it would prioritize the use of expensive state prison beds for violent and serious offenders. Which specific wobblers to choose would ultimately depend on the policy preferences of the Legislature, as well as the budget savings target to be achieved. Figure 9 lists the criminal offense categories that include wobblers, the number of inmates in prison for those crimes, and the annual cost to incarcerate those offenders. As shown in Figure 9, we estimate that about and 31,000 inmates are in state prison for wobbler offenses at any given time. Thus, the adoption of our recommended option would result in state savings of about \$200 million to \$300 million in the budget year growing to about

Figure 9			
Wobblers That Could Be Converted to Misdemeanors			
<i>(Dollars in Millions)</i>			
Offense Category	Inmate Population^a	Average Time Served In Months^b	Annual Cost of Incarcerating Inmate Groups
Drug possession	7,742	17	\$170
Vehicle theft	5,143	17	113
Petty theft with a prior theft	5,174	18	114
Receiving stolen property	4,077	15	90
Grand theft	2,905	17	64
Forgery/fraud	2,888	17	64
Driving under the influence	2,375	17	52
Other property crimes	903	15	20
Other drug crimes	188	24	4
Hashish possession	33	12	1
Totals	31,428		\$691

^a As of December 31, 2006.

^b Overstates time served for some offense categories because department's time-served reports include both wobblers and non-wobblers in offense categories.

\$700 million annually within a few years. Annual savings could be even higher, by \$100 million or more, if the resulting population reduction resulted in CDCR closing entire prisons or selected older facilities within existing institutions.

The LAO alternative would also reduce the parole population by a comparable number of offenders, resulting in additional savings of several tens of millions of dollars annually within a few years. In the longer term, these population reductions could also result in significant cost avoidance related to capital outlay to the extent that new prison facilities would not have to be constructed. However, we would also note that there could be some factors that could reduce the estimated level of savings from our alternative. For example, it is possible that local prosecutors would change their charging and plea bargaining practices such that a significant number of offenders would continue to be sentenced to state prison even under our proposed change in sentencing law. The degree to which this would occur, as well as the net fiscal impact of these offsetting factors on the state judicial system and local criminal justice agencies, is unclear at this time.

Advantages of Changing Wobblers to Misdemeanors. In our view, the conversion of wobblers to misdemeanors has some distinct advantages over the administration's proposal, although it also has some aspects in common with the administration's proposed approach as well. These are summarized in Figure 10.

The LAO alternative has several distinct advantages compared to the administration's proposal. First, our approach maintains a continuum of criminal justice sanctions by eliminating the gap in the criminal justice system created by the administration's proposal. Under our approach, offenders diverted from prison would still be subject to criminal sanctions for their crimes at the local level, typically in jail and on probation.

Second, our approach would not create as much of a disincentive for offenders to participate in Proposition 36 and other diversion programs as would occur under the Governor's proposal. Local court officials could use the prospect of significant jail time as an incentive for these offenders to participate in these programs.

Third, our approach would not require tens of millions of dollars in administrative costs to implement, as would the administration's proposal. Our approach would not require CDCR to complete tens of thousands of case file reviews. Instead, our proposal would simply eliminate prison as a sentencing option for these offenders, resulting in no additional workload for CDCR or the courts.

Figure 10**Advantages and Tradeoffs With Changing Wobblers to Misdemeanors****Advantages**

- Maintains continuum of state's criminal justice system rather than creating a gap, thereby ensuring that offenders are subject to criminal sanctions for their crimes.
- Better maintains incentives for offenders to participate in diversion programs such as Proposition 36 and drug courts.
- Lower administrative costs to implement.
- Greater reduction in overcrowding of prison reception centers, further reducing costs, especially those related to inmate health care.
- Budget savings of hundreds of millions of dollars beginning in near term.
- Target relatively low-level state inmates.
- Might preempt federal court-ordered inmate population reduction.

Tradeoffs

- Would reduce the time served by some of these offenders.
- Would increase the offender population supervised in jails and on probation.
- Would result in lesser punishment for some offenders who have prior convictions for serious or violent crimes.

Fourth, our approach would have the additional advantage of further reducing the population in CDCR's overcrowded reception centers. Under the administration's proposal, offenders would still be transported and housed in reception centers for some period until a case file review determined their eligibility for early release. However, under our approach, inmates would be sentenced to local corrections and never arrive at the reception center at all, thereby reducing reception center overcrowding and costs relative to the Governor's approach.

Like the Governor's proposal, the LAO alternative would provide a large and ongoing solution to help address the state's budget shortfall. The savings would begin to accrue immediately upon implementation, and reach the full estimated savings within a couple of years. (At full implementation, the administration's proposal results in somewhat lower savings than the LAO alternative—about \$527 million compared to \$700 million.) Both approaches would target relatively low-level offenders in the prison system whose current offense is not a serious, violent, or sex offense. In so doing, as noted earlier, our proposal as well as the Governor's would effectively prioritize the use of expensive prison beds

for the most serious and violent offenders in the state's criminal justice system. Also, both approaches to reducing the inmate population might affect the federal court's consideration of a cap on the inmate population. By acting independently, the Legislature would be able to set its priorities in determining which offenders would no longer be in state prisons, as well as how those offenders were handled in the criminal justice system in lieu of being in prison.

Addressing Potential Trade-offs With Changing Wobblers to Misdemeanors. While the LAO alternative has some advantages, it also involves a couple of tradeoffs that are worth noting.

First, our proposed change in sentencing law would likely result in some property and drug offenders serving somewhat shorter terms of incarceration than under current law. Under current law, the *maximum* jail sentence for a misdemeanor is one year, while the *average time* that most of these offenders would serve in prison is now about a year and a half. However, a year and a half is the average time served. Many of these offenders serve a year or less in prison under current law for their crimes. Therefore, the reduction in time served would generally be a few months at most, compared to as much as 20 months less time served under the Governor's proposal.

Second, our proposed approach would result in affected offenders being a local, rather than state, responsibility for housing and supervision. This would certainly result in additional operating costs to local governments, primarily to counties, for probation and jail operations. It would also potentially add to existing overcrowding levels in some local jail systems, perhaps resulting in additional early releases of lower-level jail inmates. However, we would note that when state sentencing laws were changed in the past to require that many offenders be sent to prison and not to county jails or probation, funding was not shifted from the counties to the state to adjust for the increase in state responsibilities. Moreover, the Legislature recently enacted AB 900 which authorized \$1.2 billion in state funding in two phases to construct 13,000 additional jail beds. The Legislature could consider accelerating Phase II of the jail bed funding to make more space available for local jails sooner.

Third, while our proposal targets offenders whose *current* offense is a relatively low-level property or drug offense, some of these offenders would have committed more serious crimes in their past, potentially including violent and sex offenses. However, based on a review of the available data, less than one-quarter of these offenders are "third strikers" (having been convicted as such under the state's "Three Strikes and You're Out" law) or have any prior offenses for a violent crime or a sex offense that would require registration. However, one option available to the Legislature

would to exclude offenders with prior violent or sex offenses from being sentenced as misdemeanants. Doing so would reduce the estimated savings by about \$150 million to \$200 million annually upon full implementation. Even with such a change, we estimate that our approach would still result in annual savings of \$500 million to \$550 million

Other Prison Population Reduction Alternatives Could Be Considered

While our analysis indicates that changing wobblers to misdemeanors is the best policy option available that would result in significant caseload savings in corrections in the near term, it is certainly not the only alternative. For example, the state could provide a shorter period of early release to a broader range of offenders or provide increased early release credits to inmates. Our *2004-05 Budget: Perspectives and Issues (P&I)* identifies several such options (see page 228).

LAO Alternative: Adopt Earned Discharge Instead of Summary Parole

Our analysis suggests that a better alternative to summary parole is earned discharge, which could be adopted in combination with, or independent of, our proposed alternative to change wobblers to misdemeanors.

In our view, there is some merit in the administration's proposed summary parole policy. It is similar to the practice already in place in many other states where certain low-level offenders do not serve any time on parole after completing their prison term. After serving their prison term, these offenders can be prosecuted if they commit new crimes, but they are not actively supervised on parole or subject to return to prison through an administrative revocation process.

However, we are concerned that adoption of a summary parole policy may not adequately take into account the propensity of some of these offenders to reoffend after their release from prison. Our analysis indicates that a better alternative would be for the Legislature to direct CDCR to implement a policy called "earned discharge" which would permit parolees to be discharged from parole early if they had demonstrated that they had successfully reintegrated into the community. Earned discharge requirements would be set in statute and could be limited to parolees who met specified criteria such as having been involved in no new criminal activity, had no evidence of drug use, were employed, and had stable housing. Certain offenders who met these statutory criteria continuously in the

first six months after being released from prison, for example, would be discharged from parole.

The period at which offenders could be discharged early would depend on legislative preferences, but could vary for different groups of offenders. One approach would be to vary that period based on the likelihood that offenders will reoffend. The CDCR is currently implementing an assessment tool that identifies the risk that an inmate will reoffend after release to parole. Outcomes from these assessments could determine each offender's discharge period. For example, a parolee assessed as being at low risk to reoffend could be discharged at three months if he met the statutory criteria, while an offender assessed as medium risk to reoffend might have to demonstrate six months of continuous compliance with the statutory criteria before early discharge. The Legislature may want to exclude the highest risk offenders and/or those convicted of violent or sex offenses from earned discharge.

The exact level of savings that would be achieved through an earned discharge policy would depend on the number of months parolees would have to serve on parole before they could earn early discharge, how many parolees were eligible to participate in the earned discharge program, the specific statutory requirements to earn early discharge, as well as how many parolees met those statutory requirements. However, if earned discharge was available to most parolees—except those with current or prior violent or sex offenses, for example—the savings could exceed \$100 million annually at full implementation.

Even if applied to a broader segment of the parolee population than the administration proposes for summary parole, an earned discharge policy might only result in savings of one-third to one-half of the amount that could be generated under summary parole. However, earned discharge would provide more accountability for offenders and, consequently, considerably less risk to public safety, because the offenders released from supervision would be the very ones who had demonstrated evidence of success in the community. Earned discharge has been recommended by the group of academic and professional experts commissioned to study CDCR operations (commonly referred to as the "Expert Panel"). The department has developed plans to implement earned discharge on a pilot basis during the current year. However, the department reports that implementation of the pilot programs has been delayed.

