

The 2020-21 Budget:
Criminal Justice Proposals



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Executive Summary

Overview. The Governor's 2020-21 budget includes a total of \$19.7 billion from all fund sources for the operation of judicial and criminal justice programs. This is a net increase of \$341 million (2 percent) over the revised 2019-20 level of spending. General Fund spending is proposed to be \$16.2 billion in 2020-21, which represents an increase of \$213 million (1 percent) above the revised 2019-20 level. In this report, we assess many of the Governor's budget proposals in the judicial and criminal justice area and recommend various changes. Below, we summarize some of our major recommendations. We provide a complete listing of our recommendations at the end of the report.

Probation Funding and Reforms. The Governor proposes \$71 million (General Fund) and budget trailer legislation to (1) modify the existing funding formula for incentivizing counties to reduce the rate at which they send felons on community supervision to state prison (referred to as the SB 678 funding formula), (2) require increased supervision of certain misdemeanor probationers and provide limited-term funding for this supervision, and (3) reduce the length of felony and misdemeanor probation.

We recommend the Legislature reject the proposed changes to the SB 678 formula as they could have unintended consequences, such as reducing counties' incentive to send fewer individuals to prison. However, in order to more effectively keep misdemeanor probationers out of prison, we recommend expanding the SB 678 formula to include misdemeanor probationers as an alternative to the proposed increase in misdemeanor probation supervision. Finally, we recommend that the Legislature reject the proposal to reduce the length of probation as it could result in a larger portion of individuals being sentenced to jail or prison.

Correctional Staff Training and Job Shadowing. The Governor's budget includes a total of \$21.4 million (General Fund) to implement various initiatives to improve correctional staff training, such as a facility for hands-on officer training and a new job shadowing program. While the various training initiatives generally appear worthwhile, we recommend that the Legislature reject 42 of the requested 85 positions and associated \$6.7 million because they have not been fully justified. We also recommend the Legislature require the administration to provide an annual report on training outcomes that could be impacted by the initiatives. This would allow the Legislature more effectively provide oversight of officer standards and training.

Telehealth Services Building. The Governor's budget proposes \$2 million (General Fund) for preliminary plans to construct a telehealth services building at San Quentin State Prison to better recruit Bay Area physicians and psychiatrists to provide telehealth services. The estimated total cost of the project is \$26 million. We recommend that the Legislature reject the proposal and instead direct the administration to provide a plan next year to utilize telecommuting. We find that utilizing telecommuting would have several benefits over the proposed capital outlay project including being much less costly and allowing for wider recruitment.

Online Adjudication of Infractions. The Governor's budget proposes \$11.5 million (General Fund)—increasing to \$56 million annually beginning in 2023-24—to expand statewide the use of an online adjudication tool. We find that the impacts of the online adjudication tool are still uncertain and could require more funding than currently proposed. It is also premature to expand

the tool statewide prior to the completion of the statutorily required evaluation of the tool. Accordingly, we recommend that the Legislature reject the Governor's proposal.

Bureau of Forensic Services (BFS) Support. The Governor's budget proposes to provide a total of \$49.7 million in one-time and ongoing General Fund to (1) backfill declines in criminal fine and fee revenue supporting BFS; (2) fund the site acquisition and planning phase for a new consolidated forensic science laboratory campus; and (3) fund equipment replacement, facility maintenance, and workload related to recent legislation. We recommend the Legislature approve these proposals. In addition, we also recommend requiring local agencies to partially support BFS beginning in 2021-22 and directing the Department of Justice to develop a plan to implement this change given the substantial benefit BFS provides local agencies. This would provide an ongoing solution to the continued decline in BFS fine and fee revenue.

CRIMINAL JUSTICE BUDGET OVERVIEW

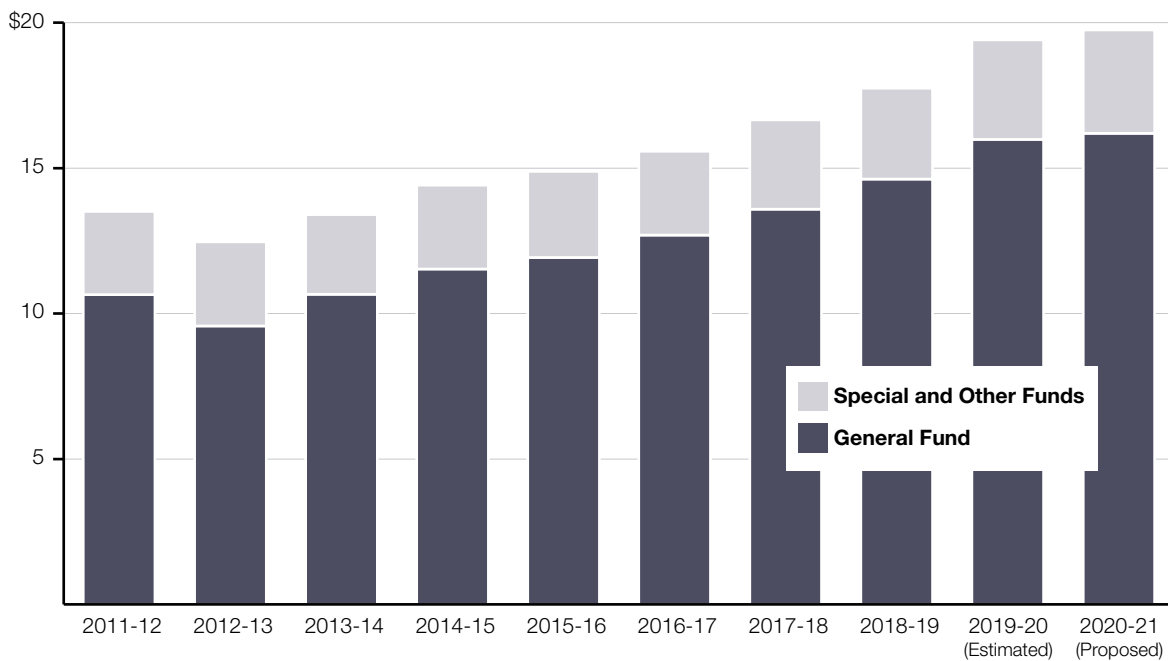
The primary goal of California’s criminal justice system is to provide public safety by deterring and preventing crime, punishing individuals who commit crime, and reintegrating offenders back into the community. The state’s major criminal justice programs include the court system, the California Department of Corrections and Rehabilitation (CDCR), and the California Department of Justice (DOJ). The Governor’s budget for 2020-21 proposes total expenditures of \$19.7 billion for the operation of judicial and criminal justice programs. Below, we describe recent trends in state spending on criminal justice and provide an overview of the major changes in the Governor’s proposed budget for criminal justice programs in 2020-21.

State Operational Expenditure Trends

Spending Was Relatively Low Early in the Decade... As shown in **Figure 1**, total state expenditures on the operation of criminal justice programs were relatively low in the early part of the decade. This was primarily due to two factors. First, in 2011 the state realigned various criminal justice responsibilities to the counties, including the responsibility for certain low-level felony offenders. This realignment reduced state correctional spending and was the primary reason for the decrease in expenditures between 2011-12 and 2012-13. Second, the judicial branch—particularly the trial courts—received significant one-time and ongoing General Fund reductions. A major motivation behind both the 2011 realignment and the reductions made to trial courts was the fact that the state faced annual budget shortfalls exceeding

Figure 1

Judicial and Criminal Justice Expenditures (In Billions)



LAO

several billion dollars between 2008-09 and 2012-13 due to the Great Recession.

...But Has Increased Steadily Since Then.

However, overall spending for the operational support of criminal justice programs has increased steadily since 2012-13. This was largely due to additional funding for CDCR and the trial courts. For example, increased CDCR expenditures resulted from (1) the cost of complying with court orders related to prison overcrowding and improving inmate health care, (2) increased employee compensation costs, and (3) spending on costs deferred during the fiscal crisis. (For more information on this issue, please see our recent brief *State Correctional Spending Increased*

Despite Significant Population Reductions.) During this same time period, various augmentations were provided to the trial courts to offset reductions made in prior years and to fund specific activities.

Governor’s Budget Proposals

Total Proposed Spending of \$19.7 Billion in 2020-21. As shown in **Figure 2**, the Governor’s 2020-21 budget includes a total of \$19.7 billion from all fund sources for the operation of judicial and criminal justice programs (excluding planned capital outlay expenditures). This is a net increase of \$341 million (2 percent) over the revised 2019-20 level of spending. General Fund spending is proposed to be \$16.2 billion in 2020-21, which

Figure 2

Judicial and Criminal Justice Budget Summary

(Dollars in Millions)

	Actual 2018-19	Estimated 2019-20	Proposed 2020-21	Change From 2019-20	
				Actual	Percent
Department of Corrections and Rehabilitation	\$12,597	\$13,320	\$13,395	\$75	0.6%
General Fund ^a	12,278	13,014	13,088	75	0.6
Special and other funds	319	306	306	—	—
Judicial Branch^b	\$3,801	\$4,330	\$4,367	\$37	0.9%
General Fund	1,860	2,240	2,192	-48	-2.1
Special and other funds	1,941	2,090	2,176	85	4.1
Department of Justice^c	\$902	\$1,086	\$1,107	\$22	2.0%
General Fund	291	360	370	10	2.8
Special and other funds	611	725	737	12	1.6
Board of State and Community Corrections	\$185	\$381	\$298	-\$83	-21.7%
General Fund	93	255	127	-128	-50.2
Special and other funds	92	126	171	46	36.4
Department of Youth and Community Restoration^d	—	—	\$290	\$290	—
General Fund	—	—	284	284	—
Special and other funds	—	—	5	5	—
Other Departments^e	\$265	\$290	\$291	\$1	0.2%
General Fund	95	112	132	20	17.8
Special and other funds	169	178	159	-19	-10.9
Totals, All Departments	\$17,750	\$19,407	\$19,748	\$341	1.8%
General Fund	14,618	15,981	16,194	213	1.3
Special and other funds	3,131	3,426	3,555	129	3.8

^a Does not include revenues to General Fund to offset corrections spending from the federal State Criminal Alien Assistance Program.

^b Includes funds received from local property tax revenue.

^c Does not include funding related to the National Mortgage Settlement.

^d Was previously the Division of Juvenile Justice within the Department of Corrections and Rehabilitation.

^e Includes Office of the Inspector General, Commission on Judicial Performance, California Victim Compensation Board, Commission on Peace Officer Standards and Training, State Public Defender, funds provided for trial court security, and debt service on general obligation bonds.

Note: Detail may not total due to rounding.

represents an increase of \$213 million (1 percent) above the revised 2019-20 level. We note that this increase does not include increases in 2020-21 employee compensation costs for these departments, which are budgeted elsewhere. If these costs were included, the increase would be somewhat higher.

Major Spending Proposals. The most significant piece of new spending included in the Governor's budget relates to a \$108 million General Fund augmentation for the trial courts. In addition, the budget includes \$71 million from the General Fund to support proposed

changes in the way county probation departments supervise misdemeanor probationers (\$60 million) and modifications to an existing grant program supporting county probation departments (\$11 million). The budget also provides \$35 million General Fund for various proposals to expand rehabilitation programs within CDCR, including \$27 million to provide technology for inmates participating in academic programs. We note that the proposed spending increases are partially offset by decreases in funding, primarily due to the expiration of one-time grant funding previously provided to the Board of State and Community Corrections (BSCC).

CROSS-CUTTING ISSUES

COMBINING THE STATE'S PROGRAMS FOR VICTIMS OF CRIME

We recommend that the Legislature direct the administration to report at budget committee hearings on their time line for consolidating programs that serve victims of crime. If the administration is unable to provide a time line acceptable to the Legislature, we recommend that the Legislature consider directing the administration to complete the consolidation within a designated time frame. The specific time line for the consolidation could be developed in consultation with the Office of Emergency Services (OES) and the California Victim Compensation Board (CalVCB). We further recommend that the time line for consolidation be specified in budget trailer legislation to ensure that the Legislature's direction to the administration continues to be clear.

Background

Numerous Recommendations to Consolidate Victim Programs. The state maintains numerous programs that serve victims of crime, such as grants to organizations that support victims of child abuse, human trafficking, domestic violence, or other types of trauma. These programs are

generally administered by OES and CalVCB. Since 2002, several entities—including the California Business, Consumer Services, and Housing Agency; the Little Hoover Commission; the State Auditor; and our office—have identified weaknesses in the state's administration of programs serving victims of crime and have argued for greater coordination and consolidation of these programs. For example, in our March 2015 report, *The 2015-16 Budget: Improving State Programs for Crime Victims*, we found that (1) current victim programs administered by OES and CalVCB lack coordination, (2) the state is likely missing opportunities for federal grants, (3) many programs are small and appear duplicative, and (4) narrowly targeted grant programs undermine prioritization. To address these weaknesses, we recommended that all victim programs be consolidated under a restructured CalVCB that focuses solely on victim programs. We also recommended that the Legislature require the new board to develop a comprehensive strategy for addressing the key weaknesses in the state's victim programs.

Legislature Required Administration to Create a Plan for Consolidation. Following our 2015 report, the Legislature enacted Supplemental Reporting Language (SRL) as part of the 2015-16 budget package requiring that the administration—working with CalVCB and

OES—submit a plan by January 10, 2016 to consolidate the state’s victim programs under the same administering entity. In response to the SRL, CalVCB and OES provided a report that summarized CalVCB and OES’s respective roles related to victim services and provided some examples of CalVCB and OES’s ongoing efforts to collaborate. However, the report failed to provide the required consolidation plan. Accordingly, as part of the *2018-19 Budget Act*, the Legislature adopted provisional language requiring CalVCB and OES to provide a report to the Legislature by January 10, 2019 with options and recommendations for consolidating the state’s victim programs under one entity. In response to this requirement, CalVCB and OES prepared a more comprehensive report. This report contained a number of recommendations, including (1) a phased approach to consolidating victim programs, starting with implementing various steps to improve coordination between CalVCB and OES, and (2) a detailed consolidation plan in December 2019.

Governor Expressed Intention to Consolidate Victim Programs. In the administration’s summary 2019-20 budget, the Governor indicated his plans to submit a proposal in 2020-21 to consolidate the state’s victim programs within a single department. He further indicated that this proposal was aimed at addressing the problem of the state administering dozens of victim programs through multiple state departments in a manner that is not designed to maximize ease of access for victims.

Governor’s Proposal

Despite the Governor’s intention to pursue a consolidation as part of his proposed 2020-21 budget, the Governor’s budget does not include a specific proposal. Rather, the administration states that while it still intends to pursue this consolidation, the plan has been temporarily paused. The administration indicates that this pause is driven by (1) the complexity of the consolidation of the state’s victim programs and (2) OES’s limited capacity to implement the consolidation given its role in coordinating response and recovery efforts related to recent disasters. Based on our discussions with the administration,

we understand that there is currently no set time line for proceeding with the consolidation effort.

Assessment

Consolidation of Victims Programs Continues to Make Programmatic Sense. We continue to find that consolidating all victim programs under a single department would improve services for victims of crime by enhancing coordination and maximizing the use of federal funds. Furthermore, we continue to find that this department should be focused entirely on victims. This point is reinforced by the fact that, according to the administration, OES was unable to pursue consolidation efforts because of its need to focus on disaster response.

Rationale for Delay Is Not Compelling and Lack of Revised Time Line Is Problematic.

We do not find the administration’s rationale for pausing its effort to consolidate victim programs indefinitely to be compelling. While there are complexities associated with such a reorganization, the Governor is proposing several others as part of the 2020-21 budget. Notably, one of these reorganizations involves bringing another entity—the Seismic Safety Commission—under OES. If OES can expand its capacity to take on the Seismic Safety Commission, it seems reasonable that it should have sufficient capacity to continue the effort to consolidate victim programs. Accordingly, at a minimum, we think it is reasonable for the Legislature to expect a revised time line for completing this consolidation.