There are other alternatives the Legislature could consider for parole reform. In the *2008-09 P&I*, we propose that the state realign responsibility for supervising certain parolees convicted of drug and property crimes. Under this approach, counties would receive new revenue to offset the additional costs they would incur under this realignment. We estimate

that the state would save about \$500 million annually from our parole realignment proposal.

CDCR Should Report on Implementation Issues

Finally, we would note that before the Legislature adopts any policy changes that would significantly reduce inmate and parolee caseloads, it should require CDCR to report on the operational implications of various alternatives. In particular, the department should be required to identify the likely impact to inmate housing needs, staffing, offender programs, and other corresponding adjustments to the budget plan, so that the Legislature can weigh the full range of policy and fiscal impacts before making a final decision.

OTHER CORRECTIONAL PROGRAM ISSUES

Offset Funding for Community Work Crews

We recommend modifying the department's request for funding related to inmate community work crews to (1) eliminate a General Fund augmentation for these new positions, and (2) reflect funding of the new positions from reimbursements from local jurisdictions and institutional savings that will occur from the increase worktime credits earned by participating inmates. (Reduce Item 5225-001-0001 by \$2.4 million. Increase Item 5225-001-0995 by \$1.2 million.)

Budget Proposal. The spending plan proposes an augmentation of \$2.4 million in the budget year, growing to \$5.8 million in future years, to create inmate community work crews at most prison institutions. These work crews would provide services to local jurisdictions, such as litter removal, weed abatement, and minor repairs. The department would not be reimbursed by the local jurisdictions for the services performed by the work crews. The funding would be used to establish almost 29 new correctional officer positions in the budget year (growing to 60 positions in future years) that would supervise the work crews while off prison grounds, as well as some one-time costs for equipment. The department reports that similar work crews used to exist prior to budget reductions in the 2003-04 fiscal year. Currently, six prisons have community work crews, but local jurisdictions reimburse the state for its costs of providing the services.

Additional General Fund Spending Not Warranted. We have several concerns with this proposal.

First, while we concur with the department that the new inmate work crews could help to promote more positive relationships between

institutions and the local jurisdictions in which they reside, General Fund spending for this work is not critical for the maintenance and operation of state prisons. As we noted in the *Analysis of the 2007-08 Budget Bill*, the prison system faces serious maintenance problems that we believe could be partly addressed through the more effective use of inmate labor. Second, it is unclear whether the department would have sufficient inmates available to work on these crews if the Legislature approves the administration's proposals to reduce the inmate population (discussed earlier in this chapter). Third, we would note that the department's request for funding may be understated because it does not account for the costs of paying the inmates who would work on the crews. These costs are likely to be as much as several hundreds of thousands of dollars, depending on how many inmates were paid for this work and what share of the funds were paid out of the General Fund versus the Inmate Welfare Fund.

Analyst's Recommendations. For the reasons cited above, we recommend rejection of the proposed General Fund augmentation for these new activities. We propose instead that the Legislature approve the proposed new correctional officer positions on a limited-term basis and that the full costs of inmate work crews be funded through two other means: (1) partial reimbursement from local jurisdictions that request the services and benefit from the community work projects, and (2) the redirection of General Fund savings that would be achieved in the prison system due to increased worktime credits earned by inmates.

Our recommended approach stems, in part, from our view that it would be appropriate for the department to require local jurisdictions to pay for half of the costs of the inmate work crews. This cost-sharing arrangement could allow local jurisdictions to have the proposed community beautification work done at a lower cost than they might otherwise pay, while resulting (together with the offsetting bed savings) in no net increase in state General Fund costs. The cost-sharing arrangement should take into account any costs necessary to pay inmates who work on the community crews.

The remainder of the costs, our analysis indicates, could be offset by redirecting prison savings from inmate work credits. Participating inmates would earn greater worktime credits while on the work crew than if they did not have a job assignment in the prison. This would shorten their stay in prison, thereby reducing prison operating costs. We estimate that at full implementation, these additional worktime credits could result in about \$3 million to \$4 million in state savings annually, about one-half of the amount the department is requesting on an ongoing basis.

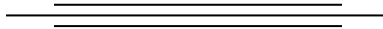
Approval of the new correctional officer positions on a part-time basis would enable the Legislature to determine in the future if the program was successful and self-sustaining.

Finally, we again recommend that the department explore strategies for using inmates to supplement its maintenance workforce, as it was directed to do in language adopted as part of the *Supplemental Report of the 2007-08 Budget Act*.

Reprioritizing Workforce Investment Act Discretionary Funds

We recommend the Legislature redirect a total of \$3.9 million in Workforce Investment Act funding to parolee employment programs in the California Department of Corrections and Rehabilitation, resulting in an equal amount of General Fund savings. (Reduce Item 5225-001-0001 by \$3.9 million. Increase Item 5225-001-0995 by \$3.9 million.)

We discuss our recommendation to modify the administration's proposed spending plan for federal Workforce Investment funds in the "Employment Development Department" section of the "General Government" chapter.



ADULT CORRECTIONAL HEALTH SERVICES

APPOINTMENT OF NEW RECEIVER MAY SIGNAL SHIFT IN APPROACH TO REMEDYING INMATE MEDICAL CARE

The appointment of a new Receiver to establish a constitutionally adequate adult inmate medical care delivery system raises both new challenges and new opportunities for the Legislature to consider. In this section, we first discuss the broader implications of the transition to a new Receiver, including the potential for the state and the Receivership to cooperate more fully in remedying the system and the potential for the new Receiver to modify his predecessor's plans. Afterwards, we discuss the immediate concerns that this transition raises in terms of what actions the Legislature should take to adequately budget for the operations of the new Receiver in both the current and the budget year.

Background

New Receiver Appointed by the Court. In January 2008, the federal court overseeing the Receivership of the state's adult inmate medical care delivery system announced that, effective immediately, a new Receiver would assume responsibility for bringing prison medical care up to federal constitutional standards. In its ruling, the court in the case of *Plata v. Schwarzenegger* found that, nearly two years after the appointment of the first Receiver, it was time for the Receivership to move from a "primarily investigative and evaluative phase" into an "implementation phase." As part of this transition, the court noted that it wanted the Receivership to shift its focus from adopting short-term measures to implementing longer-term reforms, including an eventual transition of the system back to state control.

In its ruling, the court acknowledged some of the short-term, practical measures that the first Receiver had undertaken. These measures have included:

- Increasing physician and nurse salaries in order to attract more qualified medical staff and reduce medical staff vacancy rates.
- Establishing “custody health care access units,” composed of correctional officers to escort inmates to medical facilities both inside and outside prisons.
- Contracting with an outside vendor to restructure prison pharmaceutical services, including plans for a centralized pharmaceutical distribution facility.
- Beginning construction on a new “state-of-the-art” medical facility at San Quentin state prison.

The court, while emphasizing that the Receivership should continue to maintain its independence, stated that the time had come for the Receivership to work more closely with different stakeholders, including state officials. Significantly, the court held that such cooperation was more important than ever in light of the current state budget crisis. In order to shift the Receivership toward this more cooperative approach, the court appointed a new Receiver who, according to the court, has the administrative skills necessary to provide such “collaborative leadership.”

Other Actions Taken by the Court. In October 2007, the court appointed an interim working group to evaluate the Receiver’s remedial plan. In its January 2008 order replacing the Receiver, the court confirmed that it would soon appoint a permanent advisory board to assist and advise the court and the Receiver in meeting the goals of the Receivership. In so doing, the court also indicated that it intended to be more directly involved than it had been in efforts to remediate problems in inmate medical care and the operations of the Receiver.

The court also ordered, upon the recommendation of the interim working group, that a professional planner be hired to revise the first Receiver’s remedial plan. The remedial plan, the final version of which was released in November 2007, had contained 22 initiatives. The court indicated that the consensus of the interim working group was that revisions to the remedial plan were needed so it “could serve as a useful leadership document that would provide a common vision for all stakeholders.” The court did not identify the specific changes it wished to be made in the plan. However, the plaintiff’s counsel (which represents prison inmates in the case) and others had contended in documents filed with the court that the plan lacked concrete detail, especially concerning the specific steps necessary to remedy the system and the ways in which the success of the plan would be measured.

Appointment of New Receiver Raises Three Key Questions

The appointment of the new Receiver, announced just after the release of the *2008-09 Governor's Budget*, raises three questions regarding: (1) how the overall relationship between the Receivership and the state budget process might change under the leadership of a new Receiver, (2) whether the transition to a new Receiver will result in a new approach toward bringing inmate medical care up to constitutional standards, and (3) how the appointment of a new Receiver impacts the Governor's budget request.

Collaborative Approach Could Improve Budgeting Process for Receivership. In a number of cases during the first two years of the Receivership, the Legislature was unable to obtain from the Receiver the level of information that it would ordinarily expect to receive from other state departments in support of budget proposals. Specifically, complete information was often lacking regarding the purpose and justification for proposed new spending initiatives; how proposed new spending relates to funding previously provided for medical programs and facilities; and fiscal details on positions, operating expenses, and equipment sought to implement its remedial efforts.

The first Receiver's budgeting efforts were also often out of sync with the timing of the normal state budget process. For example, new spending proposals of the Receiver surfaced in May 2007, too late for them to be incorporated by the Department of Finance (DOF) into the regular May Revision budget plan, and again in December 2007, too late for them to be fully incorporated into the Governor's January 10 budget package.

In a number of cases, documentation of new spending proposals has not been submitted at all in the budget process. Instead, the Receiver funded a number of new initiatives from an unallocated reserve set aside by the Legislature. The Legislature was notified after the fact by DOF of funding transfers, and has received only limited information from the Receiver in support of these expenditures compared to the information it would ordinarily receive during a normal budget process.

Although little is known just yet about how the new Receiver will work with the state to budget for the operations of the Receivership, the language in the court's ruling suggests that it intends that the new Receiver adopt a more collaborative approach on such matters.