Recommendation

Require OES and CalVCB to Report at Budget Hearings on Time Line for Consolidation.

We recommend that the Legislature direct the administration—including CalVCB and OES—to report at budget committee hearings on their time line for consolidating programs that serve victims of crime in a timely manner. This information is important for the Legislature to have given its demonstrated interest in consolidation.

If the administration is unable to provide a time line for consolidation that is acceptable to the Legislature, we recommend that the Legislature consider directing the administration to complete the consolidation within a designated time frame.

The specific time line for the consolidation could be developed in consultation with OES and CalVCB to ensure that it is realistic given the complexities involved. We further recommend that the time frame for consolidation be specified in budget trailer legislation to ensure that the Legislature's direction to the administration continues to be clear.

PROBATION FUNDING AND REFORMS

The Governor proposes \$71 million General Fund in 2020-21 and budget trailer legislation to (1) modify the SB 678 funding formula, (2) require increased supervision of certain misdemeanor probationers and provide limited-term funding for this supervision, and (3) reduce the length of time individuals are on felony and misdemeanor probation. We find that the changes to the SB 678 formula could have various unintended consequences and thus recommend the Legislature reject these changes. In addition, we find that requiring supervision of certain misdemeanor probationers would likely not prevent misdemeanor probationers from going to prison. As an alternative, we recommend the Legislature expand the SB 678 funding formula to include misdemeanor probationers, which would more likely reduce the number of misdemeanor probationers sent to prison. Finally, we find that reducing the length of time individuals spend on probation could increase jail and prison sentences and thus recommend the Legislature reject the proposal.

Background

Overview of Sentencing. Criminal cases can be resolved through plea bargains—agreements for the defendant to plead guilty, typically in exchange for the prosecutor reducing charges or recommending a specific sentence—or through trials. Trials can be decided by a judge or by a jury. In the event that a plea deal is accepted or a guilty verdict is issued, a judge will then hold a hearing to deliver a sentence. Judges have discretion to sentence individuals as

authorized by statute and can choose to accept, modify, or deny plea deals.

Sentencing law generally defines three types of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime. Existing law classifies some felonies as “violent” or “serious,” or both. Examples of violent felonies include murder and robbery. While almost all violent felonies are also considered serious, some felonies are only defined as serious, such as assault with intent to commit robbery. A misdemeanor is a less serious offense. Misdemeanors include crimes such as assault, petty theft, and public drunkenness. An infraction is the least serious offense and is generally punishable by a fine.

Felony Sentencing. Offenders convicted of felonies can be sentenced as follows:

- **County Jail or Split Sentence.** Felony offenders who have no prior or current convictions for serious, violent, or sex offenses are generally sentenced to county jail. Courts may sentence such offenders to spend their entire sentence in county jail. Alternatively, courts may require such offenders to serve a “split sentence” with a portion of their sentence being in jail and a portion being in the community under “mandatory supervision” provided by a county probation officer. Offenders who violate the terms of their community supervision are typically returned to county jail. However, if they commit a new prison-eligible crime, they can be sentenced to prison.
- **State Prison and Parole or Post-Release Community Supervision (PRCS).** Felony offenders who are ineligible for county jail because of their criminal history are sentenced to state prison. Upon release from prison, offenders with a current serious or violent offense are supervised in the community by state parole agents. The remainder of offenders are generally placed on PRCS and supervised by county probation officers. Offenders who violate the terms of their supervision are typically placed in county jail. However, if they commit a new felony, they can be sent to prison.

- **Felony Probation.** Instead of sentencing felony offenders to prison, county jail, or a split sentence, a court may place an offender on felony probation, depending on the offender's criminal history. Individuals placed on felony probation are typically assigned to a county probation officer who supervises them in the community. Probation can last up to five years or the maximum sentence for the offender's crime, whichever is greater. Courts can change the terms of an individual's probation at any time and can choose to discharge an individual from probation early for reasons such as good conduct and progress towards rehabilitation. Offenders who violate the terms of their probation can be subject to the felony sentence that they would have otherwise received, such as being sentenced to state prison.

Misdemeanor Sentencing. An individual convicted of a misdemeanor can be sent to jail or placed on misdemeanor probation. Unless an offender is convicted of multiple misdemeanors, jail sentences for misdemeanors cannot exceed one year but many have lower maximum sentences such as six months. Misdemeanor probation can last for up to three years. Offenders who violate the terms of their supervision can be subject to the misdemeanor sentence that they would have otherwise received, such as being sentenced to jail. However, many individuals on misdemeanor probation are not actively supervised by probation officers. Misdemeanor offenders who commit new prison-eligible felonies can be sent to prison.

California Performance Incentives Act (SB 678). Chapter 608 of 2009 (SB 678, Leno) was enacted to incentivize counties to reduce the rate at which they sent felony probationers to state prison—known as the felony probation failure rate. Under SB 678, counties received a portion of the state correctional savings that resulted from reductions in the felony probation failure rate. Chapter 26 of 2015 (SB 85, Committee on Budget and Fiscal Review) updated the formula to award counties for reductions in the rate at which the other felony supervision populations—offenders on PRCS and mandatory supervision—are sent to prison. Accordingly, this gave counties the incentive

to reduce the overall felony supervision failure rate, rather than just the felony probation failure rate. Chapter 26 also adjusted the SB 678 funding formula to reduce the volatility of the funding awarded to counties. Under Chapter 26, counties receive funding based on the following three components:

- **Funding for Reducing Felony Supervision Failure Rate Below Prior Year.** The first funding component compares a county's most recent annual felony supervision failure rate with the rate from the previous year. If the failure rate is lower than the previous year, the county receives 35 percent of the estimated state correctional savings associated with that reduction. This is intended to incentivize counties to continue to reduce the felony supervision failure rate each year.
- **Funding for Reducing Felony Supervision Failure Rate Below Baseline.** The second funding component compares a county's felony supervision failure rate to a statewide baseline felony supervision failure rate of 7.9 percent. Depending on how the county's rate compares to the baseline, the county will receive between 40 percent and 100 percent of the highest payment they received between 2011-12 and 2014-15. This is intended to (1) incentivize counties to reach a rate that is below the baseline and (2) ensure that a county that is already below the baseline will continue to receive funding even if it is not able to further reduce its rate.
- **Funding to Guarantee \$200,000 Minimum Award.** The third component guarantees that each county receives at least \$200,000. If the first two components total less than this amount, the county's award is increased to \$200,000. This is intended to ensure counties continue to receive at least some state funding.

Counties can only use SB 678 funding to provide supervision and rehabilitation services for offenders on felony supervision. Examples of how this funding could be used include electronic monitoring and evidence-based rehabilitation programs, such as cognitive behavioral treatment. In addition, counties

are required to evaluate the effectiveness of their programs and practices and can use the funding to pay for these evaluations.

Governor's Proposals

The Governor's budget for 2020-21 includes various proposals totaling \$71 million General Fund (declining to \$11 million annually by 2024-25) and budget trailer legislation that would (1) modify the SB 678 funding formula, (2) require increased supervision of certain misdemeanor probationers and provide limited-term funding to support this supervision, and (3) reduce the length of time individuals would be on felony and misdemeanor probation. We describe these changes in greater detail below.

Modification to SB 678 Funding Formula (\$11 Million). The Governor proposes budget trailer legislation to modify the SB 678 funding formula in an effort to further reduce the volatility in the funding that the program provides to counties. Under the Governor's proposal, counties would no longer receive funding based on their felony supervision failure rate. Instead, counties would receive a set amount each year equal to the highest award they received between 2017-18 and 2019-20. To fund this change, the administration is proposing \$11 million from the General Fund on an ongoing basis.

However, the amount a county receives could be reduced in the future if the county increases the number of felons on community supervision they send to prison in multiple years. Specifically, counties would receive warnings if there is an increase in the total number of individuals on felony supervision who are sent to prison in a given year that exceeds the county's baseline amount by ten individuals or 24 percent (whichever is greater). The baseline for each county would be equal to the average number of individuals on felony supervision who were sent to prison between 2016 and 2018. A county's funding in a given year would be reduced to 50 percent of its prior year award if the county had received two or more warnings in the three preceding years. However, as is currently the case, counties would be guaranteed at least \$200,000 in funding.

The administration is also proposing to broaden the allowable uses of SB 678 funds to include services and supervision for misdemeanor probationers. As we discuss below, this is intended to help counties offset the costs associated with the Governor's proposal to require increased supervision of certain misdemeanor probationers.

Increased Misdemeanor Probation Supervision and Funding (\$60 Million).

The Governor proposes requiring probation departments to more actively supervise individuals on misdemeanor probation for certain offenses. Specifically, departments would be required to actively supervise misdemeanor probationers whose offenses are related to the unlawful possession of firearms, theft, domestic violence, and certain sex offenses.

In addition, the Governor's budget includes increased General Fund support over a four-year period—\$60 million annually in 2020-21 through 2022-23, and \$30 million in 2023-24—for county probation departments to increase the level of supervision provided to individuals on misdemeanor probation for the above offenses. The funding is intended to support the required increase in supervision for four years. After the four-year period, counties would continue to be required to provide increased supervision to the specified misdemeanor probationers but would need to use their own funds to do so, as state funding would no longer be provided specifically for this purpose. Due to the Governor's proposed change in the allowable uses of SB 678 funds mentioned above, counties could choose to use that funding to pay for these costs.

According to the administration, the above changes are in response to an increase in the number of individuals with prior terms of misdemeanor probation being admitted to prison. The administration indicates that requiring the supervision of misdemeanor probationers and providing limited-term funding to support the supervision would reduce the likelihood that such individuals end up in prison.

Reduce Length of Felony and Misdemeanor Probation Supervision. The Governor proposes to reduce the maximum amount of time individuals could spend on felony and misdemeanor probation

to the lesser of (1) two years or (2) the maximum term of incarceration for their crime. In practice, this would mean that misdemeanor probation would be capped at one year—the maximum term of incarceration for misdemeanors—unless the offender had been convicted of multiple misdemeanors.

The Governor also proposes establishing a process to allow individuals on felony probation or on misdemeanor probation for one of the misdemeanors requiring supervision to be discharged early. Under the proposal, county probation departments would be required to discharge such individuals from probation if they have substantially complied with the terms of their probation for one year.

According to the administration, the above changes should result in counties providing increased supervision and services earlier in the probation term, when research indicates individuals are more likely to recidivate. The administration indicates that this should lead to improved outcomes for misdemeanor probationers and reduce the number of such probationers sent to prison.

Assessment

Proposal to Address SB 678 Volatility Is Unnecessary and Could Create Unintended Consequences. As discussed earlier, the Governor proposes to reduce the volatility in the SB 678 funding that is provided to counties. However, we find that the fluctuations in SB 678 funding are generally relatively small compared to the total budgets for county probation departments. On average, the difference between the minimum and maximum award counties received over the last three years was less than \$400,000, or about 1 percent of the average probation department budget in 2017-18 (the most recent data available).

Moreover, we find that that administration's proposal to change the SB 678 funding formula is problematic and can result in unintended consequences. Specifically, we find the following:

- ***Proposal Could Actually Increase Volatility and Harm Future Performance.*** Under the Governor's proposal, counties would be

penalized and receive less funding if they increase the total number of individuals on felony supervision who are sent to prison over multiple years and receive two or more warnings. Such counties could actually experience more volatility once penalized. This could make it difficult for a county to recover once its funding has been cut. For example, if a county receives two warnings in the three most recent years, it would only receive 50 percent of its prior-year award. If the county then received another penalty in the following year, its funding would be reduced by another 50 percent. As a result, if a county received multiple penalties in a row, its funding could eventually be reduced to the minimum of \$200,000. This means the proposed changes could actually increase rather than reduce volatility in SB 678 funding. Moreover, the proposed penalties could reduce the availability of resources for counties to pursue evidence-based practices. As a result, not only would funding levels be highly volatile, the funding structure could undermine future performance if reduced resources lead to counties providing fewer services. **Figure 3** provides an example of how a county that starts out with a \$1 million award could be impacted by the proposed funding formula in this way.

- ***Proposal Undermines Incentive to Reduce Prison Population.*** The current formula for SB 678 incentivizes counties to continue to reduce the prison population by reducing the felony supervision failure rate. In contrast, under the proposed approach, counties would only be incentivized to keep the number of individuals sent to prison low enough to avoid a warning. Removing the incentive for further reductions would undermine the legislative intent of SB 678.
- ***Number of Supervised Individuals Could Distort Penalties and Rewards.*** The proposed formula would be based on the number of individuals on felony supervision who are sent to prison rather than on changes to the felony supervision failure rate. This means that counties that have an increase

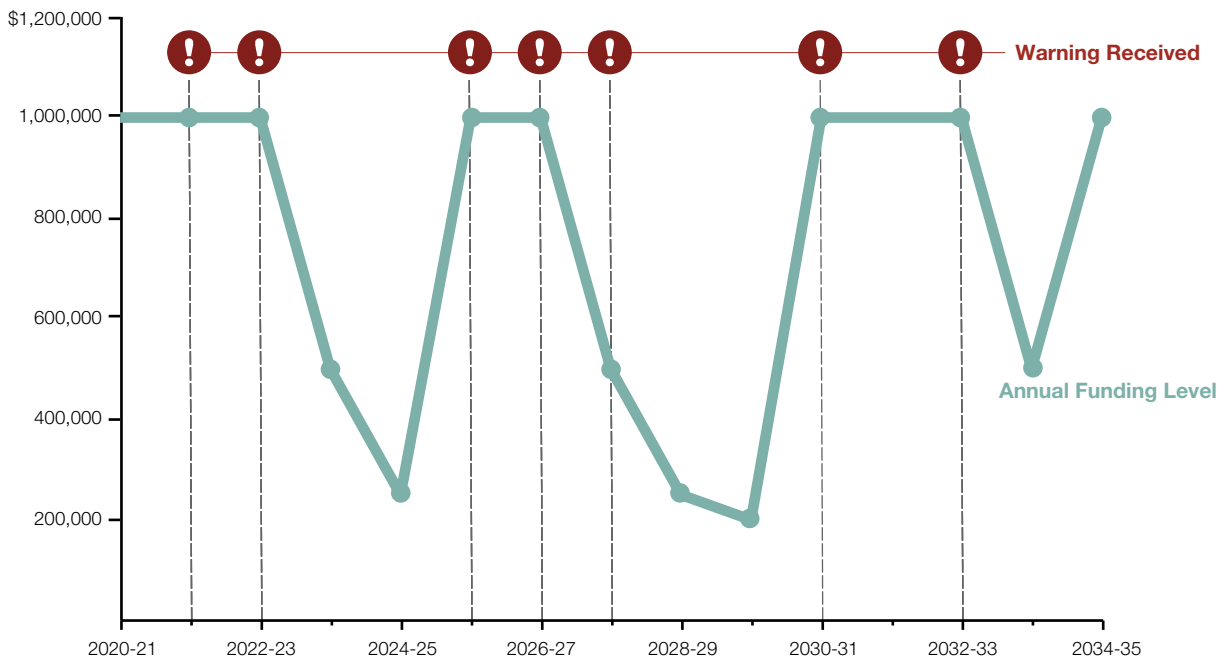
in the number of individuals on felony supervision could potentially be penalized for maintaining or even improving their felony supervision rate. It could also mean that counties whose felony supervision populations decline could have an increase in the felony supervision failure rate without being penalized. **Figure 4** (see next page) provides two hypothetical scenarios of a county (County A) getting a warning despite improved performance while another county (County B) does not get a warning despite more than doubling its felony supervision failure rate. Given the administration’s proposal to reduce the length of supervision, it is likely that felony supervision populations could decline significantly, making scenarios similar to the one illustrated for County B more likely.

Proposed Increase in Misdemeanor Probation Supervision Problematic... The administration states that requiring counties to supervise certain misdemeanor probationers and providing limited-term funding for misdemeanor supervision and services would reduce the number of misdemeanor probationers who eventually end up in prison. However, the following aspects of the proposal make it unlikely that this would occur.

- **Funding Provided Irrespective of Success.** Unlike the current SB 678 funding formula for individuals on felony supervision, the proposed resources for misdemeanor probation would not be based on the extent to which counties reduce the number of individuals who are sent to prison. Instead, counties would receive these funds irrespective of whether they reduce prison commitments.

Figure 3

Example of How Proposal Could Cause a County's SB 678 Funding to Fluctuate^a



^a If a county receives two warnings in three years, its SB 678 funding would be cut to half of the prior year's award as a penalty.

Figure 4

County Funding Levels Could Be Impacted by Warnings Caused by Population Changes Rather Than Performance^a

County A

	Felony Supervision Population	Failures	Failure Rate
Baseline	2,000	200	10%
New	3,000	250	8%
Change	50% ↑	25% ↑	-2% ↓



Warning Received

Number of Failures Increased More Than 24 Percent Despite Lower Failure Rate.

County B

	Felony Supervision Population	Failures	Failure Rate
Baseline	2,000	250	13%
New	1,000	300	30%
Change	-50% ↓	20% ↑	18% ↑



No Warning Received

Number of Failures Increased Less Than 24 Percent Despite Large Increase in Failure Rate.

^a A county would receive a warning if the number of failures exceeds the baseline by 24 percent or ten individuals (whichever is greater). If a county receives two warnings in three years, their SB 678 funding would be cut to half of the prior year's award as a penalty.

- **Lack of Incentive for Counties to Actually Increase Service Levels.** While the administration intends to increase services for individuals on misdemeanor probation, it is not clear that counties would actually increase such services. This is because the proposal only requires the supervision of certain individuals on misdemeanor probation but does not require counties to provide additional services. We note that counties currently have the authority to provide services to misdemeanor probationers. If counties thought this was an effective use of their funding, they would likely already be providing these services.

- **Could Prevent Counties From Using Resources in More Effective Ways.** Research suggests that the most effective way to reduce recidivism is to concentrate resources on individuals with a high risk to reoffend and a high need for services. However, the proposal's supervision requirement would be based on the individual's offense rather than the individual's risk of reoffending or need for services. As a result, the proposal could result in resources being unnecessarily spent on misdemeanor probationers that are low risk and/or low need instead of allowing those resources to be used in ways that could be more effective at reducing recidivism.

...and More Effective Alternative Exists. We find that expanding the current SB 678 funding formula to award counties for reducing the rate at which misdemeanor probationers are sent to prison is a better approach to reducing the number of such individuals in prison relative to the Governor's proposal. First, unlike the administration's approach, it would give counties an ongoing fiscal incentive to reduce the number of misdemeanor probationers sent to prison. Second, it would also give counties the flexibility to focus supervision and services on the misdemeanor probationers they have identified as having the highest risks and needs rather than requiring counties to focus on individuals on probation supervision for specific offenses. This could ultimately help reduce the state's prison population and create state savings, that would be partially shared with the counties responsible for creating it.

Reducing Probation Terms and Mandating Early Discharge Could Have Unintended Consequences. While reducing probation terms might result in counties choosing to provide additional supervision and services earlier in the probation term, it would likely have unintended consequences.

- Limit on Probation Terms Could Increase Sentences to Jail and Prison.** Courts already have the discretion to both set an individual's probation at two years or less. If courts determine that someone should be on probation for more than two years, the court likely feels that the individual would not be ready to be in the community unsupervised before that time. It is unlikely that the Governor's proposed limits would change this sentiment. Instead, because the two-year limit would only apply to probation, it might lead courts to consider other sentencing options that would result in offenders being monitored for a longer period of time. For example, the courts could place an individual in prison which would then be followed by parole or PRCS. We would note that because such alternatives to probation involve incarceration, it would also result in more individuals being placed in jail or prison.
- Requiring Early Discharge Could Increase Sentences to Jail and Prison** Similarly, mandating that probation departments provide probationers early discharge if they generally comply with the terms of their supervision could further disincentive courts from placing an individual on probation. Courts already have the discretion—and a process established in statute—to terminate an individual's probation early for reasons such as good conduct and progress towards rehabilitation. As a result, the proposed early discharge process would only make a meaningful difference in cases where it results in an individual being released earlier than the courts would otherwise authorize. Courts might consider this when determining how to sentence such an individual and, in order to prevent this from occurring, might send the individual to prison or jail.
- Changes Could Result in More Plea Bargains Requiring Incarceration.** While many cases would likely continue to be settled with plea bargains, we note that reducing the length of probation and judicial discretion in decisions to terminate probation early might also be a concern for prosecutors. For example, under the current process prosecutors can weigh in on decisions to terminate probation early but the proposed early discharge process does not include such a role for prosecutors. As a result, prosecutors might be more reluctant to propose or accept plea bargains involving probation for reasons similar to those above. This could result in a larger portion of plea bargains involving prison or jail.

Recommendations

Reject Proposal to Stabilize SB 678 Funding. We recommend that the Legislature reject the Governor's proposed statutory changes to SB 678 and \$11 million augmentation to support these changes. We find that the Governor's proposal is unnecessary as the current volatility in SB 678 funding appears to be relatively low. In addition, we find that the proposed changes to the formula could have a number of unintended consequences,

such as increasing the volatility of the funding counties receive and reducing their incentive to keep felony probationers out of prison.

Reject Misdemeanor Probation Proposal and Instead Expand SB 678. We recommend that the Legislature reject the Governor's proposal to require counties to supervise individuals on probation for certain misdemeanor offenses, given that it appears unlikely that the proposal would effectively prevent misdemeanor probationers from going to prison. Instead, we recommend the Legislature expand the current SB 678 funding formula to reward counties for keeping misdemeanor probationers out of prison. We find that this would be more likely to reduce the number of misdemeanor probationers who are sent to prison. We note that if the Legislature chose to expand SB 678 to include misdemeanor probationers, it could consider providing counties with some initial funding to assist in the expansion of evidence-based practices and services for this population. For example, the Legislature could redirect the \$60 million for misdemeanor supervision proposed by the Governor in 2020-21, or a different amount, for this purpose on a limited-term basis. This would allow counties to create evidence-based services for misdemeanor probationers that would help prevent them from being sent to prison. As a result, counties would receive a portion of the resulting state savings to maintain and expand such services.

Reject Proposal to Reduce Probation Terms. We recommend that the Legislature reject the Governor's proposal to reduce probation terms by limiting them to two years and instituting mandatory early discharge. We are seriously concerned that these changes could have unintended consequences, such as increasing the number of individuals who are sentenced to jail or prison rather than probation.

INDIGENT DEFENSE GRANT PROGRAM

We recommend that the Legislature direct the administration to provide specific details regarding the proposed pilot program for indigent defense services (such as the

primary goals of the program and the types of activities that would be funded) by April 15, 2020. Pending receipt of this information, we recommend the Legislature withhold action on the Governor's proposal.

Background

Counties Generally Responsible for Providing Attorney Representation in Criminal Cases. Both the federal and state Constitution guarantee certain rights to defendants in criminal cases, including the right to the assistance of an attorney in their defense. The state has generally delegated responsibility for providing such assistance to the counties. As such, counties are typically responsible for funding defense attorneys for indigent defendants (generally defined as individuals who cannot afford their own attorneys) in criminal cases. Counties provide defense attorneys to indigent defendants in three ways: (1) establishing a county-operated public defender's office, (2) contracting with private law firms or practitioners, and (3) paying for attorneys appointed by the court. In 2017-18, counties reported spending roughly \$1 billion on public defense attorney representation.

Concerns With Effective Defense Representation. In recent years, concerns have been raised about the effectiveness of the representation counties provide to indigent defendants. For example, the ACLU and certain private law firms sued the State of California and Fresno County alleging that the state and Fresno County are failing to provide meaningful and effective legal defense representation to indigent defendants in criminal cases. The litigation raised various concerns, including the lack of appropriate levels of funding for defense representation, the lack of parity in funding between prosecutors and defense attorneys, excessive defense attorney caseloads, and the lack of necessary training to ensure meaningful representation of clients. Similar concerns have been raised in other states as well.

Governor's Proposal

The Governor's budget proposes \$10 million General Fund (one time) for the Board of State and Community Corrections (BSCC) to administer a

pilot program, in consultation with the Office of the State Public Defender, to provide grants to eligible county public defender offices for indigent defense services. Of this amount, up to \$200,000 would be available for BSCC to contract for an evaluation of the pilot grant program. Finally, grant recipients would be required to report on the use of this funding to BSCC. The administration indicates that additional details about the proposed pilot program will be forthcoming.

Ensure Proposed Grant Program Is Consistent With Legislative Priorities

While it is possible that the proposed pilot grant program could be worthwhile, the Legislature currently does not have sufficient information from the administration to effectively evaluate its merits. Accordingly, the Legislature will want to ensure that the administration provides additional information that clearly outlines what specific goals the program is intended to achieve and what specific activities the funds would support. For example, it is currently not clear whether the program is intended to reduce caseloads, improve the quality or consistency of defenses raised by attorneys, or achieve some other goal. Knowing the goals of the program and how the funds would be used would help the Legislature determine whether the program is structured in a manner consistent with its priorities.

Additionally, given that the program is a pilot, the Legislature will want to ensure the administration

provides clear information on how funded programs and activities would be evaluated and the specific information that would be collected to do so. Such information is important as it would help ensure that data is collected consistently to enable comparisons between counties and between funded programs and activities aimed at addressing the same identified goal. More importantly, it would help ensure that the Legislature has sufficient information to determine the effectiveness of the pilot program and whether it should be continued on a larger scale in the future, particularly in the larger context of indigent defense representation.

Recommendation

Withhold Action Pending Additional Information. In light of the above concerns, we recommend the Legislature direct the administration to provide details on the grant program by April 15, 2020. Specifically, such details should include: (1) the primary goals of the proposed grant program, (2) the specific types of programs and activities that would be eligible for funding for each goal, and (3) how funded programs and activities would be evaluated. This information would help the Legislature effectively evaluate whether the program is structured in a manner consistent with its priorities. Until the above information is provided, we recommend the Legislature withhold action on the Governor's proposal. To the extent that the administration is unable to provide the specified details, we would recommend the Legislature reject this proposal.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

OVERVIEW

CDCR is responsible for the incarceration of adult felons, including the provision of training, education, and health care services. As of January 15, 2020, CDCR housed about 123,700 adult inmates in the state's prison system. Most of these inmates are housed in the state's 35 prisons

and 42 conservation camps. About 2,800 inmates are housed in contracted prisons. The department also supervises and treats about 52,100 adult parolees and is responsible for the apprehension of those parolees who violate the terms of their parole. In addition, 769 juvenile offenders are housed in facilities operated by CDCR's Division of Juvenile Justice (DJJ), which includes three facilities and

one conservation camp. However, beginning July 1, 2020, DJJ will be removed from CDCR and become a separate department—the Department of Youth and Community Restoration.

Operational Spending Proposed for 2020-21.

The Governor’s budget proposes total expenditures of \$13.4 billion (\$13.1 billion General Fund) for CDCR operations in 2020-21. **Figure 5** shows the total operating expenditures estimated in the Governor’s budget for the prior and current years and proposed for the budget year. As the figure indicates, the proposed spending level is an increase of \$75 million, or less than 1 percent, from the estimated 2019-20 spending level.

This increase reflects various augmentations, including increased workers compensation costs and funding proposed by the Governor for adult probation departments as a part of a proposal to change probation supervision terms and practices discussed earlier in this report. This additional proposed spending is partially offset by various spending reductions, most notably a reduction reflecting the shift of DJJ and reduced spending for contract beds. (The proposed \$75 million increase does not include anticipated increases in employee compensation costs in 2020-21 because they are accounted for elsewhere in the budget. These increases are currently budgeted to exceed \$100 million.)

Capital Outlay Spending Proposed for 2020-21. The Governor’s budget proposes total expenditures of \$497 million (\$111 million General Fund) for CDCR capital outlay projects in 2020-21.

This amount includes (1) \$92 million in additional General Fund support to continue previously approved projects and to begin four new projects at existing CDCR facilities, (2) \$91 million in new lease revenue bond authority to construct a mental health crisis bed facility at the California Institution for Men in Chino, and (3) \$224 million in previously authorized General Fund lease revenue bonds for various counties to construct or renovate correctional facilities.

TRENDS IN THE ADULT INMATE AND PAROLEE POPULATIONS

We withhold recommendation on the administration’s adult population funding request pending receipt of updated population projections at the May Revision.

Background

As shown in **Figure 6**, the average daily inmate population is projected to be 123,700 inmates in 2020-21, a decrease of about 900 inmates (1 percent) from the estimated current-year level. The average daily parolee population is projected to be 50,500 in 2020-21—roughly the same as the estimated current-year level. The projected decrease in the inmate population is primarily due to the estimated impact of Proposition 57 (2016), which made certain nonviolent offenders eligible for parole consideration and expanded CDCR’s authority to reduce inmates’ prison terms through credits.

Figure 5

Total Expenditures for the California Department of Corrections and Rehabilitation
(Dollars in Millions)

	2018-19 Actual	2019-20 Estimated	2020-21 Proposed	Change From 2019-20	
				Amount	Percent
Adult institutions	\$11,102	\$11,676	\$11,956	\$280	2%
Adult parole	689	750	765	15	2
Administration	556	589	614	25	4
Division of Juvenile Justice ^a	200	245	—	-245	-100
Board of Parole Hearings	51	60	60	-1	-1
Totals	\$12,597	\$13,320	\$13,395	\$75	0.6%

^a Beginning in 2020-21, the Division of Juvenile Justice within CDCR will become a separate department—the Department of Youth and Community Restoration—under the Health and Human Services Agency.

Governor’s Proposal

Net Reduction in Population Funding for Current and Budget Years. The Governor’s January budget plan for 2020-21 proposes a net decrease of \$54.6 million in the current year and a net decrease of \$29.5 million in the budget year related to projected changes in the overall population of adult offenders and various subpopulations (such as inmates housed in contract facilities and sex offenders on parole). The current-year net decrease in costs is primarily due to a larger than anticipated reduction in the use of contract beds and the number of offenders housed in state-operated prisons relative to what was assumed in the *2019-20 Budget Act*. This decrease in cost is partially offset by projected costs, primarily due to increases in parole-related costs relative to what was assumed in the *2019-20 Budget Act*. The budget-year net reduction in expenditures is primarily due to a projected decrease in the inmate population as a result of

Proposition 57, which is partially offset by various increased costs, such as parole-related costs.

Budget Adjustments Will Be Updated in May.