New Receiver Will Make Modifications to Remedial Plan. The court's ruling appointing the new Receiver makes it clear that the court was not satisfied with the first Receiver's remedial plan. However, it is unclear at this point how the new Receiver may actually change that plan, or the fiscal implications of those changes. The new Receiver has publicly indicated his intention to have a new strategic business plan in place,

and a new assessment of its implementation costs, within 45 to 60 days of his appointment by the court. He has also stated publicly his intention to transition the inmate medical care system back to direct state control within four years.

New Receiver's Budget Could Face Significant Changes. The Governor's budget proposal on behalf of the Receiver (discussed in more detail in the next section) did not fund all of the budget requests that had been submitted (although the administration did submit the Receiver's entire budget request to the Legislature). It is not clear at this point whether the new Receiver will want to revise any of these budget requests. Given the change in the leadership of the Receiver's office, as well as the intention of the court to revise the remedial plan itself, it is quite possible that there will be significant changes to both the Receivership's and the Governor's proposals.

The Governor's 2008-09 Budget Proposal for the Receiver

Support Budget. The Governor's budget proposes approximately \$1.6 billion for the California Department of Corrections and Rehabilitation (CDCR) adult inmate medical operations under the control of the Receivership (including ancillary services involving pharmaceuticals). This proposal is a modest decrease of roughly \$12 million from the revised level of funding proposed to be made available to the Receivership for 2007-08. This essentially flat level of funding for medical services reflects the following specific budgetary changes:

- The elimination of the Receiver's unallocated reserve account in the budget year for a General Fund savings of \$125 million.
- Increases in funding for the Receiver for two specific new initiatives to (1) expand units of correctional officers dedicated to improving inmate access to health care and (2) provide more resources to resolve appeals of inmate complaints over medical care. These proposals result in a \$47 million General Fund increase in the budget.
- The addition of \$26 million to fund the direct operations of the Receivership and its staff. Previously, the Receivership's operating expenses were funded through transfers from the unallocated reserve account.
- Baseline adjustments to reflect (1) the full-year cost in 2008-09 of implementing initiatives of the Receiver begun in 2007-08 and (2) 2007-08 expenditures that were made on a one-time basis. The

net effect of these baseline adjustments in 2008-09 is a \$28 million increase in General Fund spending.

Figure 1 summarizes the support funding proposed to be made available to the Receiver in 2007-08 and 2008-09 under the Governor's spending plan. (In addition to this funding, the Governor's budget also includes \$878,000 from the General Fund for the Office of the Inspector General to monitor misconduct by medical staff at state prison facilities, as requested by the Receiver.)

Figure 1			
Funding Available to the Receiver Under the 2008-09 Budget Plan			
<i>(In Millions)</i>			
	2007-08	2008-09	Difference
Medical services account	\$1,333	\$1,418	\$84
Ancillary services account	159	161	2
Unallocated account ^a	98	—	-98
Totals	\$1,591	\$1,579	-\$12

^a The unallocated account contained \$125 million at the start of 2007-08. Amount shown is the balance remaining after accounting for all transfers to other accounts through the January 10 release of the Governor's budget.

Capital Outlay. The spending plan incorporates a capital outlay proposal approved last year by the Legislature to build a new \$146 million central health facility at San Quentin prison. In addition, the budget plan proposes to shift \$2.2 billion in lease-revenue bond financing—originally allocated last year in legislation to build new prison beds and reentry centers—in order to build new medical facilities being planned by the Receiver.

Spending Proposal Raises Key Issues for the Legislature

We have identified four key policy and fiscal issues raised by the spending plan. First, it does not account for additional spending proposed by the Receivership, but not included in the Governor's budget, amounting to hundreds of millions of dollars in the current and budget years—additional spending that, if followed through by the new Receiver, would aggravate the state's already-severe budget problems. Second, it proposes to do away with the unallocated reserve that the former Receiver had again requested.

Third, adoption of the Governor's separate budget proposal to dramatically reduce the inmate population through early releases of offenders has significant fiscal and operational ramifications for the resources budgeted for the Receivership. Lastly, a proposal to shift bond financing to the Receiver appears to be premature because the Legislature lacks critical information regarding the projects this change is intended to fund.

Budget Plan Omits Large Funding Requests Submitted by Receivership

The Governor's proposal does not reflect about \$273 million in additional General Fund spending proposals requested by the first Receiver for the current year, as well as \$814 million in General Fund spending requested for the budget year. In particular, the administration budget plan does not include specific proposals submitted by the Receivership relating to additional funding for medical guarding and transportation functions, and pharmaceutical supplies. The budget plan also did not fund proposals that the Receiver indicated were "placeholders" for, among other proposals, expansions to existing telemedicine and pharmacy programs and various capital outlay improvements on the grounds of existing prison facilities. (However, the Governor's budget does propose to shift \$2.2 billion in lease-revenue bond financing to the Receiver for capital outlay projects.) Figure 2 (see next page) summarizes the General Fund proposals submitted by the prior Receiver for additional state spending and compares them with the amounts provided for these purposes in the Governor's budget plan.

In light of the appointment of a new Receiver and the court's order to rework the remedial plan, the justification for a number of these requests is uncertain at this time. In addition, it appears likely that much of the funding requested by the Receiver but not included in the Governor's budget for the current year could be absorbed by savings elsewhere in the CDCR medical budget, the remaining balance in the Receiver's reserve account, or through the use of lease-revenue bonds, rather than the General Fund, for the capital outlay improvements.

Proposal to Eliminate Reserve Aligns Receivership With Budget Process

As noted above, the administration proposes to eliminate the \$125 million reserve account for the Receiver in the budget year even though the prior Receiver had requested such a funding allocation again be set aside for him. The administration indicated that the reserve was intended as a temporary funding mechanism for the initial phases of the Receivership and was not designed to be an ongoing fixture in the budget. Eliminating

the reserve would benefit the state by encouraging the new Receiver to provide the Legislature with more information, in advance, through the normal budgeting process on the level of state funding that will actually be needed to improve inmate medical services. As more information about the new Receiver's budget plans becomes available, the Legislature can revisit this issue.

Figure 2**Budgeted General Fund Spending for the Receiver***(In Millions)*

	2007-08 ^a		2008-09	
	Receiver's December Proposal ^b	Governor's January Budget	Receiver's December Proposal ^b	Governor's January Budget
Medical facility renovations (capital outlay) ^c	\$84	—	\$415	—
Medical facility renovations (support)	19	—	22	—
Medical guarding and transportation	74	—	105	—
Pharmaceuticals and medical supplies	72	—	92	—
Custody health care access units	22	—	46	\$46
Pharmacy expansion	1	—	81	—
Medical care appeals unit	1	—	2	2
Physician student loan repayments	—	—	1	—
Receivership's direct operating expenses ^d	—	—	—	26
Reserve account	—	—	125	—
Totals	\$273	—	\$888	\$74

^a The 2007-08 amounts reflect additional current-year spending requested.

^b The Receiver submitted five additional proposals with no specific funding requests that are not reflected in this table.

^c The Governor's budget proposes a redirection of \$2.2 billion in lease-revenue bond financing to the Receiver for capital outlay projects.

^d The Governor's budget proposes this item separately. Previously, it had been funded through transfers from the reserve account.

Early Release Proposal Would Reduce Medical Costs

As part of its 2008-09 budget plan, the administration has proposed releasing from prison early certain nonviolent, nonserious offenders and not actively supervising these same types of offenders on parole. These proposals would result in a significant reduction in the adult inmate and parole populations and state savings estimated at \$354 million in the budget year.

(Please see a discussion of these proposals, as well as an LAO alternative approach to achieving inmate and parole population savings, in the “Adult Corrections” section of the CDCR analysis). However, in calculating the cost savings associated with its proposed new policies, the administration has not accounted for cost savings from fewer inmates receiving medical care in prison. (It does include, however, anticipated savings on mental health care and dental care in its estimates.) Nor does the budget plan reflect any specific adjustment in the number of staff positions assigned to providing medical care for inmates, many of which are established on a ratio corresponding to the size of the inmate population.

If an adjustment were made to the budget to reflect the administration’s early release and summary parole proposals, we believe the amount of medical savings would be significant. Based on information provided by CDCR and the estimated impact of both proposals on the inmate population, these proposals could eventually result in additional savings of as much as \$80 million annually.

We are advised by the administration that adjustments in medical funding and staff positions were not included in the budget plan at the request of the first Receiver. We are advised that the Receiver contended that the medical funding and staffing budgeted for prison should not be driven by inmate population changes but rather by his own independent determination of the resources needed to carry out his remedial plan. The new Receiver’s position on this matter is unknown at this time.

The proposals contained in the 2008-09 budget plan to reduce the inmate population, but not to make the normal caseload-related adjustments that would reduce the medical funding and staffing associated with serving this population, represents a major departure from the way CDCR medical services have been budgeted in the past. Tying medical resources to inmate population was intended as a budget strategy to ensure that, over the long term, adequate resources were maintained for such services as the inmate population grew.

Legislature Lacks Information to Support Shift of Bond Funding

As noted earlier, the budget plan proposes to shift \$2.2 billion in lease-revenue bond financing—originally allocated last year in legislation to build new prison beds and reentry centers—in order to build new medical facilities that were being planned by the Receiver. These monies would be redirected from a prison construction package enacted through Chapter 7, Statutes of 2007 (AB 900, Solorio). This new funding for medical facilities could be used by the Receiver for renovation of clinical and office space for medical operations on the grounds of existing state prisons as well as coordinating the building of up to 10,000 new medical and mental

health beds. The redirection of the \$2.2 billion would be in addition to \$1.1 billion allocated in AB 900 for various types of health facilities. This proposal would thus bring the total resources for health-related projects to almost \$3.4 billion.

The administration's proposal raises a number of major concerns. First, at this time the Legislature lacks critical information needed to justify making such a large financial commitment to these projects. The Receiver's office in most cases has yet to specify exactly what facilities it will build, their size, their location, their design, their timing, or a specific plan for financing them—all critical decisions with huge implications for the bond financing shift proposal. Moreover, it appears unlikely that most of this funding would be needed for several years, given the considerable resources already allocated for health facilities in the AB 900 legislation.