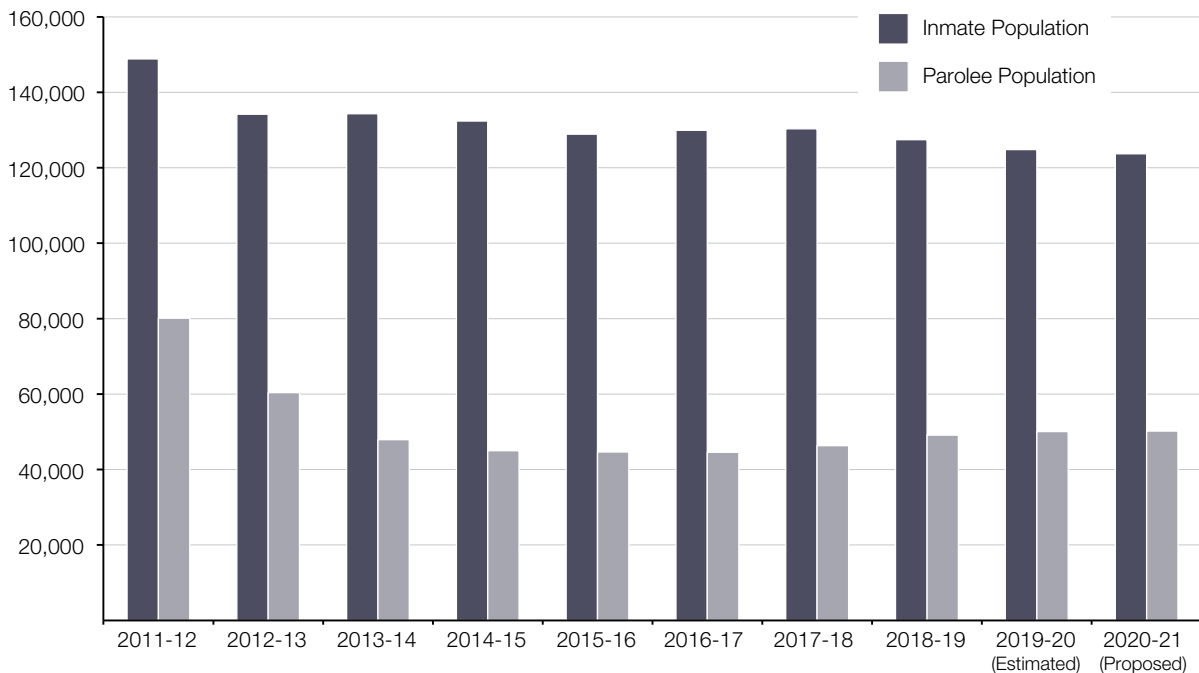
As a part of the May Revise, the administration will update these budget requests based on updated population projections. In addition, the administration indicates that it plans to adjust the projections and associated budget requests to account for the estimated effects of two policy changes: (1) Chapter 590 of 2019 (SB 136, Wiener), which eliminates a one-year sentence enhancement for prior offenses in certain cases and (2) a planned regulatory change that will advance certain inmates’ release consideration dates when they earn credits for certain significant educational achievements.

Recommendation

We withhold recommendation on the administration’s adult population funding request until the May Revision. We will continue to monitor CDCR’s populations and make recommendations

Figure 6

Adult Inmate and Parolee Populations Projected to Decline Slightly



LAO

based on the administration's revised population projections and budget adjustments included in the May Revision.

CONSERVATION CAMPS

Between May 2019 and December 2019, the number of inmates in conservation camps has declined and has averaged only about 2,900 inmates, despite having the capacity for about 4,600 inmates. Given the reduction in state costs that could likely be achieved by increasing the conservation camp population, we recommend that the Legislature direct CDCR to report in spring budget hearings on (1) what options it is considering (if any) to do so and (2) the feasibility of removing restrictions on camp eligibility for certain low-risk inmates.

Background

CDCR Operates Conservation Camps.

CDCR operates 42 conservation camps located throughout the state. Inmates assigned to conservation camps carry out fire suppression work and respond to other emergencies, such as floods and earthquakes. In addition, fire crews work on conservation projects on public lands and provide labor on local community service projects.

Only Certain Inmates May Be Placed in Camps. Inmates generally qualify for placement in camps if CDCR has determined they (1) can be safely housed in a low-security environment, (2) can work outside a secure perimeter under relatively low supervision, and (3) are medically fit for conservation camp work. CDCR generally makes this determination based on various factors including the nature of the crimes inmates are convicted of, their behavior while in prison, and the amount of time they have left to serve on their sentence. For example, CDCR excludes from camps inmates (1) convicted of specific crimes, including sex offenses; (2) who have more than five years left to serve; and (3) who are wanted by outside law enforcement agencies on other charges.

CDCR Offers Various Incentives for Inmates to Seek Placement in Camps. Inmates can generally earn time off of their prison term faster

if housed in a camp than if housed elsewhere. For example, inmates serving terms for violent offenses can earn one day off of their sentences for every day served with good behavior in a camp, while they can only earn one day off for every four days served elsewhere. In addition, inmates are paid between \$1.45 per day and \$3.90 per day depending on their position and an additional \$1 per hour when they are engaged in firefighting work. This is significantly higher than most other inmate jobs, which generally pay between \$0.08 and \$1.00 per hour. Other aspects of camps—such as the food quality and the lower-security environment—also tend to be viewed favorably by inmates compared to standard prison settings.

Recent Decline in Conservation Camp Population. In recent years, CDCR has typically housed roughly 3,500 inmates in camps, which have a capacity of about 4,600 inmates. However, between May 2019 and December 2019, the camp population declined and has averaged only about 2,900 inmates. The administration indicates that Proposition 57 has caused a decline in the overall inmate population, including the number of inmates eligible to be housed in camps. This is because the measure expanded opportunities for inmates to be released earlier than otherwise—such as by allowing CDCR to authorize additional sentencing credits. This means that inmates in camps are completing their sentences faster than CDCR can recruit eligible inmates to replace them. For example, the administration reports that prior to the effects of Proposition 57, inmates spent roughly three to four years in camps on average while they now spend only roughly nine months on average.

Governor's Proposal

The Governor's budget assumes that CDCR's 42 conservation camps will house an average daily population of 2,900 inmates in 2020-21.

Assessment

Increased Utilization of Camp Beds Could Reduce State Costs. Under the Governor's proposal, 37 percent of camp beds would be vacant. To the extent the state could fill a greater portion of these beds, it could likely reduce costs in multiple ways.

- Decreased Use of Contract Prison Beds.** The state currently can only house a limited number of inmates in state-owned and operated prisons due to a federal court-ordered population cap. As such, the state houses some inmates outside of such prisons, including in contract prisons and conservation camps. To the extent the state can increase the number of inmates in conservation camps, it can reduce the number of inmates housed in contract prison beds, which cost about \$18,000 more annually per bed than a camp bed.
- Reduced Inmate Population.** As mentioned above, inmates housed in camps can generally earn time off of their prison sentence faster than if housed elsewhere. Accordingly, placing additional inmates in camps would generally allow those inmates to be released earlier. In turn, this would reduce the state prison population and state costs.
- Potentially Reduced Wildfire Mitigation Costs.** When insufficient inmate crews are available, the state must use other crews—such as those formed by employees of federal agencies or private companies—which can increase costs. Accordingly, increasing the camp population, which would increase the number of inmates available to support state wildfire fighting efforts, could reduce the need to rely on more costly crews.

If the state could increase the camp population by about 600 inmates—returning it to its roughly 3,500 inmate level prior to the effects of Proposition 57—we estimate that the total reduction in state costs could be in the low tens of millions of dollars annually.

State Has Various Alternatives to Increase Camp Population. The state could provide greater incentives for inmates to participate in camps, such as by giving them increased pay. Alternatively, the state could expand inmate eligibility for camps. In a recent report, we identified cases where CDCR's existing eligibility criteria seem to be unnecessarily excluding certain populations of inmates from camps, as well as presented options for removing these restrictions in ways that increase the camp

population without jeopardizing public safety. Specifically, we recommended CDCR create processes for allowing low-risk sex offenders, inmates with more than five years left to serve, and inmates wanted by another law enforcement agency on minor charges into camps. (For more information, see our report *Improving California's Prison Inmate Classification System*.)

Recommendation

In view of the above, we recommend that the Legislature require CDCR to report in spring budget hearings on what options it is considering (if any) to increase the camp population and a time line for implementing such options. We further recommend the Legislature have CDCR report on the feasibility of removing restrictions on camp eligibility for certain inmates, such as inmates with more than five years left to serve. The above information would allow the Legislature to consider whether it wants to direct the department to take any of these steps in order to increase the camp population.

CORRECTIONAL STAFF TRAINING AND JOB SHADOWING

The Governor's budget includes a total of \$21.4 million (General Fund) in 2020-21 to implement various initiatives to improve correctional staff training, such as a facility for hands-on officer training and job shadowing program. While the various training initiatives proposed by the Governor generally appear worthwhile, we recommend that the Legislature reject 42 of the requested 85 positions and associated funding because they have not been fully justified. Accordingly, we recommend reducing the Governor's proposal by \$6.7 million. We also recommend requiring the administration to provide an annual report on training outcomes that could be impacted by the initiatives.

Background

CDCR Correctional Training. CDCR operates a 13 week correctional officer academy at the Richard A. McGee Correctional Training Center in Galt. At the academy, cadets learn the basic

practices of a correctional officer—such as how to search inmate property—in a largely classroom-based setting. Afterward, graduates are assigned to prisons and begin work as correctional officers.

The Commission on Correctional Peace Officer Standards and Training (CPOST) is statutorily responsible for developing, approving, and monitoring standards for the selection and training of correctional officers and supervisory staff, as well as monitoring CDCR's design and delivery of staff training. CPOST is comprised of six members, three appointed by CDCR to represent the department's management and three appointed by the Governor to represent the members of the California Correctional Peace Officers' Association (the union representing CDCR correctional staff). The 2019-20 budget includes \$1.3 million from the General Fund for CPOST and \$83 million from the General Fund for CDCR to deliver training to peace officers.

Governor's Proposal

The Governor's budget includes a total of \$21.4 million (General Fund) and 54 positions in 2020-21 to (1) renovate and staff a facility to be used for hands-on officer training, (2) implement a job shadowing program for new correctional officers, (3) provide additional staff for CPOST, and (4) increase training for correctional counselors. (Under the proposal, the funding would generally decrease and the positions would increase until reaching \$19.8 million and 85 positions in 2023-24 and annually thereafter.)

New Facility for Hands-On Training (\$8.2 Million). Under the Governor's proposal, CDCR would convert a former prison located in Stockton into a facility to provide hands-on training to cadets on topics such as transportation of inmates, contraband surveillance, and escape prevention. The department also plans to offer a new training called "Day in the Life." At the time of this analysis, however, CDCR was not able to provide information on the specific topics that this training would cover. The training would be integrated into the 13 week academy, allowing cadets to receive a combination of classroom and hands-on training. The department indicates that

this is necessary to ensure that correctional officers do not start their jobs lacking key experiences that are currently not available at the academy. According to CDCR, providing this type of training will improve inmate and staff safety and morale as well as reduce unnecessary use of force and related litigation. The Governor's budget includes \$8.2 million and 17 positions in 2020-21 for the new training facility. Under the proposal, the level of resources would fluctuate until reaching \$7.6 million and 48 positions in 2023-24 and annually thereafter. These 48 positions would include 28 instructional sergeants, 16 maintenance staff, and 1 sergeant to provide perimeter security.

Job Shadowing Program for New Correctional Officers (\$11.5 Million). The department proposes to require new correctional officers to shadow experienced officers for three weeks before the new officers are placed in their permanent assignments. The Governor's budget provides a total of \$11.5 million in ongoing resources for the program. This amount includes (1) \$5.2 million to pay the new officers' salaries during these three weeks and (2) \$6.3 million to support 35 correctional sergeant positions (one per prison). These sergeants would coordinate the new job shadowing program and perform various other duties related to staff training that the department indicates have grown in recent years beyond a level that can be accommodated by existing staff.

Additional CPOST Staff (\$524,000). The Governor's budget provides \$524,000 in 2020-21 (decreasing to \$462,000 annually beginning in 2021-22) for CPOST to add two new supervisor-level positions. CPOST indicates that without these positions, it cannot effectively provide oversight of standards and training for CDCR's management and supervisory positions. According to CPOST, the additional staff would allow it to better monitor and evaluate outcomes associated with increased staff training, such as use of workers compensation, employee attrition, and morale.

Additional Training for Correctional Counselors (\$1.2 Million). Correctional counselors compile and maintain information about inmates—such as their criminal and medical histories—and assist with assigning inmates to appropriate housing settings and rehabilitation programs.

The Governor's budget proposes \$1.2 million in 2020-21 (decreasing to \$312,000 annually in 2021-22) for CDCR to provide training to correctional counselors related to communication and case management skills. The department reports that this is necessary as current training for these staff is focused on knowledge of department policies and regulations but lacks sufficient training on interpersonal communication, which is an important element of their work.

Assessment

Portions of Requested Funding Are Not Fully Justified. We find that efforts to integrate hands-on training into the academy, implement a job shadowing program for new officers, provide additional staff for CPOST, and expand training for correctional counselors appear reasonable and worthwhile. However, the following portions of the requested funding have not been fully justified:

- **Instructors for Day in the Life Training.** One of the 19 trainings that CDCR plans to offer at the new facility—called Day in The Life—would drive one-quarter of the workload for the 28 new instructional sergeants requested for the facility. However, at the time of publication, the department had not explained what this course would entail and why it believes its benefits justify seven dedicated sergeant positions at a total cost of \$1.3 million annually.
- **Maintenance Staff at New Training Facility.** The proposal includes 16 maintenance positions for the new facility—one-third of the total staffing package proposed for the facility. This includes a locksmith, heavy equipment mechanic, three stationary engineers (responsible for maintaining electrical and mechanical systems), three maintenance mechanics (responsible for repairing plumbing, electrical systems, and various pieces of equipment such as locks), one plumber, and one electrician. While some maintenance staff would be necessary, at the time of this report, the department had not explained why it needs 16 maintenance staff at a facility that is not a 24-hour institution and does not house

inmates. For example, given that no inmates are housed in the new facility's cells, it is unclear why the department could not bring a locksmith from one of its other institutions to fix locks when needed. Furthermore, the new facility would not need the extensive infrastructure and equipment associated with an operational prison—including industrial kitchens and busses. Accordingly, it is not clear that there would be enough infrastructure and equipment on site to justify all of the requested maintenance staff. We think that one chief engineer, one lead custodian, and two groundskeepers would be a more reasonable maintenance staffing package for the proposed training center.

- **Outside Patrol Sergeant at New Training Facility.** The proposal includes a sergeant position to perform various security functions, including processing staff and visitors into and out of the facility, monitoring vehicles, and observing video surveillance monitors. It is unclear why a facility with no inmates present would need this level of security.
- **Portion of New Prison-Based Sergeants.** The department requests 35 sergeant positions to perform various duties related to staff training. The department provided information showing that there is sufficient new workload related to managing the proposed job shadowing program to justify 13 of the 35 proposed staff. According to CDCR, the remaining 22 proposed positions would accommodate workload that existing staff are unable to complete in a timely manner due to other workload priorities. For example, CDCR indicates that employee orientations are often not provided until after new employees have been working for several months. However, the department has not been able to provide adequate information to justify the additional 22 positions. This information includes: (1) data identifying the specific workload being delayed and the extent to which it is delayed, (2) the impacts of the delayed workload, (3) detailed analysis demonstrating that the 22 requested positions are needed to complete this workload in a

timely manner, and (4) alternatives that the department considered for accommodating the identified workload.

Unclear How Legislature Would Be Informed of Training Outcomes. With the requested new supervisory staff, CPOST reports that it would be better able to monitor metrics that it expects to be impacted by these training initiatives. This added data collection capacity would be beneficial, but we note that the proposal did not include any requirement that the Legislature be kept regularly informed of the findings.

Recommendations

Reject Unjustified Portions of New Training Center and Job Shadowing Program. In light of the concerns raised above, we recommend the Legislature reject the following portions of the resources requested for the new training center and job shadowing program that have not been justified:

- **Instructors for Day in the Life Training.** We recommend that the Legislature reject the seven sergeant positions and associated \$1.3 million in funding for the Day in the Life training given that CDCR has not explained what this course would entail or why its benefits would justify its cost.
- **Portion of Maintenance Staff.** We recommend that the Legislature reject 12 of the proposed 16 maintenance positions as they do not appear necessary. This would reduce the funding needed for the training center by \$1.2 million once the training center is fully operational.
- **Perimeter Security Sergeant.** We recommend that the Legislature reject the perimeter security sergeant position and associated \$180,000 in ongoing funding as it is unclear why the new training center would need this level of security.
- **Portion of Prison-Based Sergeants.** We recommend that the Legislature reject the 22 prison-based sergeants and associated \$4 million in ongoing funding given that CDCR has not provided an analysis demonstrating the need for these positions.

Approve CPOST Funding but Require Report on Outcomes of Training. We recommend that the Legislature approve the requested resources for CPOST as the additional positions would better position CPOST to meet its Legislative mandates. In addition, we recommend that the Legislature pass budget trailer legislation requiring an annual report from CPOST beginning July 1, 2021 on the correctional training provided by CDCR. This report should include data on relevant outcomes that could be impacted by the improvements to CDCR training—including the number of workers' compensation claims, use of sick leave, transfer and attrition rates, employee morale, the number of inmate appeals, use of force incidents, and lawsuits brought against the department. The report should also include the conclusions CPOST draws from the data and its plans to address any concerns or challenges identified. This information would help the Legislature more effectively provide oversight of officer standards and training.

Approve Funding to Increase Training for Correctional Counselors. We recommend that the Legislature approve the proposal to increase correctional counselor training given that the objective and funding amount associated with the proposed training appear reasonable.

APPLYING CREDITS TO ADVANCE YOUTH OFFENDER PAROLE HEARINGS

We recommend that the Legislature reduce the proposed amount by \$258,000 in 2021-22 and \$516,000 in 2022-23 to account for a more reasonable estimate of ongoing workload.

Background

Youth Offender Parole Process. State law generally allows inmates who were under the age of 26 when they committed their offense to be considered by the Board of Parole Hearings (BPH) for release earlier than otherwise. For example, an inmate who received a 30 year sentence for a crime the inmate committed at age 25 is considered for release after 15 years—as long as the inmate does not have certain disqualifying case factors, such as being sentenced to life without the possibility

of parole. The earliest date that such inmates are eligible for release under this process is known as their youth parole eligible date (YPED).

Sentencing Credits and YPEDs. CDCR generally allows inmates to reduce their prison terms by earning credits for participating in rehabilitation programs and maintaining good behavior. For example, inmates can earn Educational Merit Credits (EMC), which give them between 90 and 180 days off their prison term when they (1) earn high school, associate, bachelor, or post-graduate degrees or (2) become a certified alcohol and drug counselor.

Currently, credits earned by inmates eligible for the youth offender parole process do not advance their YPEDs. For example, an inmate with a 30 year sentence and a YPED of 15 years who earned a total of one year in credits would still not be considered for release by BPH until after serving 15 years. However, if not released by BPH, the inmate would be released after 29 years due to the impact of the credits.

Chapter 577 of 2019 (AB 965, Stone), however, authorizes CDCR to implement regulations allowing inmates to advance their YPEDs for credits they earn. CDCR indicates it will use this authority to allow inmates to advance their YPEDs by earning EMCs beginning on January 1, 2022. This change will apply retroactively to EMCs earned since August 1, 2017 when EMCs were first introduced.

Governor's Proposal

The Governor's budget requests one, two-year, limited-term position and \$504,000 from the General Fund in 2020-21 for CDCR to develop processes and make information technology upgrades needed to apply EMCs to YPEDs in its data systems. Under the proposal, the proposed funding would increase to \$847,000 in 2021-22 and \$796,000 in 2022-23 and each year thereafter primarily for case records staff to (1) review all roughly 20,000 inmates eligible for the youth offender parole process for retroactive application of EMCs and (2) process YPED changes on an ongoing basis when they earn EMCs.

Proposal Likely Overestimates Ongoing Costs

In estimating the case records staff time needed to process YPED changes on an ongoing basis, the proposal assumes that each of the roughly 20,000 inmates eligible for the youth offender parole process will earn two EMCs per year. In other words, the proposal assumes that each of these inmates will earn a high school, college, or post-graduate degree or gain alcohol and drug counselor certification two times per year, every year while they are incarcerated. Under this assumption, youth offenders alone would earn a total of roughly 40,000 EMCs per year. We find this highly implausible given that in 2018-19 only about 43,000 inmates were enrolled in an academic program and only about 3,500 completed a high school equivalency or educational degree and only a portion of these inmates are eligible for the youth offender parole process. In addition, the department is only budgeted to enable about 430 inmates per year to earn drug and alcohol counselor certifications. Accordingly, we estimate that the number of EMCs earned annually by *all* inmates is around 4,000, or 10 percent of what the proposal assumes would be earned by inmates eligible for the youth offender parole process *alone*.

While it's unclear how many EMCs are earned by inmates eligible for the youth offender parole process annually, making the generous assumption that they earn half of all EMCs, CDCR would only need to process about 2,000 YPED changes per year. Based on this assumption, the department would need less resources than requested in the Governor's budget—\$258,000 less in 2021-22 and \$516,000 less annually thereafter.

Recommendation

In light of the above, we recommend that the Legislature reduce the Governor's proposal by \$258,000 in 2021-22 and \$516,000 in 2022-23 and ongoing to account for a more reasonable assumption about the number of YPED changes that will need to be processed on an ongoing basis.

EXONERATED HOUSING ASSISTANCE

In order to pay for exonerated individuals' housing costs, the Governor's budget proposes \$621,000 from the General Fund in 2020-21—increasing to \$1.6 million annually in 2023-24. We recommend approving only a portion of this funding as the amount requested assumes a substantial increase in the number of individuals exonerated and a higher level of housing costs than would likely be necessary. Using data on recently exonerated individuals and county-level housing costs, we estimate that the cost to implement the proposal would not exceed \$600,000 at full implementation.

Background

Exonerated Individuals. An individual who has been convicted of a crime is considered to be exonerated under certain circumstances. For example, a person is considered to be exonerated if (1) the person is pardoned by the Governor on the basis that the person is innocent, (2) a court finds that the person did not commit the crime, or (3) the conviction is reversed due to insufficient evidence. Since 2015, an average of five individuals have been exonerated annually.

Recent Legislation Requires Housing Assistance for Exonerated Individuals.

Chapter 435 of 2019 (AB 701, Weber) requires CDCR to provide housing assistance to exonerated individuals released from state custody. Upon release, exonerated individuals are entitled to a one-time payment of \$5,000 to be used for housing, such as hotel costs or a security deposit. In addition, exonerated individuals are entitled to additional financial support to cover at least a portion of their housing costs for up to four years. The total amount of assistance provided to an individual depends on their housing arrangement. If the individual chooses to rent, the additional financial support would be capped at 125 percent of fair market rent as calculated by the U.S. Department of Housing and Urban Development (HUD). Alternatively, the individual could request financial assistance for the cost of mortgage payments up to 125 percent of the Federal Housing

Administration (FHA) loan limits in the area the home is located in.

Governor's Proposal

In order to pay for exonerated individuals' housing costs, the Governor's budget proposes \$621,000 from the General Fund in 2020-21—increasing to \$1.6 million annually in 2023-24. The proposed level of funding is based on assumptions that there will be ten individuals exonerated per year and that, in addition to the required one-time payments of \$5,000, each of these individuals would receive \$3,710 per month for housing assistance for four years. According to the administration, the \$3,710 per month for housing assistance is based on the fair market rent for three individuals who were recently exonerated and live in areas determined by the administration to be "high cost." The administration states that the underlying rationale for taking this approach is because the majority of inmates are from high cost counties.

Proposal Likely Overstates Costs

We find that implementing this program will likely cost substantially less than the amount requested by the administration. This is because the administration's assumptions likely overstate the number of individuals who will be exonerated and the amount of assistance those individuals will need.

As indicated above, the administration assumes there will be ten individuals exonerated per year on an ongoing basis. This is double the average annual number of individuals who have been exonerated since 2015. At the time of this analysis, the administration has not provided any information to justify this assumption. In addition, we think it is unlikely that each exonerated individual would need \$3,170 in monthly housing assistance. As noted earlier, exonerated individuals would only be eligible for the actual cost of rent or up to 125 percent of fair market rent or payments toward mortgages of up to 125 percent of FHA loan limits in the area the home is located. Using HUD and FHA data for the counties of recently exonerated individuals, we estimate that, on average, exonerates would be eligible for about \$2,350 in rental assistance or \$2,200 in mortgage assistance per month.

Recommendation

Reduce Proposed Funding Level. Assuming five individuals are exonerated annually and that these individuals typically live in locations similar to the recently exonerated population, we estimate that this housing assistance program would not exceed \$600,000 in costs at full implementation. We note that this estimate is more closely aligned with the fiscal analysis of Chapter 435 prepared by both the Assembly and Senate Appropriations Committees. Accordingly, we recommend that the Legislature reduce the level of funding proposed by the Governor to pay for exonerated individuals housing costs. Specifically, we recommend the Legislature only approve \$300,000 in 2020-21 (\$450,000 in 2021-22 and increasing to \$600,000 annually in 2022-23). We estimate that this would be more than sufficient to cover one-time payments of \$5,000 and four years of housing assistance for exonerated individuals.

EXPANSION OF THE MALE COMMUNITY REENTRY PROGRAM

Until the results of the current evaluation of the Male Community Reentry Program (MCRP) are available in December 2020, we recommend that the Legislature not expand the program as proposed by the Governor.

Background

Overview of MCRP. Under MCRP, CDCR contracts with residential facilities in the community to provide rehabilitative programming (such as educational services, substance use disorder treatment, job training, and computer skills workshops) to male inmates who are within one year of completing their sentence. The program is voluntary and generally admits inmates if they meet certain criteria (such as not posing an escape risk or not being at high risk to reoffend violently). Currently, CDCR contracts with six facilities—three in Los Angeles County and one each in Kern, Butte, and San Diego Counties—that provide a total of 662 beds. The department is in the process of contracting with a seventh facility in Riverside County, which is expected to be activated in June

2020 and provide an additional 100 beds. The 2019-20 Budget Act provides about \$32 million for all MCRP facilities at an average cost of about \$50,000 per bed (including contract and administrative costs).

Evaluation of MCRP's Effectiveness

Forthcoming. The MCRP has not been evaluated in terms of its cost-effectiveness in reducing recidivism relative to standard prison environments. However, the administration reports that such an evaluation is now underway at Stanford University. The department expects to receive the results of the study by December 2020.

Governor's Proposal

Increased Funding to Support Additional Facility. The administration proposes to expand MCRP by contracting with an 80 to 100 bed facility in Alameda County that would be activated in June 2021. The Governor's budget for 2020-21 includes about \$280,000 from the General Fund to begin operating the new facility. Once fully activated in 2022-23, the facility would cost a total of roughly \$6 million annually.

Assessment

Premature to Expand Program Before Evaluation Is Complete. As mentioned above, an independent evaluation of the effectiveness of MCRP is expected to be completed in December 2020. The results of the evaluation would help the Legislature assess whether MCRP generates a sufficiently large reduction in recidivism to justify its higher cost relative to standard prison environments. To the extent that the evaluation shows that MCRP is not cost-effective, the Legislature could consider redirecting the existing funding for the program to other General Fund priorities—including other rehabilitation programs that would achieve greater reductions in recidivism. For example, with the existing MCRP funding, we estimate for illustrative purposes that CDCR could instead provide career technical education—consisting of programs that typically cost about a few thousand dollars per inmate and have been shown elsewhere to reduce recidivism—to roughly 10,000 inmates annually—nearly ten times the

number that would be treated annually through MCRP.

Recommendation

Reject Proposed Expansion. Until the completion of the current evaluation of MCRP, we recommend that the Legislature not expand the program and, thus, reject the Governor's proposal. Given that the results of the evaluation are expected to be available in December 2020, the Legislature could consider changes to the program—including possible expansion—as part of its deliberations on the 2021-22 budget.

EXPANSION OF HIGHER EDUCATION OPPORTUNITIES

The Governor proposes \$1.8 million General Fund in 2020-21 (increasing to \$3.5 million annually in 2021-22) for CDCR to partner with five California State University (CSU) campuses to provide in-person instruction for the final two years of a bachelor's degree program for up to 350 inmates. While expanding higher education opportunities for inmates could be promising, we find that the administration needs to (1) coordinate with decision makers within the CSU system to answer key questions about the structure of the program and (2) provide more refined estimates of the resource requirements. Until the outcomes of these steps are shared, it would be difficult for the Legislature to determine if the program is likely to be successfully implemented and if establishing the program would be the most cost-effective approach for expanding inmate rehabilitation services.

Background

Inmates Have Some Access to Post-Secondary Education. Inmates generally have access to correspondence courses through various colleges that can lead to academic degrees. Inmates also have access to associate's degree granting programs with in-person courses provided by local community colleges at 34 of the 35 prisons. Inmates enrolled in these courses

generally are responsible for paying for tuition, fees, textbooks, and any other materials required for the courses. However, inmates may be eligible for the Board of Governor's fee waiver program (also known as the California College Promise Grant) which waives community college enrollment fees for students with financial need. In addition, California State University's Los Angeles Campus (CSULA) offers a bachelor's degree granting program at California State Prison, Los Angeles County. This program is designed to provide in-person instruction for the last two years of college to up to 50 inmates at no cost to the inmates. The program was first started in 2016 and is funded through private grants. Most recently, in June 2019, it was awarded a three-year grant totaling \$750,000 through the Andrew W. Mellon Foundation.

About 15,000 Inmates Enrolled in College Courses. CDCR reports that about 1,300 students have associate's degrees and 15,000 inmates (about 12 percent of the total inmate population) are enrolled in college courses. About 6,500 of these inmates are enrolled in in-person courses provided by local community colleges, while the remaining 8,500 students are enrolled in correspondence courses.

Governor's Proposal

The administration proposes \$1.8 million General Fund in 2020-21 (increasing to \$3.5 million annually in 2021-22) for CDCR to partner with five CSU campuses to provide in-person instruction for the final two years of a bachelor's degree program for up to 350 inmates at seven prisons beginning in fall 2020. The state would cover all costs associated with the program (such as textbooks) but inmates would be expected to have attained an associate's degree that would provide the necessary prerequisites before enrollment.

Assessment

Expanding Higher Education Is Promising... The Governor's proposal to expand access to higher education opportunities to inmates is promising. When such programs are well-designed and implemented effectively, various studies show

that education—including higher education—can reduce the number of offenders who recidivate (or reoffend) and that the resulting correctional savings can more than offset their costs.

...But Key Coordination Has Not Occurred...

While the proposal is promising, the department needs to coordinate extensively with CSU to successfully implement it. For example, CDCR and CSU would need to collaborate to determine: (1) which majors would be offered, (2) which inmates would be eligible for enrollment, (3) what specific courses and services (such as tutoring, academic counseling, and career advising) would be offered to ensure inmates can successfully complete bachelor's degrees, (4) which services CSU would be responsible to provide and which ones CDCR would provide, and (5) how and when the services and courses would be provided to inmates.

However, when developing this proposal, CDCR did not coordinate with key CSU organizations and agencies—such as the Chancellor's Office and Academic Senate, which approve all new programs and curriculum. This is problematic as these decision makers would be critical in determining the policies and structure necessary to successfully implement the program. Accordingly, the questions above remain unanswered. For example, because the department has not coordinated with the Academic Senate, it is unclear what specific courses inmates would need to have completed to successfully enroll in and complete the program or who would make this determination.

...And Resource Request Needs to Be

Refined. The requested resources for the program will likely need to be refined once it is clear how the program would be structured and what services would be provided. This is because there are significant questions about whether the level of funding proposed for the program is reasonable. For example, it is unclear why the requested funding per institution is double the amount of grant funding provided to CSULA for the existing program. In addition, the proposal includes \$900,000 (27 percent of the requested funding) to cover about 5 percent of the salaries for several administrative positions including the Provost, the

Director of Admissions, and the Vice President of Enrollment at each of the five participating CSU campuses. Because these positions currently support over 100,000 students, it seems unlikely that they would spend a significant amount of time on services for the 350 inmates who could be enrolled in this program at full implementation. The requested funding also includes a portion of the salaries for financial aid analysts and the Director of Financial Aid at each CSU campus despite the fact that the inmates would not receive financial aid as their costs would be covered by CDCR. We also note that while the proposal requests General Fund to cover the entire estimated cost of the program, there could be resources that could offset the General Fund costs of the program—such as the grant awarded to CSULA in June 2019 that would not expire until June 2022.