Also, the funding-shift proposal does not take into account a separate administration proposal, discussed above, to achieve budget savings through a significant reduction in the prison inmate population. In addition, a federal three-judge panel, appointed as a result of actions in the *Plata* and *Coleman* cases, has been considering whether to impose a population cap on the state prison system. The large-scale reductions in inmate population that could result from these potential legislative or legal actions would clearly affect the estimates of the number of new medical beds needed for the Receiver and the *Coleman* court.

Analyst's Recommendations

Given the great uncertainty surrounding the operations and plans of the Receivership now that it is under new leadership, we recommend the following actions related to funding activities of the *Plata* Receiver.

New Funding for Medical Operations. We withhold recommendation on both the Governor's budget request and the first Receiver's budget requests. By the May Revision, we anticipate that the Legislature will have additional information upon which to base a decision about these spending proposals, including a clearer picture as to the spending priorities of the new Receiver and any revisions the court has made to the remedial plan that could affect the proposed level of state expenditures.

Shift of Bond Financing for Medical Facilities. We likewise withhold recommendation on the administration proposal to shift \$2.2 billion in lease-revenue bond financing authority from various other prison projects to prison medical facilities now being planned by the Receiver, for several reasons. These projects also could change greatly as the remedial plan evolves. Moreover, the Legislature lacks critical information to justify the projects, including information on their cost, design, and timing. Also,

proposals now pending before the Legislature and the court that would significantly reduce the size of the inmate population could affect the estimates of the number of new medical beds needed for the Receiver and open up new options for accommodating his facility needs. The Legislature should postpone action on the administration funding-shift proposals until these issues have been resolved.

Medical Savings From Population Reduction Proposals. The Legislature should encourage the new Receiver to revisit his predecessor's proposal to move away from population-based budgeting for medical operations. The inmate population is subject to fluctuations from year to year due to demographic factors as well as criminal justice policy changes. Basing the medical budget on inmate population, in our view, helps to ensure that there is an appropriate level of resources for inmate medical care when these fluctuations occur. If the Governor's proposals to reduce the inmate population are adopted, for example, we estimate the budget for inmate medical care should accordingly be reduced by \$65 million in 2008-09 and about \$80 million annually in subsequent years. Also, funding and staffing for inmate medical services would likely grow in the future in keeping with the historical growth that has occurred in the inmate population.

FUNDING SOUGHT FOR HEALTH OPERATIONS AND COURT COMPLIANCE

The Governor's budget proposal contains three unrelated requests for correctional health care programs: (1) new office space and furniture for the Division of Correctional Health Care Services, (2) new dental positions at headquarters, and (3) compliance with court orders from a class action lawsuit regarding accommodations for disabled inmates. We recommend rejecting the proposal for the office relocation and approving, with certain technical modifications, the proposal for new dental staff. We withhold recommendation at this time on the proposal relating to inmate disability issues. (Reduce Item 5225-002-0001 by \$5,075,000.)

The Governor's budget contains three requests for correctional health care programs. These are: (1) \$5 million for new office space and furniture for the Division of Correctional Health Care Services (DCHCS), (2) \$2.6 million for 19 new dental positions at headquarters, and (3) about \$16 million in the current year and \$44 million in the budget year to comply with court orders from a class action lawsuit regarding accommodations for disabled inmates. We discuss each of these proposals and our recommendations below.

Relocation of DCHCS

The Governor's budget requests an ongoing funding increase of \$2.6 million to lease new office space and one-time funding of \$2.4 million for new furniture, in order to relocate DCHCS. The DCHCS houses three main units: Mental Health, Dental Health, and Administration. The Dental Health and Administration units are currently located at 501 J Street in Sacramento, in the same building that houses the medical Receiver's Plata Support Division. Due to a lack of available space in this building, the Mental Health unit is currently operating out of a temporary site at 1300 National Drive in Sacramento.

The budget proposal would consolidate all three units into a single space at a location in the Sacramento area that is still to be determined. The department has cited several reasons for this proposed consolidation and relocation, including the potential for better coordination among units, as well as the lack of additional space available at 501 J Street due to the expansion of the Plata Support Division.

Calculation of Space and Furniture Needs Unclear. While we agree that housing the three units together in one building makes sense, our analysis indicates that the proposed amount of new space and furniture far exceeds the division's current needs. The DCHCS is currently authorized to have 292 positions. However, the department based its calculation for office space on 478 staff. The administration has indicated that it did so in anticipation of future court orders that it believes will expand its staff. However, the administration was unable to point to any specific court rulings to justify such a large increase. In addition, even if there were justification for leasing so much space, we find little justification for buying so much furniture now for staff that is not yet authorized.

LAO Recommendation. We recommend that the Legislature reject the proposal for \$5 million to relocate DCHCS and advise the department to submit a revised proposal for the relocation more in line with its current staffing levels.

Staff Increases for the Inmate Dental Services Program

The Governor's budget requests \$2.6 million and 19 positions for headquarters staff for the dental program. The administration indicates that 16 of these positions are necessary in order to comply with a direct court order to improve the administration of dental services for inmates. The remaining three positions are necessary in order to comply with the California Code of Regulations, Title 15, which specifies the staffing requirements for a review committee that decides when to send inmates outside of prisons for dental care.

Technical Budgeting Adjustment. Our analysis indicates that the proposed new positions for dental programs are justified on the basis of court and regulatory requirements. However, our review of the calculations for the positions found that the department did not appropriately adjust for salary savings for the new positions. The state budgets for most types of staffing positions on the assumption that they will be vacant, on average, for 5 percent of each year to account for normal hiring delays and turnover in staffing. Ordinarily, the proposed appropriations for salaries and wages are reduced by 5 percent to account for these salary savings. However, the appropriate salary savings adjustments were not made for these new positions, which would, by our estimate, amount to approximately \$75,000.

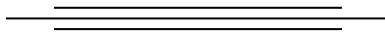
LAO Recommendation. We recommend that the Legislature reduce the amount requested by \$75,000 to account for salary savings for the new dental positions.

Armstrong Court Compliance Plan

The Governor's budget requests about \$16 million and 24 positions in the current year and \$44 million and 221 positions in the budget year in order to comply with court rulings in the *Armstrong v. Schwarzenegger* inmate class action lawsuit. The *Armstrong* court has ruled that the department is in violation of the Americans with Disabilities Act and has ordered it to bring its practices and institutions into compliance through various specific actions.

Our preliminary review of the proposal has raised a number of questions about the sizeable appropriations proposed in this measure, the ambitious timetable for implementation of these changes, and the technological approach being contemplated for *Armstrong* compliance. In any event, the department has advised us that it submitted this proposal as a "placeholder" in order to demonstrate to the court that it was acting speedily to implement the changes. We are advised that the proposal will be revised and resubmitted to the Legislature in the spring.

LAO Recommendation. We withhold recommendation on this proposal until the Legislature is in a position to evaluate the revised *Armstrong* compliance plan.



JUVENILE JUSTICE

WHO IS IN THE DIVISION OF JUVENILE FACILITIES?

The Division of Juvenile Facilities (DJF), the statutory name for the agency often referred to as the Division of Juvenile Justice, is responsible for the housing, supervision, and rehabilitation of individuals that have been committed to their custody. There are several ways that an individual can be committed to the DJF's institution and camp populations, including:

- ***Juvenile Court Admissions.*** Most first-time admissions to DJF are made by juvenile courts. As of September 2007, almost 95 percent of the institutional population was committed by the juvenile courts and included offenders who have committed both misdemeanors and felonies.
- ***Criminal Court Commitments.*** As of September 2007, about 5 percent of the DJF institutional population had been initially committed by criminal courts. This includes juveniles committed directly to DJF after being tried and convicted as adults. It also includes youthful offenders committed to the California Department of Corrections and Rehabilitation's (CDCR's) Adult Operations Division but housed at a DJF facility. These inmates are referred to as "M cases" because the letter M is used as part of their DJF identification number. Current law requires that M cases be transferred to state prison 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 a DJF facility. In addition, some parolees are recommitted to a facility if they commit a new offense while on parole.

Characteristics of Wards. Wards in DJF institutions are generally between the ages of 14 and 24, with an average age of just over 19½. Males comprise about 95 percent of the ward population. Latinos make up the

largest ethnic group in DJF institutions, accounting for 52 percent of the total population. African-Americans make up 31 percent of the population, whites are 13 percent, and Asians and others are just over 4 percent.

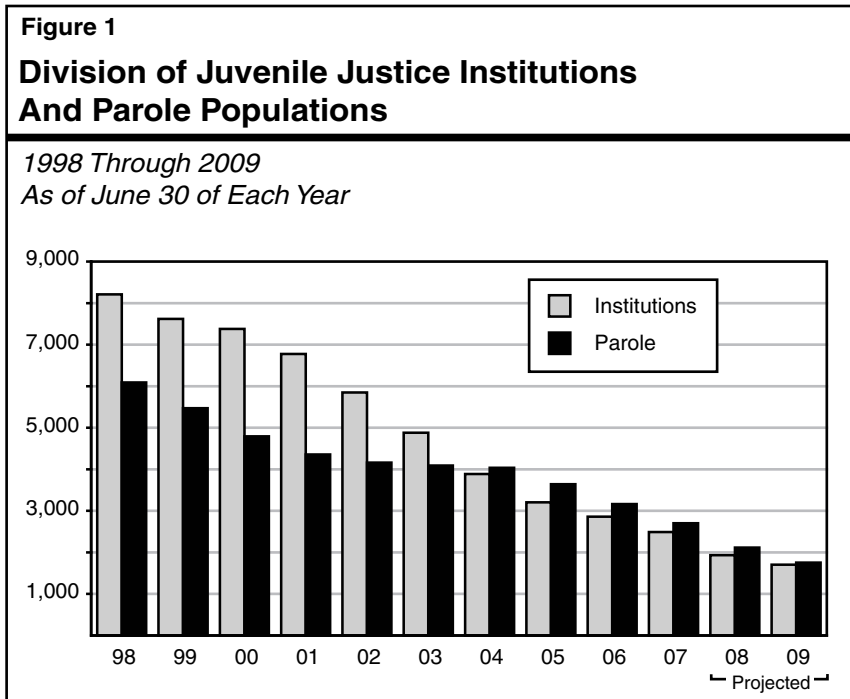
INSTITUTIONAL POPULATION MODESTLY LOWER THAN ESTIMATED

The institutional population projection for the Division of Juvenile Facilities appears to be somewhat higher than recent ward population data indicate. However, the projected parole population appears to be slightly understated when compared to the most current data. Accordingly, we recommend the request for population funding be reduced by \$4 million for 2007-08 and by \$9 million for 2008-09. We will continue to monitor the caseload and will recommend further changes, if necessary, following review of the May Revision. (Reduce Item 5225-001-0001 by \$9 million.)