Recommendation

Withhold Action Pending Coordination With CSU System and Refinement of Proposal. We find that the administration needs to (1) coordinate with decision makers within the CSU system to answer key questions about the structure of the program and (2) provide more refined estimates of the resource requirements. Until the outcomes of these steps are shared, it would be difficult for the Legislature to determine if the program is likely to be successfully implemented and if establishing the program would be the most cost-effective approach for expanding inmate rehabilitation services. Accordingly, we recommend that the Legislature withhold action on this proposal and direct the administration to coordinate with the CSU system to provide updates on the structure and necessary resources for the program no later than the May Revision. If the administration is unable to provide sufficient information on the program's structure and the resources necessary to support the program by the May Revision, we recommend that the Legislature reject the proposal. We note that, if additional time is needed, the administration could return with a more fully formed proposal next year.

TECHNOLOGY FOR INMATES PARTICIPATING IN ACADEMIC PROGRAMS

While the Governor’s proposal to provide inmates with thin-client laptops and other academic technologies could improve educational attainment, the cost-effectiveness of the program is unclear—particularly given the high expense relative to existing academic programs in CDCR. Accordingly, we recommend that the Legislature approve the proposal but adopt budget trailer legislation requiring the administration to contract with an independent researcher to evaluate the cost-effectiveness of the program at improving inmate educational attainment relative to traditional classroom based instruction.

Background

Education and Literacy Are Core Parts of CDCR’s Rehabilitation Focus. Under current state law, CDCR is required to improve inmate literacy and educational attainment. Improving inmate literacy and educational attainment is important because research shows that education programs, when appropriately implemented, are a cost-effective method of reducing recidivism. Moreover, it is often necessary for inmates to improve their literacy in order to be able to effectively participate in other rehabilitation programs while in prison, such as vocational or cognitive behavioral therapy programs.

CDCR Provides Both Classroom- and Nonclassroom-Based Education. The 2019-20 Budget Act provided about \$172 million (mostly from the General Fund) to CDCR for various inmate academic education programs. Most of this funding is used to support classroom based education. However the department has also taken steps to provide educational opportunities outside of traditional classroom instruction. For example, the department operates the Voluntary Education Program, which is designed to supplement classroom-based education or to provide access to education when a classroom-based option is not available. Instructors in this program work with inmate students offering in-person support

at least twice a week. In addition, CDCR provides technology-based education such as computer software designed to help inmates prepare for the high school equivalency exam, as well as peer mentors to help inmates develop basic literacy skills.

Governor’s Proposal

The Governor’s budget proposes 38 positions and \$27 million General Fund in 2020-21 for CDCR to provide inmates participating in academic programming with thin-client laptops (laptops with only specific department-approved software installed) and implement various other technologies intended to improve inmate educational outcomes. (Following equipment purchases, the amount of funding would generally decrease to \$18 million annually beginning in 2024-25.) These technologies would include a secure online portal where students could access and download academic materials and video conferencing equipment that would potentially be used to allow instructors to teach more students than would be possible in a traditional classroom environment. The requested staffing would provide support for these technologies.

Program Is Promising, but Cost Effectiveness Unclear

The laptops and other technologies included in the Governor’s proposal would likely expand access to academic materials. This could improve the productivity of inmates enrolled in academic programming and lead to more rapid gains in literacy and other educational outcomes. We also note that these technologies could allow the department to further expand academic programs in prisons that have difficulty recruiting instructors by allowing instructors at other prisons to lead courses remotely. In addition, through the opportunity to use laptops, inmates would improve their familiarity with computers. This could improve their employability and ability to function in the community upon release.

However, while the program could have a number of benefits, it is unclear if it would be cost-effective relative other academic programs, particularly because of its relative expense. We note

that the requested funding for 2020-21 represents a 16 percent increase in CDCR's current budget for academic education. With this funding, we estimate for illustrative purposes that CDCR could instead hire over 200 additional instructors capable of providing classroom-based literacy instruction to roughly 5,500 inmates annually.

Recommendations

Approve Proposal but Require Reporting on Outcomes and Cost-Effectiveness. We recommend the Legislature approve the Governor's proposal to provide inmates with thin-client laptops and other academic technologies as it could improve inmate academic achievement. However, given the expense of the program, we recommend the Legislature adopt budget trailer legislation requiring CDCR to contract with an external researcher to evaluate the cost-effectiveness of the program at improving inmate educational attainment relative to traditional classroom-based instruction. We estimate that costs for the external evaluation would be around a few hundred thousand dollars. We recommend that the Legislature require the department to provide the evaluation no later than January 10, 2024 to give the department time to fully implement the program. This evaluation would allow the Legislature to determine whether the program is sufficiently successful given its expense. To the extent it is not, the Legislature could consider redirecting the funding for the program to other General Fund priorities—including other academic programs that would achieve greater improvements in inmate educational attainment.

MEDICATION ROOM PROJECTS

In order for the Legislature to fully assess the Governor's proposal to construct medication rooms at 13 prisons and determine the extent to which they are necessary, we recommend requiring CDCR to report at spring budget hearings on its medication room needs that takes into account (1) the completion of the medication rooms previously approved by the Legislature, (2) projected changes in the inmate population, (3) the department's plan for moving

inmates to maximize the use of medication rooms that have been completed or approved for construction, and (4) whether any of the projects are at prisons likely to be closed.

Background

Medication Rooms. Every housing unit within a prison has to have access to a medication room to ensure that necessary medication is provided to inmates. Most inmates collect medications from licensed vocational nurses (LVNs) through pill windows at medication distribution rooms (MDRs) at various locations throughout the prison. Most general population inmates leave their housing unit to get their medication at an MDR that serves multiple housing units. In many cases, inmates line up outside to receive their medication from an MDR. Some inmates, however, receive their medication from MDRs that are located within their housing unit. For example, inmates in the enhanced outpatient program (EOP)—which is the highest level of outpatient mental health care that CDCR offers—have MDRs located within their housing unit. This is to ensure that their mental health condition does not interfere with their ability to access medication.

In addition, some inmates need to have an LVN deliver medication directly to their cell because of security or health reasons. This includes inmates in restricted housing, which are units that temporarily house inmates who have committed a serious violation or whose presence in a less restricted environment poses a threat to themselves or others. In general, Security Housing Units (SHU) are used for longer-term restricted housing placements, while Administrative Segregation Units (ASU) are used for shorter-term placements. While in these units, inmates' freedom of movement and interaction with other inmates is substantially restricted. For these restricted housing units, LVNs prepare medications in a medication preparation room (MPR) and then go to individual inmates' cells with a cart that holds the medications being distributed. Given that each prison typically serves multiple types of inmates at different housing units throughout the facility, many prisons have various types of medication rooms.

Medication Room Improvements. Since being appointed by the federal court to take control over the direct management of the state’s prison medical care system, the Receiver has identified various shortcomings with CDCR’s medication rooms. For example, the Receiver found that various prisons did not have the appropriate types of medication rooms for certain types of inmates they house. For example, some prisons with EOP units lacked in-unit MDRs. The Receiver also found that some prisons have medication rooms that force inmates to wait in line outside without adequate protection from inclement weather. As a result, since 2007-08 the Legislature has approved various capital projects to improve the medication rooms at 30 prisons in two phases. Specifically:

- **Phase I of Medication Room Improvements.**

In 2007-08, the Legislature approved \$52.2 million for capital projects to improve the medication rooms at 22 prisons. Most of these projects have been completed but construction is currently on hold at three facilities pending the completion of other nearby construction projects.

- **Phase II of Medication Room**

Improvements. In 2018-19, the Legislature approved preliminary plans for additional medication room projects at 14 prisons. At the time, the total cost of these projects was \$38.6 million and the projects were expected to be completed by November 2022. However, the administration has discontinued one of these project as well as parts of others, including five subprojects to construct MDRs for EOP units. These subprojects were discontinued as the units were no longer needed to house EOP inmates due to reductions in the EOP population.

Governor’s Proposal

Funding for the Construction of Additional Medication Rooms. The Governor’s budget proposes \$31.7 million in General Fund support for the construction phase of phase II medication room improvement projects at 13 prisons. The total cost of these projects is \$38.5 million. The projects are scheduled to begin construction in January 2021

and be completed by July 2023. Each of these projects is comprised of subprojects that addresses the medication room needs at a particular housing unit within a prison. Specifically, these subprojects fall into two categories:

- **Additional MDRs.** Seven prisons include subprojects to construct a total of 13 additional MDRs. Of these, seven MDRs are for housing units that serve EOP inmates but did not have MDRs inside them. Three of the MDRs are for a prison that has a reported need for additional medication rooms due to a large number of non-EOP inmates with mental health needs. The remaining three MDRs are for housing units designated to serve general population inmates but lack MDRs.
- **Additional MPRs.** Seven prisons include subprojects to construct a total of eight additional MPRs. These prisons have a total of eight ASU units that were built without MPRs. According to the department, these subprojects should have been included in the initial funding provided in 2007-08, but were unintentionally omitted.

Need for Additional Medication Rooms Remains Unclear

Information Lacking on Total Inmates That Will Be Served. At the time of this analysis, CDCR was not able to provide information on the total number of inmates that will be served once all of the 22 phase I medication room projects that were previously approved by the Legislature are completed. The absence of such information makes it difficult to determine the extent to which the Governor’s proposed projects for phase II are necessary. For example, it might be possible for the EOP inmates in units that would receive phase II MDRs to be moved to units that already have or will have appropriate MDRs when the phase I projects are complete, assuming there are not factors—such as security or health concerns—that would make such a move challenging.

Projected Decline in Inmate Population. Even if the department can show that not all inmates can be served after phase I projects are completed, it is unclear whether all of the proposed

phase II projects will be necessary by the time they are completed in 2023. This is because the department's current projections show that some of the inmate populations that the projects are intended to serve are expected to decline by 2023. For example, CDCR projects that the EOP population will decline by 406 inmates (6 percent). This suggests that the additional medication rooms proposed by the Governor to serve EOP inmates may not be necessary in a few years. It is also possible that the need for other proposed subprojects targeted at specific types of inmates—such as SHU or ASU inmates—could decline by the time they are completed, particularly since the overall inmate population is expected to decline by thousands of inmates over the next few years. Whether all of these projects will be necessary in the future also depends on various factors, such as the housing security level of the inmates that remain in CDCR.

Impact of Potential Prison Closure. The above uncertainty is compounded by the fact that the administration intends to close a state-operated prison within the next five years, but has not stated which prison would be closed. Until the administration determines which prison would be closed, it is difficult for the Legislature to determine if the proposed medication room projects are necessary. This is because, without a prison closure plan, the Legislature is in the difficult position of evaluating whether to fund projects at prisons that could be closed in the near future.

Recommendations

Require CDCR Provide Additional Information Before Taking Action. In view of the above, we recommend that the Legislature require CDCR to report at spring budget hearings on its medication room needs. This information should include (1) how many inmates the department will be able to serve with previously approved medication rooms both overall and in each category of inmates that require a particular type of room, (2) whether overall inmate population projections and projections for each category of inmates that require a particular type of medication room support the need for all of the proposed projects after accounting for housing security levels and other factors, (3) the

department's plan for moving inmates to maximize the use of medication rooms that have been completed or approved for construction, and (4) whether any of the projects are at prisons likely to be closed. This information would allow the Legislature to fully assess the Governor's proposed projects and determine the extent to which they are necessary. We recommend that the Legislature withhold action on the Governor's proposal pending receipt and review of the above information.

TELEHEALTH SERVICES BUILDING

We recommend that the Legislature reject the Governor's proposal for a new telehealth services building and adopt supplemental report language directing the administration to provide a plan by January 10, 2021 to utilize telecommuting instead. We find that allowing the use of telecommuting would have several benefits over the proposed capital outlay project, including being much less costly and allowing for wider recruitment.

Background

Telehealth Services Used to Provide Care to Inmates. Telehealth services allow health care providers to use digital information and communication technologies—such as interactive audio and video—to provide health care services to patients in remote locations. Aside from the provider being in a different location, these services are largely similar to in-person visits. CDCR currently uses telehealth services where available to provide certain health care services to inmates. During a telehealth visit, an inmate is escorted to a room with specialized equipment that allows for two-way communication with the provider. A medical assistant at the prison can perform tasks that require a physical presence, such as making adjustments to the equipment or measuring the patient's blood pressure and other vital signs while the provider interacts with the inmate through the specialized equipment. Telehealth services can include both telemedicine (provided by physicians) and telepsychiatry (provided by psychiatrists).

Telehealth Services Help Alleviate Staffing Challenges. CDCR is currently required to comply with court orders to have at least 90 percent of its

physician and psychiatrist positions filled. However, the department has frequently encountered difficulty filling these positions, often because its prisons are in remote locations where there are few physicians or psychiatrists. Given this challenge, the department plans to increase the utilization of telehealth positions in order to provide health care services at remote prisons—or prisons that have difficulty recruiting for other reasons—using staff located near population centers where recruitment is easier.

Existing Telehealth Resources. Currently, 54 physicians and 55 psychiatrists, along with their support staff, provide telehealth for CDCR at a total cost of about \$58 million from the General Fund annually. This amount includes \$800,000 for leases to accommodate these staff in offices located in Elk Grove, Rancho Cucamonga, Diamond Bar, Santa Ana, Fresno, and Bakersfield. In addition, 18 of the 55 psychiatrists currently provide telehealth services out of San Quentin State Prison utilizing three trailers—totaling approximately 4,400 square feet—that are rented at a combined cost of \$76,200 per year.

Governor’s Proposal

The Governor’s budget proposes \$2 million from the General Fund for preliminary plans to construct a 12,000 square foot modular building to house 36 psychiatrists, 15 physicians, and 4 support staff at San Quentin State Prison. This project would replace the three trailers at the prison currently used for telehealth and provide space for additional telehealth staff. The project would be completed in February 2024 and cost a total of \$25.6 million. The administration indicates it is pursuing this project in the Bay Area to better recruit the physicians and psychiatrists who live in the region and that constructing this facility at San Quentin is less expensive than leasing office space in the area.

Alternatives to Constructing a New Building Could Be More Beneficial

Telecommuting Would Likely Be Less Expensive and Provide Several Benefits.

Telecommuting—an arrangement in which telehealth providers work from home using telehealth technology rather than commuting to

an office to use the technology—could be a viable alternative to providing office space for providers. This is because telecommuting could:

- **Allow for Wider Recruitment.** Telecommuting could improve the department’s ability to fill positions by expanding the number of potential recruits to include individuals who do not live in the Bay Area, do not want to commute to San Quentin, and/or prefer to work from home. We note that many private sector telehealth employers emphasize the opportunity to work from home as a benefit to prospective employees.
- **Address Vacancy Problem Faster.** While the administration might need to develop new procedures and/or purchase different equipment to implement telecommuting, this could likely be accomplished before February 2024, when the proposed construction project at San Quentin would be completed. Accordingly, telecommuting would likely allow the department to expand the number of telehealth providers more quickly than if they needed to wait for additional capacity to be built.
- **Reduce Costs for Office Space.** To the extent the department allowed existing telehealth providers to telecommute it would potentially reduce—or eliminate—the need for telehealth office space statewide. Specifically, it would eliminate the need for capital outlay projects (such as the \$25.6 million building proposed at San Quentin) and could potentially reduce or eliminate the need for existing telehealth office space.

The administration has stated that there would be some challenges in regards to the implementation of telecommuting related to technology and compliance with federal Health Insurance Portability and Accountability Act (HIPAA) requirements intended to ensure the confidentiality and security of protected health information. However, the private sector would be subject to the same challenges and already allows telehealth providers to telecommute, including a number of companies that supply telehealth services in correctional settings. This suggests that the

potential implementation challenges identified by the administration can be overcome.

Expanding Use of Trailers Could Also Have Benefits. Another alternative that could have benefits over the Governor’s proposal would be to expand the use of trailers at San Quentin. While this alternative would have fewer benefits than telecommuting, it would still have a couple advantages over the proposed project including an ability to expand capacity before February 2024 and reduced costs. Based on the cost estimates provided by the administration for the existing trailers, increasing the amount of trailer space to provide 12,000 square feet would likely cost around \$131,000 per year—less than 1 percent of the cost of the Governor’s proposed project.

Recommendation

Reject Proposal and Direct Administration to Develop Alternative Plan. In view of the above, we recommend that the Legislature reject the Governor’s proposal for a new telehealth services building and adopt supplemental report language directing the administration to provide a plan by January 10, 2021 to utilize telecommuting instead. Despite requiring the department to wait for the next budget cycle, this approach would likely allow the department to establish additional capacity for telehealth much sooner than when the proposed project would be completed.

PSYCHIATRY REGISTRY FUNDING

We recommend that the Legislature approve the Governor’s proposed funding for registry services on a one-time basis (rather than on an ongoing basis as proposed). While this funding appears to be necessary in the budget year, the amount of funding needed beyond 2020-21 is less clear due to the contract for registry psychiatrist services expiring and steps the administration is taking to reduce the need for registry services.

Background

CDCR Struggles to Fill Psychiatrist Positions. As was noted earlier in this report, CDCR is under court order to keep 90 percent of its psychiatrist

positions filled. CDCR has taken a number of steps to meet this target, including establishing a residency program, providing pay differentials for “hard-to-recruit” institutions, and expanding the utilization of telepsychiatry. Through these steps, CDCR has hired a substantial number of psychiatrists but has not yet filled 90 percent of the positions as required by the court order. At the time of this analysis, the department had almost 60 percent of the vacancies filled. In order to meet the 90 percent target, CDCR would need to hire an additional 102 psychiatrists.

CDCR Uses Registry Psychiatrists Due to Vacancies. While CDCR works to fill vacant civil service psychiatrist positions, the court has accepted the use of contract registry psychiatrists as a temporary solution to provide care. In 2017, CDCR entered into a contract with a registry provider for psychiatric services. The contract was set to expire in 2019 but was extended through April 2021. While the funding associated with the vacant psychiatrist positions—known as vacancy savings—is used to cover a large portion of the registry costs, the rates set by the contract for registry psychiatrists exceeded the available savings. To address this funding shortfall, the state provided \$18.1 million in General Fund support on a two-year, limited-term basis—2018-19 and 2019-20—to pay for the additional registry psychiatrist costs.

Governor’s Proposal

The Governor’s budget proposes \$1.4 million in annual General Fund support to offset a portion of the difference between (1) the savings from vacant psychiatrist positions and (2) the costs for registry psychiatrists to provide care given the vacant positions. According to the administration, the total difference is currently estimated to be almost \$18 million, but CDCR would redirect salary savings from other vacant positions to cover the difference.

Assessment

New Registry Contract Would Likely Impact Funding Needs. As previously mentioned, the current registry contract, which resulted in the discrepancy between the vacancy savings and the cost of registry psychiatrists, will expire in

April 2021 (part way through the budget year). At that time, the administration would need to put out a bid for a new contract. While there could continue to be a discrepancy between the savings from vacant psychiatrist positions and the cost of registry psychiatrists, under the new contract, the extent of any discrepancy would not be known until after the contract is awarded. As such, it would be premature at this time to set aside a specific amount of funding on an ongoing basis to cover such a discrepancy.

Registry Services Are Not a Long-Term Solution and the Need Should Decline. Both the administration and the court indicate that registry services are a temporary solution while the department works to hire civil service psychiatrists. In addition, the department is proposing to take additional steps to hire civil service psychiatrists in the future, such as by seeking to further expand telepsychiatry services. Accordingly, while funding for registry services is likely needed in the budget year, the amount of funding needed should decline significantly as the administration hires more civil service psychiatrists.

Recommendation

Approve Request on One-Time Basis. We recommend that the Legislature approve the Governor's proposed funding for registry services on a one-time basis (rather than on an ongoing basis as proposed). While this funding appears to be necessary in the budget year, the amount of funding needed beyond 2020-21 is less clear due to the contract for registry psychiatrist services expiring and steps the administration is taking to reduce the need for registry services.

CONTRACT MEDICAL SERVICES

We recommend the Legislature direct CDCR to report at budget committee hearings this spring on specific steps it will take to increase the amount of federal reimbursement the state receives for contract medical services. Until the department presents a plan to maximize federal funds, we recommend the Legislature withhold action on the Governor's proposed level of funding for contract medical services.

Background

CDCR Uses Contract Medical Services When Inmate Needs Cannot Be Met. When CDCR is unable to provide necessary medical services to inmates because it lacks the needed equipment or specialist providers, the department contracts for these services with external providers. These contract medical services are used in a number of circumstances ranging from trips to emergency departments for physical injuries to chronic medical issues that require specialized treatment. In some cases, providers are brought into facilities to treat inmates. However, in many cases inmates are transported off-site to receive care in the community, including inpatient care.

General Fund and Federal Medi-Cal Reimbursements Support Contract Medical Services. The 2019-20 budget includes a total of about \$416 million for contract medical services. This amount includes (1) \$360.4 million in General Fund support (\$61.9 million on a one-time basis) and (2) \$55.4 million in reimbursement authority related to Medi-Cal, a program partially funded by the federal government that covers health care costs for low-income families and individuals (including certain costs for inmates). Through Medi-Cal, the federal government reimburses between 50 percent and 90 percent of the cost of eligible off-site inpatient medical care. Typically, off-site inpatient medical care accounts for half of contract medical service expenditures. Such care is eligible for federal reimbursement provided that the inmate stays in the community for more than 24 hours for medical treatment and is enrolled in Medi-Cal no later than three months after receiving services. Inmates are generally eligible for enrollment in Medi-Cal if their incomes are below 138 percent of the federal poverty line.

Governor's Proposal

The Governor's budget for 2020-21 proposes a total of \$415 million for contract medical services—\$359 million from the General Fund and \$55.4 million in federal reimbursement authority. The proposal effectively makes ongoing the \$61.9 million that was provided in the current year on a one-time basis. According to the

administration, it intends to propose a formula as part of the May Revision for making future adjustments to contract medical funding.

Federal Reimbursement Rate Raises Questions About Level of Funding Needed

The Governor's budget assumes that CDCR will only be able to offset about \$55.4 million of contract medical expenditures with federal reimbursements—equivalent to roughly 30 percent of the cost of inpatient medical services provided to inmates. However, between 50 percent and 90 percent of most of these costs are likely eligible for federal Medi-cal reimbursement for the vast majority of inmates. This is because inpatient services commonly last beyond 24 hours and nearly all inmates are eligible for Medi-Cal. If CDCR took greater advantage of federal reimbursements through Medi-Cal, we estimate that it could “free up” General Fund resources—potentially exceeding tens of millions of dollars annually—for other state priorities without impacting the medical services provided to inmates. At the time of this analysis, the department has not clearly identified any barriers that prevent the state from receiving additional federal reimbursements for contract medical services. As such, it is unclear whether the level of General Fund resources proposed in the Governor's budget for these services is necessary.

Recommendation

Withhold Action Pending Plan to Maximize Federal Funds. Given the apparent discrepancy between the level of federal Medi-cal reimbursements currently received and the level of total expenditures of contract medical services that are potentially eligible for federal reimbursement, we recommend the Legislature direct CDCR to report at budget committee hearings this spring on specific steps it will take to increase the amount of federal reimbursement the state receives and the amount of additional reimbursements such actions would create. This higher level of federal reimbursement should be incorporated into the formula that CDCR plans to propose in the spring. Until the department presents a plan to maximize federal funds, we recommend the Legislature

withhold action on the Governor's proposed level of funding for contract medical services.

MEDICAL IMAGING EQUIPMENT

We recommend that the Legislature approve the Governor's proposal to provide \$1.5 million from the General Fund in 2020-21 (increasing to \$2.3 million by 2024-25) to more regularly replace and repair medical imaging equipment. Given that the proposal would reduce the need for inmates to be transported to offsite clinics, we also recommend reducing CDCR's base budget for medical guarding by \$150,000 annually per year (increasing to \$1.5 million annually upon full implementation).

Background

CDCR operates 42 medical imaging clinics throughout its 35 prisons, each with several major pieces of equipment (such as x-ray machines) that are used to provide medical services to inmates. According to the department, it has been able to occasionally purchase some equipment using limited-term funding received through the approval of projects to renovate health care facilities at various prisons. However, CDCR reports that it does not have funding in its existing base budget to routinely replace equipment as needed. The department states that, as a result, its medical imaging equipment—which has an expected service life of seven to ten years—is over nine years old on average. This has led to the equipment breaking down more frequently.

When medical imaging equipment breaks, clinics may have to stop providing services until the equipment can be repaired or replaced. This can result in inmates having to go to an offsite clinic for services, as well as the need for correctional officers to transport these inmates and provide security while inmates are at the clinic. While CDCR does not consistently track data on medical escorts resulting from equipment failure, the department estimates that it spent a total of about \$340,000 on medical escorts as a result of broken medical imaging equipment at four institutions in 2018.

Governor's Proposal

The Governor's budget proposes \$1.5 million from the General Fund in 2020-21, increasing to \$2.3 million annually by 2024-25 to replace equipment in four clinics annually—reaching all clinics after ten years—and fund a maintenance and warranty contract for the equipment. According to the department, having newer equipment that is less prone to breakage would reduce interruptions in medical imaging services and, in turn, the need for correctional officers to transport inmates to an offsite clinic for services.

Proposal Does Not Account for Savings in Medical Guarding

While the Governor's proposal would allow the department to replace medical imaging equipment on a regular basis, we find that the proposal does

not account for savings in medical guarding costs. This is because CDCR reports that having newer equipment will result in less equipment breakage and therefore reduce medical guarding costs. Based on limited data provided by the department, we estimate that these avoided medical guarding costs could grow to roughly \$1.5 million annually statewide. However, the department proposes no adjustment to account for these potential savings.

Recommendation

In view of the above, we recommend that the Legislature approve the Governor's proposal but also reduce CDCR's base budget for medical guarding by \$150,000 per year, increasing annually to \$1.5 million once all medical imaging equipment has been replaced statewide to account for an anticipated reduction in medical escorts.

DEPARTMENT OF YOUTH AND COMMUNITY RESTORATION

OVERVIEW

As part of the *2019-20 Budget Act*, the Legislature approved a proposal to remove DJJ from CDCR and make it a separate department under the Health and Human Services Agency beginning July 1, 2020. The new department will be called the Department of Youth and Community Restoration (DYCR). (For more information on this reorganization, please see our April 2019 report *The 2019-20 Budget: Reorganization of the Division of Juvenile Justice*.)

DYCR will take on the responsibility of supervising youth within the state's juvenile facilities. Specifically, DYCR will house youth who were found to have committed certain significant crimes listed in statute (such as murder, robbery, and certain sex offenses) before the age of 18 as well as certain youth under the age of 25 who have been convicted of crimes by an adult court. As of January 2020, a total of about 770 youth are housed in three state juvenile facilities (two in

Stockton and one in Ventura) and one camp (Pine Grove).

Operational Spending Proposed for 2020-21.

The Governor's budget includes \$290 million (\$284 million General Fund) for DYCR operations in 2020-21—an increase of about \$45 million, or 19 percent, from the revised 2019-20 spending level for the Division of Juvenile Justice (DJJ). This increase reflects additional funding to support the reorganization and establishment of the new department, train additional cadets, and create a mentorship program for new staff members. The increase also reflects the administration's projections that the number of youth housed in state juvenile facilities will increase to an average daily population of about 860 during 2020-21. This increase is largely related to recent policy changes. Such changes include (1) a pilot program approved in 2018-19 to shift up to 76 young adults from prison to juvenile facilities and (2) the implementation of Proposition 57 (2016) which

placed restrictions on the circumstances in which a youth could be tried as an adult.

RESOURCES AND AUGMENTATION AUTHORITY TO ESTABLISH DYCR

We recommend that the Legislature approve the proposed resources to support the reorganization of DJJ and the establishment of DYCR. However, we recommend that the Legislature reject the proposed provisional language authorizing the Department of Finance (DOF) to augment DYCR's budget by up to an additional \$10 million to support the reorganization as the administration has not provided sufficient justification for why the language is necessary.

Background

Some Resources for Reorganization Provided in 2019-20. To support the reorganization of DJJ into DYCR, the 2019-20 budget included \$1.2 million General Fund and 8.8 positions in 2019-20 (increasing to \$1.8 million and 12 positions annually beginning in 2020-21). These resources were provided to (1) create senior level positions that would assist with the transition and establishment of DYCR and (2) create a new preservice training institute and other training or educational opportunities for staff and other individuals (such as volunteers) who would have contact with the youth under the department's supervision.

Governor's Proposal

Shift of Resources From CDCR. To support the establishment of DYCR, the Governor proposes shifting \$8.1 million General Fund and 53 positions on an ongoing basis from CDCR to DYCR. The administration indicates that, while these 53 positions reported to other divisions within CDCR (such as legal affairs, fiscal services, and facility planning and construction management), they primarily focused on providing support to DJJ and will therefore be needed to support DYCR.

Additional Resources to Establish DYCR. To further support the reorganization and establishment of DYCR, the Governor's budget

proposes a total of \$19.8 million General Fund and 112 new positions in 2020-21. Specifically, the budget proposes:

- \$12.2 million (increasing to \$13.9 million annually beginning in 2021-22) and 112 new positions for various administrative functions that were previously provided by CDCR, such as legal services and human resources.
- \$4.6 million ongoing for information technology (IT) such as software, hardware, and network and telecommunications equipment. According to the administration, the proposed resources are an estimate based on the IT budgets of other state departments and will be reassessed as part of the Governor's May Revision.
- \$2.1 million in one-time moving costs to relocate the current DJJ headquarters to a larger building to accommodate the increase in staff.
- \$900,000 ongoing to lease the expanded office space.

Provisional Language to Allow Further Augmentation. The Governor's proposed budget also includes provisional language authorizing DOF to augment DYCR's budget in 2020-21 by up to \$10 million General Fund for temporary help, overtime, or procurement of new office space to support the reorganization. The proposed language requires DOF to notify the Joint Legislative Budget Committee at least 30 days prior to authorizing any augmentation.

Proposed Provisional Language Not Justified

While the 112 new positions and the \$19.8 million General Fund augmentation requested for 2020-21 to support the establishment of DYCR appear justified, the administration has not provided a rationale for why the proposed provisional budget language authorizing DOF to provide up to an additional \$10 million is needed and why the \$19.8 million increase included in the Governor's budget is not sufficient to support the reorganization.

Recommendations

Approve Proposed Resources to Support Reorganization and Establishment of DYCR.

We recommend that the Legislature approve the Governor's proposal to (1) shift \$8.1 million and 53 positions from CDCR to DYCR and (2) provide DYCR with \$19.8 million General Fund and 112 new positions. We find that these resources are necessary to support the reorganization and establish the new department.

Reject Proposed Provisional Language. We recommend that the Legislature reject the proposed provisional language authorizing DOF to augment funding for DYCR by up to \$10 million to support the reorganization. The administration has not provided a justification for why the language is necessary.

TRAINING FOR YOUTH CORRECTIONAL COUNSELORS AND OFFICERS

The Governor proposes \$5.6 million General Fund annually to provide additional training resources for new cadets to become youth correctional officers and counselors. This includes \$2.2 million to train up to 120 cadets and \$3.4 million to establish a ten-week job shadowing program. We recommend that the Legislature only approve training for 80 cadets (\$1.4 million), which would allow DYCR to address its typical attrition rate and fill newly created positions. In addition, we recommend approving only \$1.8 million for the job shadowing program to correct for over budgeting in the administration's proposal. We also recommend that the funding for training cadets and job shadowing be provided on a two-year, limited-term basis to allow DYCR time to estimate its ongoing training needs.