Juvenile Institution Population Decrease. As of June 30, 2007, 2,516 wards resided in DJF facilities. The department forecasts the ward population will decrease to 1,703 wards by June 30, 2009, a projected two-year decrease of 813 wards, or about 32 percent, compared to the beginning of the current fiscal year. Figure 1 (see next page) shows the year-end ward and parole populations for the period 1998 through 2009.

The projected decrease in the ward population is primarily the result of the enactment of Chapter 175, Statutes of 2007 (SB 81, Committee on Budget and Fiscal Review). Under this statute, nonviolent and nonserious juvenile offenders are no longer being accepted into DJF facilities and are instead remaining at the local level. Counties may also choose to take back to local custody offenders meeting these criteria who are now in DJF institutions. In accordance with Chapter 175, counties are receiving state block grant funds to provide local supervision and services for juvenile offenders. For a more comprehensive discussion of these changes, please see the *Analysis of the 2007-08 Budget Bill* (page D-148) and the *California Spending Plan, 2007-08* (page 43).

Juvenile Parole Population Decrease. As of June 30, 2007, CDCR supervised 2,765 youthful offenders on parole. The department forecasts the parole population will decrease to 2,175 by June 30, 2009, a projected two-year decrease of 590 parolees, or about 21 percent. The projected decrease in parole population is largely the result of provisions in Chapter 175 which also requires that all nonviolent and nonserious offenders released from DJF on parole eventually be supervised by county probation officers rather than state parole agents.



As Figure 1 shows, beginning in 2004, the parole population is slightly greater than the institution population and is projected to remain greater through 2009. This is primarily a result of (1) a declining rate of new admissions into DJF, due to the legislation discussed above, and (2) an increasing average length of time that wards are on parole. The increase in the average length of stay on parole results from the fact that wards retained by DJF following Chapter 175 will be increasingly made up of more serious offenders.

Fiscal and Housing Implications of Population Changes. Despite this decline in population, the budget plan for DJF requests an additional \$3.1 million from the General Fund in the current year associated with the caseload. This is partially due to unexpected delays in the closure of the DeWitt Nelson Youth Correctional Facility, which we discuss further below. However, the budget does reflect a large reduction in caseload-related costs during the 2008-09 fiscal year relative to the 2007-08 *Budget Act* spending level of about \$57 million General Fund.

The declining population of wards has resulted in a proposal in the Governor's budget to close two youth correctional facilities by August 2008. The 2007-08 *Budget Act* reflected a plan to close DeWitt Nelson Youth Correctional Facility (located in Stockton) by June 2008. However, due to

unexpected delays, the closure date is now proposed in the 2008-09 Governor's budget to be August 2008. The budget plan also proposes to close the El Paso de Robles Youth Correctional Facility (in Paso Robles) about that same time. The administration does not currently have a plan for the reuse or disposition of the closed facilities.

Due to declining parolee populations, the Governor's budget proposes that several parole field offices be consolidated during 2008-09.

Some Variance in Recent Numbers From Budget Plan Assumptions. Recent population data indicate that the number of wards in DJF institutions may be modestly lower than is assumed in the budget, while actual parole population appears to be somewhat higher than the budget assumes. If these trends hold, the net effect would be that DJF is overbudgeted from the General Fund by as much as \$4 million in the current year and \$9 million in the budget year.

However, it is possible these trends could change significantly between now and the May Revision, when the administration will update the budget to reflect any further population adjustments that are warranted.

Analyst's Recommendation. Given the recent ward population trends, we recommend the caseload funding request be reduced by \$4 million for 2007-08 and \$9 million for 2008-09. Further appropriate adjustments should be made to Proposition 98 and federal funds associated with these wards. We will continue to monitor the DJF population and will make further recommendations at the time of the May Revision if necessary.

CAPITAL OUTLAY

Implementing AB 900's Infill Bed Plan: Progress and Concerns

The California Department of Corrections and Rehabilitation has made some progress, but encountered some obstacles, in its early efforts to implement a \$7.7 billion package of prison construction projects. In this analysis, we provide an update on the implementation of the 16,000-bed "infill" component of the plan to address overcrowding in prison facilities. We highlight the significant changes that are already being made in this component of the prison construction package, and discuss their implications for meeting legislative goals for expanding inmate rehabilitation programs, complying with court requirements for improved health facilities, and dramatically increasing state costs.

On May 3, 2007, after extensive negotiations with the Legislature, the Governor signed into law Chapter 7, Statutes of 2007 (AB 900, Solorio), now generally referred to as "AB 900." Among other changes, this legislation authorized the construction of up to 16,000 so-called infill beds to replace temporary housing for state prison inmates in gyms, classrooms, and other public spaces. In this analysis, we provide background on the key components of AB 900, update the Legislature on the implementation of AB 900's infill bed plan, and discuss some key issues relating to AB 900 that we believe the Legislature may wish to address in the future.

Background

Key Components of AB 900. Chapter 7 (hereafter referred to as AB 900) contained a broad package of prison construction and rehabilitation initiatives which were intended to relieve the significant overcrowding problems facing state prisons.

Some parts of the measure, which are not examined in detail in this analysis, relate to the expansion of drug treatment, academic education, and other rehabilitative programs for inmates and parolees. However, the

measure also contained a number of significant provisions to finance the construction of both state prison facilities and county jail space primarily using lease-revenue bonds as well as a General Fund appropriation of \$300 million. The key components of the \$7.7 billion construction package are summarized in Figure 1 (see next page) and include the following:

- ***Infill Beds.*** The measure allocates \$2.4 billion for 16,000 so-called infill beds, defined as beds on the grounds of existing state prisons that are intended to replace so-called “temporary housing” in gymnasiums, day rooms, classrooms, hallways, and other public spaces in prisons. These funds may not be used under the measure to expand the overall number of inmates held in prison, but only to build the facilities that would make it possible to shift them from temporary beds to permanent housing, such as new cells or dormitories.
- ***Reentry Facilities.*** Assembly Bill 900 allocates \$2.6 billion to construct 16,000 “secure reentry facilities.” These are to be secure facilities (in effect, small-scale prisons) of up to 500 beds each for inmates within one year of being released or re-released from custody prior to parole into a community. Reentry facilities are to be designed to provide services that will improve the inmate’s successful reintegration into society.
- ***Health Facilities.*** The measure allocates about \$1.1 billion to construct medical, dental, and mental health treatment or housing for inmates. This would include facility needs driven by the settlements and court orders in several federal court cases, including *Plata* (medical care services), *Coleman* (mental health care), and *Perez* (dental care). A Receiver was appointed by the *Plata* court (and recently replaced). The first Receiver proposed an extensive reconstruction of existing medical space on the grounds of existing state prisons, and also proposed to build 5,000 additional medical prison beds at as-yet undesignated locations.
- ***Jail Beds.*** The AB 900 package allocates about \$1.2 billion to help participating counties construct local jail facilities to help address overcrowding in these facilities.
- ***Infrastructure.*** The measure earmarked \$300 million from the General Fund to address sewage, water, electrical, and other types of infrastructure problems at existing prisons to enable them to handle additional prison capacity.
- ***Inmate Program Space.*** Assembly Bill 900 specified that any new prison beds it financed be supported by rehabilitative programming for inmates, including but not limited to education, voca-

tional programs, substance abuse treatment programs, employment programs, and prerelease planning. This means additional prison space would generally have to be provided in these projects for such programs.

Figure 1				
AB 900 Spending Plan				
<i>(Dollars in Millions)</i>				
	Phase I		Phase II	
	Funding	Beds	Funding	Beds
State				
Infill	\$1,800	12,000	\$600	4,000
Reentry	975	6,000	1,625	10,000
Medical	857	6,000	286	2,000
Subtotals	(\$3,632)	(24,000)	(\$2,511)	(16,000)
Local	\$750	—	\$470	—
Totals	\$4,382	—	\$2,981	—

The lease-revenue bonds are available to fund two phases of projects. For example, 12,000 infill beds are provided in Phase I and another 4,000 beds in Phase II. Under the terms of AB 900, the second phase of funding is to be made available only after certain specified goals related mainly to the rehabilitation of offenders—such as the expansion of prison drug treatment services—have been met.

Governor's Capital Outlay Budget Proposals. The 2008-09 budget plan reflects the continued implementation of AB 900 using the funds appropriated in the measure. However, the budget plan itself provides little detail as to the specific facilities to be built with these funds, and displays only general categories of expenditures relating to AB 900 in the spending plan for CDCR. As shown in Figure 2, the budget plan indicates that about \$86 million will be spent to move forward with AB 900 projects (primarily infrastructure) in 2007-08 and that almost \$600 million would be spent on infill bed, reentry, health, and infrastructure projects in 2008-09.

More detailed information about what specific projects will actually be built, and in what time frames, has been presented by the administration in briefings and documents. Still further details are expected to be

presented in a master plan for CDCR facilities. The master plan had not yet been released at the time this analysis was prepared.

The Governor's budget plan proposes to shift \$2.2 billion originally designated in AB 900 for Phase II of the infill and reentry projects to the Receiver's various capital outlay projects. This funding for the Receiver would be in addition to the \$857 million previously allocated in Phase I and the \$286 million to be allocated in Phase II of AB 900 for health facilities, bringing the total funds available for these purposes to \$3.4 billion. As a result of the shift of \$2.2 billion to the Receiver, the \$5 billion previously available for the construction of infill beds and reentry facilities would be reduced to \$2.8 billion. We assess this proposal in more detail in the "Adult Correctional Health" analysis of CDCR.

Figure 2		
AB 900 Projects in the Governor's Budget Plan		
<i>(In Millions)</i>		
	2007-08	2008-09
Infill (Phase I)	\$10	\$140
Reentry (Phase I)	10	142
Medical/mental/dental (Phase I)	16	67
AB 900 infrastructure	50	250
Totals	\$86	\$599

Recent Developments Could Affect Size of Inmate Population. Two developments since the enactment of AB 900 could significantly affect the size of the state inmate population and, thus, state prison construction plans.

First, the Governor's January 10 budget plan proposes the early release of certain nonviolent and nonserious offenders 20 months early and the granting of summary parole to other nonserious offenders, a policy change that would also significantly affect the number of parolees returned administratively to the prisons for parole violations. The administration estimates that the combined effect of the early release and summary parole proposals would be a reduction in the average daily prison population of 35,000 inmates by 2009-10.

Second, in July 2007, federal courts in the *Plata* and *Coleman* cases ruled together on motions filed on behalf of inmate plaintiffs to create a three-judge panel to decide if overcrowding in the prison system is delaying efforts to improve inmate medical services and mental health care. If the panel finds that to be the case, it could order the state to release prisoners, cap the inmate population, or both, significantly lowering the population—perhaps by tens of thousands of inmates. The trial in the case had been scheduled to start in February 2008, but has been postponed indefinitely while the state tries to work out a legal settlement.

How the AB 900 Projects Have Progressed

Our analysis indicates that CDCR has made some progress, but encountered some obstacles, in its early efforts to implement AB 900.

Hiring of Key Management Staff and Staff Reorganization. After the enactment of AB 900, the Governor convened a facilities construction “strike team” to assess the best way to implement the construction components of the new law. Leadership for the AB 900 planning and construction projects was given to the chair of the strike team. A number of key construction management staff have been hired and a major reorganization of the department’s capital outlay unit has occurred. This reorganization and hiring of key management staff was completed in fall 2007. At the time this analysis was prepared, CDCR had filled about 32 of 88 new positions created in the capital outlay unit in the 2007-08 budget to move forward with AB 900 implementation.

Development of New Infill Bed Plan. Following the enactment of AB 900, the administration began efforts to significantly revise its previous infill bed component, including both the proposed location of beds and the types of beds to be constructed. The revised plans are being integrated into an overall master plan for CDCR capital outlay which, we have been advised, is nearing completion.

The design of the first four infill projects is now in development, with the completion of scope, budget, and schedule packages expected early in 2008. The first four projects at the time of this analysis include 1,000 dormitory beds at Kern Valley State Prison (KVSP) near Delano; 950 celled beds at Northern Kern State Prison (NKSP) near Delano; 1,900 celled beds at Wasco State Prison (WSP); and 2,200 celled beds at California Correctional Institution (CCI) near Tehachapi. Three of these four prison projects (NKSP, WSP, and CCI) also include beds in reception centers—facilities, we discuss later in this analysis, designed for newly arriving inmates.

Lack of Access to Planning Funding Has Slowed Projects. Last year, following the enactment of AB 900, the Legislature enacted clean-up leg-

islation to ensure that the Legislature had opportunities to review infill, infrastructure, and other AB 900 projects at specific stages of the development process. The measure, Chapter 175, Statutes of 2007 (SB 81, Committee on Budget and Fiscal Review), specifically required that the administration submit to the Legislature capital outlay planning packages for these projects, documents which include their intended design and the resulting scope, budget, and schedule of the project based on these designs.

Assembly Bill 900 funded studies, preliminary plans, working drawings, and construction costs for its projects. However, the measure did not fund capital outlay planning packages or any expenditures that are made *prior* to approval of these projects by the State Public Works Board. As a result, the delivery of capital outlay planning packages has been delayed and overall efforts to deliver projects have been slowed. The CDCR has notified the Legislature of its efforts to address this problem for infill bed projects through the temporary redirection of other funds—in particular, the monies appropriated in the AB 900 package for infrastructure. Capital outlay planning packages are an important source of information for meaningful legislative oversight of these projects. However, under the provisions of AB 900, it is not clear that it is appropriate for CDCR to use these funds to prepare capital outlay planning packages for infill bed projects. Notably, the Governor’s proposed trailer bill language makes capital outlay planning packages reimbursable from AB 900 funding.

Infill Bed Plan Has Changed Significantly

The major components of the infill bed plan have changed considerably since the original infill bed plan was prepared by CDCR almost a year before the passage of AB 900. While the master plan outlining final construction plans has not been released, preliminary documents and briefings provided by CDCR to legislative staff make it clear that major changes to the infill bed plan are in the works. The major changes we have identified are discussed below.

More Cells, Fewer Dormitories. Overall, the revised infill bed plan appears to be shifting toward building more cells and fewer dormitory beds, which can only be used to house lower-security inmates. The original infill bed plan proposed building 62 percent of all infill beds as dormitory beds. The infill bed plan presented to legislative staff in the fall had only 11 percent of all currently planned infill beds as dormitories. All the remaining beds in this version of the department’s plans would be cells, which can be used to house inmates at any classification level. The CDCR has indicated that this mix of dormitories and cells could change further as its plans continue to evolve. Notably, all of the currently planned dormitory beds are included at the very first infill bed project, KVSP.

Fewer Sites With More Beds Outside of Inmate Areas. The original infill bed plan proposed locating infill bed projects at 25 different prison facilities. The size of individual infill bed projects would have ranged from 150 beds at California Substance Abuse Treatment Facility and State Prison, Corcoran to 1,940 beds at NKSP near Delano. The majority of infill beds were to be constructed inside of inmate-occupied areas.

The new infill bed plan will locate infill beds at only ten sites, each generally averaging more beds than under the previous plan. The infill projects at NKSP and six sites (yet to be determined) would have 950 beds, while CCI would have 2,200, the most beds of any infill bed site. Most of the construction of the new infill bed plan will be outside of inmate occupied areas—for example, vacant land on the outskirts of prison grounds.

Changes in Reception Center Facilities. When a prisoner enters prison, he initially is sent to a particular type of prison facility known as a “reception center.” Reception centers provide security, health care, and educational assessments of prisoners so that they can be assigned to the appropriate housing security classification. The length of time that new prisoners are in a reception center is generally brief, ranging from a few weeks to a few months, before they are sent from there to other general population institutions to serve the duration of their sentences.

The new infill bed plan would include three reception center facilities among the first four construction sites, representing approximately 24 percent of currently planned infill bed construction. (The number of reception center beds in the original infill bed plan was not specified, but our analysis suggests it would have resulted in roughly the same share of beds for this purpose.) As is the case for existing reception centers, the new reception centers would have more space for intake and inmate assessments than regular prisons, because of their unique role. But they would have no programming or academic classroom space because of the short amount of time prisoners are expected to stay at a reception center facility before being moved to other types of prison facilities.

Significant Increase in Space for Health Care and Academic Education. The new infill bed plans would greatly increase the space that would be available to deliver medical, dental, and mental health care. The square footage devoted in the new projects to health care may be more than seven times the amount of space constructed at the last state prison to open in 2005, KVSP near Delano.

The revised infill bed plan will provide some additional space for vocational programs, while space for academic education would triple. The size of academic classrooms would increase from 20 students, as constructed at KVSP, to accommodate classes of up to 27 students. Second, the total

number of classrooms would be double those built at the existing KVSP. The original infill bed plan devoted much less space for these programs.

Implications of the Revised Infill Bed Plan

The changes to the infill bed plan discussed above have some significant ramifications. In some respects, they will provide increased flexibility to the state prison system to change with changing circumstances, such as the potential for significant reductions in the inmate population provided under the Governor's budget plan or possible court orders. One element of the revised bed plan appears to be in line with the direction provided by the Legislature in AB 900 to provide more space for inmate programs, and appears likely to be consistent with the requirements of the federal courts in several cases for improved health facilities. All of these changes, however, could come at significant additional costs compared to those initially contemplated under AB 900. We discuss our specific findings below.

Overall Plan Provides More Flexibility... Our analysis suggests that the construction of more celled housing and less dormitory space in the new infill bed plan is generally a move in the right direction. This overall approach now being proposed would give the state more flexibility to respond to a sudden, major reduction of the inmate population, either due to the adoption of the Governor's budget plan or due to a court-ordered population cap on the number of inmates. If a large reduction in the inmate population occurs, it is likely to disproportionately affect lower-security inmates, making the building of additional dormitory housing unnecessary at this time. If a large reduction does not occur, celled housing can be used for low- or high-security inmates with the proper staffing and correctional procedures, making it the most flexible housing option. While a celled housing facility costs somewhat more than a dormitory facility because it is significantly larger, it makes little sense to spend money on dormitory space that does not meet the prison system's future needs.

...But May Not Be Flexible Enough. One important question is whether the revised infill bed plan goes far enough in the direction of building cells instead of dormitories. As noted earlier, the revised bed plan still contemplates construction of all proposed dormitory housing at the first of four projects now being scheduled. If the budget plan or court orders result in sharp reductions in the number of lower-security inmates held in the state prisons, the state could find itself having built the wrong kind of beds (1,000 such beds at the first prison project) at just the wrong time.

Similarly, the proposal in the revised infill bed plan to build additional reception center beds may also prove to be a mistake under these circumstances. Under the revised plan, all of the reception center beds would be

built as part of the first four infill bed projects. However, the Governor's summary parole proposal would, among other provisions, significantly reduce the number of parole violators returned to state prison each year. That means the state may need to build and staff fewer reception center beds than it now has, rather than expand these types of beds. Moreover, because the reception centers would be built without programming space, they could not easily be converted to other uses for the general inmate population.

The dormitory and reception center beds contained in the revised infill bed plan may ultimately be needed. Future court actions and policy changes affecting inmate population levels are by their nature not known. But these uncertainties mean it may not make sense for the state to build these types of infill bed facilities first. It may make more sense to build celled space rather than dormitory or reception center space in the initial four infill bed projects.

Increase in Academic Space Appears Warranted, Health Facility Need Less Clear. As noted above, the revised infill bed plans significantly increase the square footage allotted to education purposes. Our analysis suggests this approach is warranted and consistent with the provisions of AB 900. This added academic space will increase facility cost. However, based on the data we have reviewed, the cost of academic space would be relatively low, on a square footage basis, compared to the costs of other types of space in infill bed plan facilities. More importantly, our analysis suggests this increase in academic space is consistent with AB 900's programming and rehabilitation goals.

We would acknowledge that, given ongoing litigation over medical care, mental health care, and dental care, steps should be taken to ensure that adequate facilities for these purposes are provided in the newly built prison facilities. However, the potential sevenfold increase in space for health facilities in the new infill bed projects, when compared with the space provided for such purposes in past prison construction projects, has not yet been justified, in our view.

Consolidation of Projects Would Reduce State Costs. This proposal to consolidate infill beds in fewer but larger projects outside of inmate-occupied areas is a reasonable one that is likely to result in major cost savings for these projects. Fewer sites result in fewer infrastructure projects. Also, fewer construction management teams would need to be hired to coordinate the infill projects, resulting again in significant cost savings.

The move of projects outside of inmate-occupied areas could reduce construction costs by more than 15 percent. Construction within such areas reduces productivity, as construction workers must spend as much as one hour at the beginning and one hour at the end of each eight-hour

day going through security processes, adding greatly to the labor costs that ordinarily make up 60 percent of the cost of construction.

Construction Cost Estimates Increasing Dramatically. At the time this analysis was prepared, CDCR had not finalized its estimates of the costs of the first four infill bed projects it intends to pursue. However, our review of cost models and other working documents that the department and its consultants are using suggests that the estimated costs of these new facilities have increased dramatically.

Based on CDCR data we have reviewed, the department is projecting that the cost of constructing beds for 950 inmates and one group of support buildings will be \$210 million. In contrast, the cost of constructing an entire prison of 4,600 beds—including more costly types of beds—at KVSP a few years ago was a total of \$377 million. The cost per bed at KVSP was \$82,000, while the cost per bed in the new infill bed plan is \$222,000. Our analysis suggests that these higher estimates for the infill beds cannot be explained by the increases in labor and material costs that have occurred since KVSP was built.

So-called “soft” costs and contingencies appear to be major additional factors driving up the department’s cost estimates for the projects. Soft costs is the term often used to refer to nonconstruction costs of projects, such as architectural and engineering fees, project management and construction management fees, and inspection fees. Contingencies are funds earmarked to cover uncertainties, such as cost increases that may occur over time or project cost estimates that are too low. The CDCR estimates of both soft costs and contingencies are linked by ratios to “hard” construction costs. Double the amount of hard costs, and soft costs and contingencies double too. These ratio-driven factors appear to be contributing significantly to the higher costs for infill beds that are now being estimated for the CDCR projects.

The escalation of these costs is prompting the CDCR to scale down its plans on the number of infill beds it intends to build. If these estimates prove correct, the state would ultimately build several thousand fewer infill beds with AB 900 funding than the 16,000 that were contemplated in the legislation. In the alternative, the administration might build more dormitory beds instead of cells to deliver more beds, but would then run the risk that these could prove to be the wrong kind of beds to build.

Analyst’s Recommendations

In light of these significant concerns related to the implementation of AB 900 infill bed plans, we recommend that the Legislature take the following actions:

Obtain Independent Construction Cost Estimates. In order to address concerns relating to rising cost estimates for AB 900 infill bed projects, the Legislature should direct CDCR to obtain during the spring an independent estimate of these construction costs from a private sector firm that has no involvement in these projects. We are advised that the Department of General Services (DGS), which oversees the construction of many large state construction projects, routinely obtains two private sector estimates for its more costly projects. The cost of getting a second opinion on these construction costs could amount to \$175,000. However, these costs could be paid from existing lease-revenue bond funding. Moreover, we believe this is a worthwhile investment compared to the possibility of overspending hundreds of millions of dollars on the AB 900 infill projects.

Additionally, the Legislature should establish staff positions within the CDCR's Facility Planning, Construction and Management program, who would be permanently assigned to provide effective and continuous monitoring and validation of all capital outlay cost estimates associated with the new infill bed plan. The DGS has a similar construction estimating group to verify the accuracy of the project estimates it reviews. The department currently lacks the ability to independently verify the accuracy of these estimates, even though they often involve hundreds of millions of dollars in state costs for a single project. We recommend two positions be established to provide these estimates. These senior estimating positions would cost about \$300,000 annually, including salaries, benefits, and related operating expenses. These costs also would be reimbursable from AB 900 funds.

Revise the Infill Bed Plan Using New Cost Estimates. The Legislature should direct CDCR to prepare an alternative infill bed plan using the new cost estimates by May 1, 2008 that takes into account the possibility that the Governor's plan for early release and summary parole of offenders, or some alternative approach, is adopted by the Legislature. If the average daily population of inmates in the prison system is reduced, as the Governor has proposed, by as many as 35,000 inmates, a new approach to implementation of AB 900 will be warranted.

Any revised plan should specifically justify the number of beds that would be built and address how the type of housing constructed—cells, dormitories, and reception centers—would be changed to reflect the new situation. Additionally, this revised plan should justify the increase in health care services space.

Recommend Approval of Language on Planning Packages. The Legislature should adopt the Governor's proposed trailer bill language that permits capital outlay planning packages for infill, reentry, and medical bed projects to be funded using funding from AB 900. This change would

reduce potential delays in the development of these projects that could eventually increase their cost, and ensure that the Legislature has complete information available for its review of these projects at key points in the facility planning process.

Condemned Inmate Complex at San Quentin Raises Key Questions

The Governor's budget requests an additional \$136 million in lease-revenue bond financing to complete the construction of a new Death Row facility, known as the Condemned Inmate Complex (CIC), at the San Quentin state prison. We recommend that the Legislature not approve additional funding to complete CIC unless the department can resolve questions about inmate population restrictions at the prison and the tripling of housing unit construction costs for the project.

Proposal. The budget requests an additional \$136 million in lease-revenue bond financing to complete the construction of a new Death Row facility, known as the Condemned Inmate Complex (CIC), at California State Prison, San Quentin. These new costs are due primarily to significant increases in construction cost estimates that have occurred since the inception of the project. The CDCR now estimates that, when finally completed, the project would cost \$356 million.

According to the Department of Finance, CDCR has spent about \$20 million to date on the project from the \$220 million in lease-revenue bond financing that was approved in 2003-04. Construction of the project was temporarily put on hold in 2006 when escalating costs caused the project to exceed available appropriations. A request for additional funding to complete the project was presented last year as part of CDCR's budget plan, but was not approved by the Legislature and then later was temporarily withdrawn by the administration. Last year, the Legislature passed AB 1743 (Huffman), a measure that would have prohibited any money being spent on the CIC until the Bureau of State Audits evaluated alternative prison sites for the CIC. The Governor vetoed this legislation. The 2008-09 budget request is \$20 million more than the department had requested last year to complete the CIC. The CIC would have 768 cells, providing capacity for 1,152 male inmates on Death Row.

Increasing Construction Costs Not Justified. As we noted last year, the department's estimated costs for the project have escalated dramatically over time even as the scope of the project has been reduced from an original plan for 1,408 beds to the present plan for 1,152 beds for condemned inmates. The Legislature previously authorized the CIC project at the \$220 million funding level in 2003-04 based on an original project budget prepared in late 2002.

The latest cost estimate for CIC of \$356 million appears to be out of line with the costs incurred by the state the last time it built housing units with the same design at KVSP near Delano, a facility that was activated in 2005. Some additional costs for a project of this type since KVSP was built would be expected due to increases in labor and materials costs. However, the costs now being assumed for housing units at the San Quentin project far exceed what would be expected. Our analysis considered the original cost of constructing housing units at KVSP which are generally similar to those at San Quentin. We then adjusted those costs based on a construction index that measures both the inflation and market-driven components of these costs on an ongoing basis. Our analysis indicates that the so-called hard construction costs directly related to construction, including labor and materials such as concrete and steel, have together increased construction costs by 26 percent since KVSP was built. However, the department's estimates for San Quentin are triple those for similar housing units at KVSP.

Part of this escalation in costs might be explained by the unique way that housing units would be configured at San Quentin. Because of space constraints, three two-story housing units are to be constructed at San Quentin instead of the customary configuration of six single-story housing units. This approach would add some costs to the project because the concrete walls would have to be poured in place rather than using precast concrete. However, based on construction cost data provided by CDCR, this unique configuration appears to cost only 9 percent more than the standard, single-story housing units. It does not explain why the costs of such units would now be triple the cost of constructing comparable beds at KVSP. (As discussed earlier, this is also an issue for AB 900 infill beds planned at other prisons.)

Questions Remain About Inmate Population Restrictions. Last year, during the course of our review of the 2007-08 budget proposal to complete the construction of the new Death Row, questions arose as to the appropriateness of the condemned housing project in light of constraints imposed on the overall San Quentin inmate population. The department initially indicated to us that, as part of the environmental impact review process for the CIC, the state had agreed to a restriction of 6,558 on the total number of inmates that can be housed at San Quentin. Environmental documents prepared for the CIC indicate that the project, together with the existing housing, would provide a maximum potential capacity of about 7,100 inmates at San Quentin—well in excess of the 6,558 limit. Subsequent data provided to us by CDCR suggest that the maximum potential population at San Quentin would be well under the population limit previously cited by the department. We have asked CDCR to clarify this conflicting

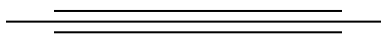
information, but the department was unable to resolve the matter at the time this analysis was prepared.

The issue of a population cap at San Quentin has important ramifications for the state's overcrowded state prison system. If the additional capacity added through the CIC project is added to the existing cells at San Quentin, including those now housing Death Row inmates, it is possible that San Quentin someday might not be able to use its full bed capacity and the state would thus have to let hundreds of beds at the prison remain empty to comply with an agreed-upon population limit. It would not make sense, in our view, to invest such a large sum of state funds for new prison capacity only to have to let hundreds of other prison beds sit idle someday. On the other hand, if the actual capacity of the prison with the added CIC beds is below the agreed upon population cap, this should no longer be a concern.

Analyst's Recommendation. Due to the concerns outlined above, we withhold recommendation at this time on the administration's request for additional lease-revenue bond financing authority to complete the San Quentin CIC. Questions about the cost of the new Death Row complex, and the possible effect of inmate population limits at the prison, should be resolved before the Legislature considers the project further. There are two key steps that could be taken to resolve these issues.

Earlier in the analysis of the implementation of AB 900, we recommend that CDCR be directed to retain an independent outside expert to assess the department's costly estimates for the construction of four new infill bed projects. We further recommend that the same approach be applied to San Quentin. The Legislature needs to know why construction cost estimates of housing units proposed to be built at San Quentin have tripled in five years when increases in labor and material costs or the unique configuration of the beds do not justify this increase.

Meanwhile, CDCR should provide a written report before budget hearings that specifies: (1) the maximum capacity of San Quentin now, including potential overcrowding of the facility; (2) the maximum potential capacity of San Quentin, including potential overcrowding of the facility, if CIC is completed; (3) any specific limits on the inmate population at San Quentin to which the state has agreed as a result of the environmental review process for the CIC; and (4) the department's rationale for building the CIC at San Quentin if in fact that means other existing space at the prison could not be used to hold inmates in the future. This information would enable the Legislature to determine whether this large construction project at San Quentin is warranted, or whether, as we recommended last year, that the facility be moved to another site without such constraints.



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Crosscutting Issues

- D-15 ■ **Restructuring Local Assistance for Public Safety.** The state provides more than \$600 million from the General Fund to local governments for public safety activities that are administered through various state agencies. In lieu of the administration's proposal to reduce such programs across-the-board by 10 percent, we propose an alternative that eliminates or reduces General Fund support for those programs that have not demonstrated results, do not serve a statewide purpose, could be consolidated, or could be funded from other sources. Altogether, our recommendations would reduce criminal justice local assistance programs by about \$270 million General Fund.

Judicial Branch

- D-40 ■ **Cost-Saving Options for the Judicial Branch.** We outline several possible approaches for the Legislature to consider in implementing a major reduction for the Judicial Branch that would help the state to achieve its savings goals while minimizing the impacts on services to the public. These options include suspending State Appropriations Limit adjustments, adoption of cost-saving operational changes in trial courts, adjusting the budget for delays in the appointment of new judges, and increasing court revenues.

Analysis**Page****Capital Outlay (Judicial Branch)**

- D-50 ■ **Withhold Recommendation on Funding for New Courthouses.** Our analysis indicates that a proposed \$2 billion general obligation bond to replace or renovate the state's court facilities is reasonable, but that the Legislature must first determine how this very significant investment of state funds compares with its other infrastructure project priorities. We withhold recommendation on the four new courthouse projects because two of the facilities they would replace have not been transferred to the state and prior legislation to allow such transfers has expired. In addition, the new projects need to be examined in the context of the state's overall infrastructure plan which is not scheduled for release until March 2008. We also recommend going forward on the other courthouses that have been previously approved by the Legislature.

Office of the Inspector General

- D-53 ■ **Requests for Various Proposals Not Justified. Reduce Item 0552-001-0001 by \$4,451,000.** We find that certain positions and funds requested are not justified on a workload basis.

Department of Justice

- D-58 ■ **Reducing High Vacancy Rates in the Department of Justice (DOJ) May Create Savings.** To both enhance the Legislature's oversight of state funding and reduce General Fund costs, we recommend the Legislature consider the option of eliminating a number of the vacant positions in DOJ in order to achieve potential ongoing savings of as much as \$13 million annually.
- D-62 ■ **Charging State and Local Agencies Lab Fees.** The Legislature should consider the option of reducing the amount of General Fund support required by the Bureau of Forensic Services by as much as \$41 million annually requiring the state and local agencies to pay for the laboratory services they use. The Legislature should also ensure that any fee structure would be able to accommodate small agencies dealing with expensive and

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complex investigations, would adequately protect the bureau financially, and would be designed to effectively capture laboratory costs.

- D-64 ■ **Correctional Writs and Appeals Request Should Be Reduced. Reduce Item 0820-001-0001 by \$1.8 Million.** Based on our analysis of the section's workload needs, we recommend that the Legislature only approve half of the requested Deputy Attorney General positions, and accordingly only approve half of the requested support positions. Thus, we recommend a reduction in the department's request of \$1.8 million and 13 positions.

Victim Compensation and Government Claims Board (VCGCB)

- D-69 ■ **Restitution Funds Balance Could Be Transferred to General Fund in the Short Term.** Our analysis of recent fiscal data indicates that the Restitution fund is in strong shape in the short run and that as much as \$45 million of its fund balance could be transferred to the General Fund to help address the state's current budget shortfall.
- D-72 ■ **Increased Victim Claims and Support for Other Programs May Leave Fund Short in the Future.** The Restitution Fund is cash-rich in the short term, but faces a longer-term risk of insolvency by 2011-12 or 2012-13. Accordingly, we recommend that the Legislature take actions now that would help move the Restitution Fund towards solvency through the options outlined above to (1) reduce the cost of the witness protection program by increasing the required local match, (2) examine whether the witness protection program can be restructured to draw down federal funds for victim assistance, and (3) review in the next few years whether the programs most recently supported from the Restitution Fund and higher rates paid to providers of victim compensation services can be sustained.
- D-75 ■ **The VCGCB's Administrative Costs Warrant Review.** Recommend that (1) the Legislature ask the administration to modify the board's budget to separately report the administrative costs of the Victim Compensation Program (VCP) and the Government Claims Program, and (2) request that the Joint Legislative

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Audit Committee direct the Bureau of State Audits to conduct a comprehensive audit of VCP, Quality Assurance and Restitution Recovery Division, and the restitution collection process to ensure the fiscal integrity of their procedures for processing victim claims, collecting restitution revenue, and their relative efficiency.

Department of Corrections and Rehabilitation

- D-85 ■ **Department Has Not Provided Reports to Legislature.** Recommend that the Legislature direct the department to report at budget hearings on the status of various reports required in association with the *2006-07* and *2007-08 Budget Acts*, but not yet received by the Legislature.

Adult Corrections

- D-91 ■ **Adult Inmate and Parole Caseload Will Likely Require Further Adjustment. Reduce Item 5225-001-0001 by \$55 Million.** Recommend a \$55 million reduction in the 2007-08 and 2008-09 budget requests for caseload funding to reflect slower growth of the inmate and parole populations than assumed in the Governor's budget plan. Recommend that the department provide, as part of its spring population projections, an estimate of the impact on the inmate population of the administration's proposed reductions in Proposition 36 and drug court funding.
- D-92 ■ **Improving How State Budgets for Population Change Would Improve Accuracy, Efficiency, and Transparency.** Last year, the Legislature enacted budget bill language directing the Department of Corrections and Rehabilitation (CDCR) to improve its current population budget request in order to make it a more transparent document for legislative oversight. While the department has taken initial steps to comply with legislative direction, there is additional work still needed. Accordingly, we recommend several steps that would significantly improve the process the department uses to budget for changes in the inmate population that will further enhance transparency, as well as provide for a more accurate budget request and a more efficient budgeting process.

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- D-105 ■ **Administration’s Population Reduction Proposals Not the Best Options for Public Safety.** In order to achieve significant budget savings in corrections, the administration proposes to release certain inmates from prison early and place them under minimal parole supervision. We have significant public safety and operational concerns with the current proposals, and recommend alternatives. In particular, we believe it would be more appropriate to change crimes currently classified as “wobblers” to misdemeanors and to substitute earned discharge for the Governor’s summary parole proposal.
- D-119 ■ **Reduce Funding for Community Work Crews. Reduce Item 5225-001-0001 by \$2.4 Million. Increase Item 5225-001-0995 by \$1.2 Million.** Recommend modification of the department’s request for funding related to inmate community work crews. Instead, we recommend authorization of the requested positions on a limited-term basis and propose that the program be funded from reimbursements from local jurisdictions and institutional savings that will occur from increase worktime credits earned by participating inmates.

Adult Correctional Health Services

- D-122 ■ **Appointment of New Receiver Signals Shift in Approach to Remediating Inmate Medical Care.** Withhold recommendation on both the Receiver’s and the Governor’s budget proposals for inmate medical care until more information becomes available in the spring about the new Receiver’s remedial plans. Recommend that the Legislature continue to budget for medical costs on a population basis.
- D-131 ■ **Funding for Health Operations and Court Compliance. Reduce Item 5225-002-0001 by \$5,075,000.** Recommend that the Legislature reject the proposal related to moving the offices of the Division of Correctional Health Care Services and adjust proposed staffing increases to reflect salary savings. Withhold recommendation at this time on a proposal for compliance with court orders in the *Armstrong* class action lawsuit until the Legislature can evaluate the revised court compliance plan.

Analysis**Page****Juvenile Justice**

- D-135 ■ **Institutional Population Modestly Lower Than Estimated. Reduce Item 5225-001-0001 by \$9 Million.** Recommend that caseload funding be reduced by \$4 million for 2007-08 and \$9 million for 2008-09 to reflect recent changes in ward and parole population trends.

Capital Outlay

- D-138 ■ **Implementing AB 900's Infill Bed Plan: Progress and Concerns.** Recommend that the Legislature direct the California Department of Corrections and Rehabilitation (CDCR) to obtain a second cost estimate for the infill bed plan projects from a private sector firm and establish departmental positions that would verify the accuracy of construction estimates. Further recommend that the Legislature direct CDCR to prepare an alternative bed plan that accounts for the possibility of the Governor's plan for early release and summary parole for offenders or alternative approaches to reducing the inmate population.
- D-149 ■ **Condemned Inmate Complex (CIC) at San Quentin Raises Key Issues.** Recommend that the Legislature not approve additional funding to complete the CIC unless the department can resolve questions about inmate population restrictions at the prison and the tripling of housing unit construction costs for the project.