Background

Youth Correctional Counselors and Officers. Youth Correctional Counselors (YCC) are sworn officers responsible for the counseling, supervision, and custody of an assigned group of youth. They also analyze, organize, and record casework information necessary for treatment and parole

planning. Youth Correctional Officers (YCO) are also sworn officers but are primarily focused on the security, custody, and supervision of youth. Because of the critical nature of the YCC and YCO positions, the department attempts to keep these positions filled. When a position becomes vacant at any time, the department will generally use the funding associated with the position to backfill it with overtime until a new YCC or YCO is hired.

Current Training Academies. Before new YCCs and YCOs can be hired, they must first be trained as cadets in preservice training academies. Each academy lasts 13 weeks and generally provides training to up to 40 cadets. The department operates academies when it is determined that there is sufficient need for new YCCs or YCOs as a result of attrition or the creation of new positions due to increases in the number of youth needing supervision. For example, the department plans to train 80 cadets this spring. The administration estimates that the current cost of operating these academies is about \$18,000 per cadet, with training 80 cadets costing a total of about \$1.4 million. Since 2018-19, the department has paid for this training using a combination of vacancy savings and \$721,000 in limited-term General Fund support that is set to expire at the end of 2019-20.

Between 2011 and 2014, staff overages due to a decline in the number of youth under state custody had reduced the need to train new cadets. As a result, no academies were operated during that time. In 2015, the department identified a need for new YCCs and YCOs and resumed the academies. Since 2015, the department has offered an average of 68 training slots per year through its academies—slightly higher than the average annual attrition rate of 66 positions.

Academies to Be Replaced With Preservice Training Institutes. As part of the 2019-20 Budget Act, the Legislature approved a proposal that included five positions and about \$500,000 ongoing General Fund to establish new preservice training institutes that would replace the existing academies beginning in 2020-21. The preservice training institutes would utilize a new curriculum that would be updated based on current best practices in juvenile justice. However, the training institutes

would continue to be 13 weeks and have the same operating costs as the academies, according to the administration.

Governor’s Proposals

The Governor’s budget for 2020-21 proposes \$5.6 million General Fund to provide additional training resources for new cadets. Specifically, the Governor proposes to:

- **Expand Number of Cadets Trained.** The Governor’s budget includes adjustments to funding for training cadets to become YCCs and YCOs. First, the budget makes ongoing the \$721,000 provided for training on a limited-term basis that is set to expire at the end of the current year. These funds would be sufficient to train up to 40 cadets per year. Second, the budget proposes about \$1.5 million to train up to an additional 80 cadets annually, for a total of 120 cadets.
- **Create Job Shadowing Program.** The Governor also proposes \$3.4 million annually to establish a job shadowing program for newly hired YCCs and YCOs coming out of the preservice training institutes. During the job shadowing program, the new hires would shadow more experienced staff on a full-time basis for ten weeks before beginning their normal duties within the department.

Assessment

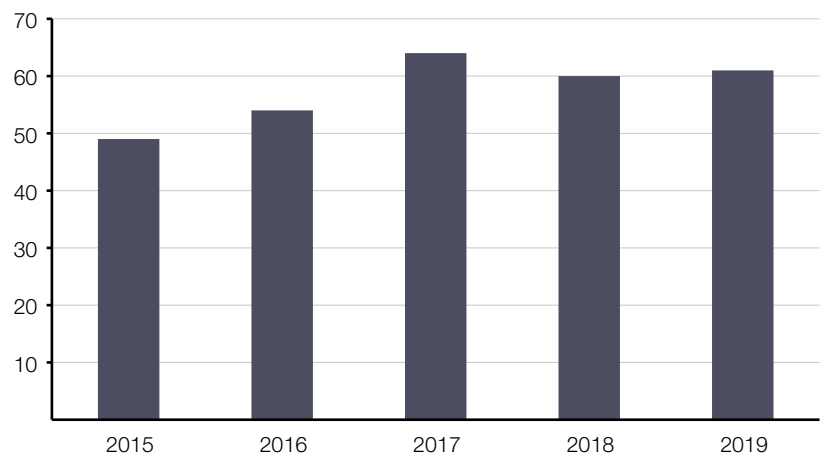
No Clear Need for Expanded Training Resources. As noted earlier, the department typically adjusts the number of new employees it trains based on (1) the need to hire additional employees to fill newly created positions and (2) the expected attrition rate, so that existing positions that become vacant can be filled. However, the department is unable to provide specific estimates for what its hiring needs would be going

forward and specific estimates of expected attrition rates in the future. The only rationale provided by the department for the proposed increase in training capacity is that it expects there to be an unknown increase in separations as a result of the reorganization from DJJ to the new DYCR. This is based on the department’s assumption that the attrition rate has increased since the reorganization was proposed as part of the Governor’s January budget proposal for 2019-20 and eventually adopted by the Legislature. However, data provided by the department does not validate this assumption. As shown in **Figure 7**, between January 2019 (when the reorganization was first proposed) and November 2019 (the most recent data provided), the number of separations was similar to the number that occurred in prior years over those same months.

Accordingly, the administration has not provided sufficient justification for why it would have a need for resources to train up to 120 cadets per year on an ongoing basis—nearly double the typical number of separations for the YCC and YCO positions for which the cadets would be training. However, we do find that the attrition rate data provided by the administration and projections for the population of youth in state custody suggest that the department

Figure 7

Current YCC and YCO Attrition Similar to Prior Years
Number of Separations Between January to November Each Year^a



^a Due to data availability for 2019 and to ensure an accurate comparison, data for all years have been truncated to only include January through November.

YCC = Youth Correctional Counselor; and YCO = Youth Correctional Officer.



would likely need to maintain its existing training capacity of about 80 cadets per year. This would allow the department to address its typical attrition rate of about 66 separations per year and train additional YCCs and YCOs to fill new positions that are likely to be necessary given the projected increase in DYCR population.

Budgeting Approach for Job Shadowing Proposal Overstates Costs. Establishing the job shadowing program would create a ten-week period between when the new YCCs and YCOs are hired and when they would fill the vacant positions and begin their normal duties. The only new costs the department would experience during this time would be the additional costs for the salaries and benefits of the newly hired YCCs and YCOs during the ten-week period of the job shadowing program. We estimate that the additional costs for each new hire going through the ten-week job shadowing program would be about \$22,200. For 120 new hires (as assumed in the proposal), this would cost about \$2.7 million—\$700,000 less than the \$3.4 million proposed by the Governor. This appears to be a technical error in which the department based its funding request on the cost of continuing to backfill vacancies with overtime rather than the cost of the new hires. We note that CDCR is also proposing a similar job shadowing program and is only requesting funding for the cost of the new hires during their job shadowing period.

Recommendations

Modify Training Proposal to Provide Limited-Term Funding to Train 80 Cadets.

We recommend that the Legislature modify the preservice training institute proposal to only provide \$1.4 million General Fund in 2020-21 and 2021-22 (rather than the \$2.2 million in ongoing funding proposed by the Governor). This would provide the department with resources to train up to 80 cadets per year for two years, which would be sufficient for the department to address its typical attrition rate and fill newly created positions resulting from the projected increase in the number youth needing supervision. It would also provide the department time to (1) identify the impact of the reorganization on retention and (2) provide the Legislature with more specific estimates of its ongoing hiring needs for YCCs and YCOs.

Modify Job Shadowing Proposal to Correct for Over Budgeting. We recommend that the Legislature modify the proposal for the job shadowing program to only provide the level of General Fund support necessary to implement the job shadowing program. Specifically, we recommend providing General Fund to cover the costs of the salaries and benefits of the newly hired YCCs and YCOs during the ten-week job shadowing program that they would need to complete before filling vacancies at DYCR. After adjusting for the smaller number of cadets being trained as a result of our recommendation above, we recommend providing limited-term funding of \$1.8 million General Fund in 2020-21 and 2021-22. After the two-year period, the Legislature would be able to determine the ongoing funding needs for the job shadowing program in conjunction with the department's ongoing hiring needs for YCCs and YCOs.

JUDICIAL BRANCH

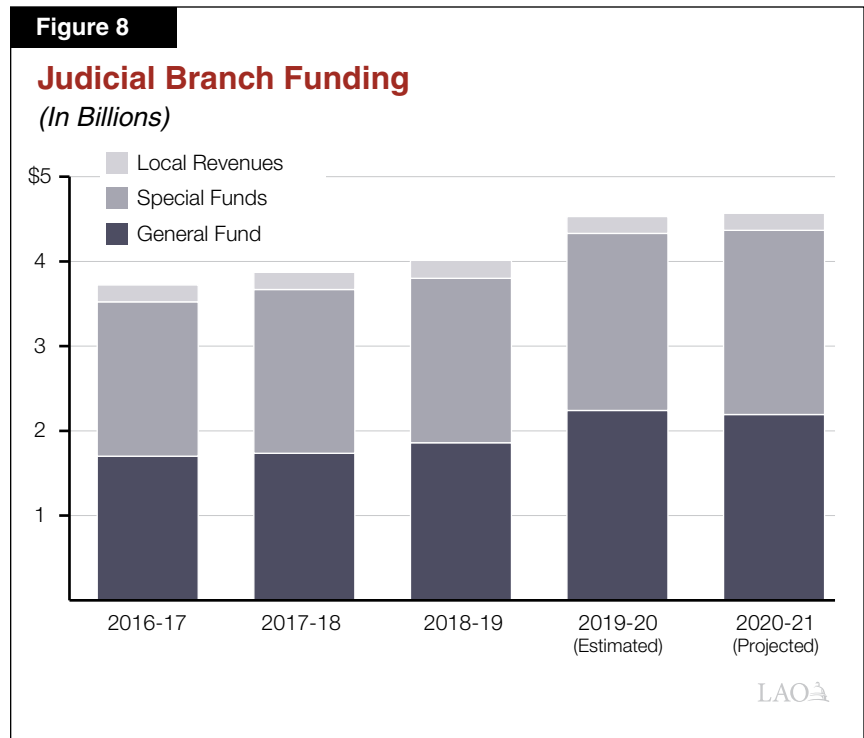
OVERVIEW

The judicial branch is responsible for the interpretation of law, the protection of individuals' rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the state's 58 counties,

and statewide entities of the branch (the Judicial Council, the Judicial Council Facility Program, and the Habeas Corpus Resource Center). The branch receives support from several funding sources including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

Figure 8 shows total operational funding for the judicial branch from 2016-17 through 2020-21. Total funding for the judicial branch has steadily increased and the Governor proposes about \$4.6 billion in support in 2020-21.

As shown in **Figure 9**, the Governor’s budget proposes about \$4.4 billion from all state funds (General Fund and special funds) to support the operations of the judicial branch in 2020-21, an increase of \$37 million (1 percent) above the revised amount for 2019-20. (These totals do not include expenditures from local revenues or trial court reserves.) Of this amount, \$2.2 billion is from the General Fund—nearly half of the total judicial branch budget. This is a net decrease of \$48 million, or 2 percent, from the 2019-20 amount. This reduction is largely due to the expiration of limited-term funding provided in prior years.



to \$56 million annually beginning in 2023-24) to expand statewide the use of an online adjudication tool and backfill resulting reductions in criminal fine and fee revenue for the judicial branch. The impacts of the online adjudication tool are still uncertain and could require more funding than currently proposed. It is also premature to expand the tool statewide prior to the completion of the statutorily required evaluation of the program.

ONLINE ADJUDICATION OF INFRACTIONS

We recommend the Legislature reject the Governor’s proposal to provide \$11.5 million General Fund in 2020-21 (increasing

	2018-19 Actual	2019-20 Estimated	2020-21 Proposed	Change From 2019-20	
				Amount	Percent
State Trial Courts	\$2,922	\$3,267	\$3,362	\$95	2.9%
Supreme Court	49	53	54	1	1.3
Courts of Appeal	228	259	260	1	0.4
Judicial Council	141	186	184	-2	-1.0
Judicial Branch Facility Program	445	548	490	-58	-10.6
Habeas Corpus Resource Center	16	17	18	—	2.5
Totals	\$3,801	\$4,330	\$4,367	\$37	0.9%

Background

Resolution of Traffic Cases. Individuals charged with traffic infractions or misdemeanors can resolve their case in various ways. For example, an individual can choose not to contest a violation and submit payment to acknowledge conviction of the alleged offense, such as by paying a traffic ticket. Alternatively, the individual can choose to contest the violation before the court, such as through a trial. Additionally, an individual charged with a traffic infraction can choose to contest the charges in writing (referred to as a “trial by written declaration”). If the individual is dissatisfied with the decision rendered by the court under this process, he or she can contest the charges in court, with the court deciding the case as if the trial by written declaration never took place.

Criminal Fines and Fees. Upon conviction of a criminal offense (including traffic cases), trial courts typically levy fines and fees upon the convicted individual. As part of the determination of the total amount owed, individuals may request the court consider their ability to pay. Judges can reduce or waive certain fines and fees or provide an alternative sentence (such as community service). Individuals who plead guilty or are convicted and required to pay fines and fees must either provide full payment immediately or set up installment payment plans with the court or county collection program. If the individual does not pay on time, the amount owed becomes delinquent. State law then authorizes collection programs to use a variety of tools or sanctions (such as wage garnishments) to motivate individuals to pay their debt. In order for a collection program to halt collection sanctions placed on a particular individual, the individual must pay the total amount owed, reestablish installment payments, or have the court adjust the total amount owed based on his or her ability to pay. Collected revenues are distributed to state and local funds that support various programs, including five special funds that support the judicial branch—the Trial Court Trust Fund (TCTF), the State Trial Court Improvement and Modernization Fund (IMF), the State Court Facilities Construction Fund (SCFCF), the Immediate and Critical Needs Account (ICNA), and the Court Facilities Trust Fund (CFTF).

Pilot Program Established in 2018-19 Budget.

The 2018-19 budget package authorized a pilot program through January 1, 2023 to facilitate online adjudication of certain traffic infractions at a minimum of eight courts and allow individuals to request ability-to-pay determinations. Under the requirements of the pilot program, an online adjudication tool was required to be developed that would (1) recommend a reduction of at least 50 percent of the total amount of criminal fines and fees due for low-income individuals and (2) offer at least three of five additional functionalities—such as allowing individuals to request an online trial, a date to appear in court, or a continuance. Individuals’ low-income status is verified in various ways, including based on information they enter into the tool. The legislation requires the judicial branch to provide an evaluation of the pilot program no later than June 30, 2022. The 2018-19 budget provided the judicial branch with \$3.4 million General Fund (declining to \$1.4 million annually beginning in 2019-20) to implement and operate the pilot program.

Governor’s Proposal

The Governor’s budget proposes a total of seven positions and \$11.5 million General Fund in 2020-21 (increasing to \$56 million annually beginning in 2023-24) to:

- ***Expand Online Adjudication Tool Statewide.*** The Governor’s budget requires the Judicial Council to (1) develop an online adjudication tool for all infraction violations (not just traffic infractions) that would include an ability-to-pay component and (2) make the tool available statewide by June 30, 2023. While trial courts could choose whether to make use of the full online tool, all courts would be required to offer the ability-to-pay component of the tool by June 30, 2023. The Governor’s budget proposes \$3.9 million, declining to \$1.8 million annually beginning in 2023-24, to support this expansion.
- ***Backfill Expected Reduction in Fine and Fee Revenue.*** Given that the online adjudication tool allows individuals to more easily seek reductions in the total amount of

criminal fines and fees that they are assessed, the amount of criminal fine and fee revenue collected is expected to decline on an ongoing basis. To address this decline, the Governor’s budget proposes an ongoing backfill for reductions in revenues deposited into the TCTF, IMF, SCFCF, ICNA, and CTF. The Governor’s budget estimates that this backfill will be \$7.6 million in 2020-21 and will reach \$54.2 million in 2023-24. Under the proposal, the exact amount of this backfill would be adjusted annually to address whatever the actual loss in revenue is determined to be.

Figure 10 summarizes the multiyear fiscal impact of the Governor’s proposal.

The Governor’s proposal also includes trailer bill language eliminating the pilot program established in the 2018-19 budget and making certain components of the pilot program permanent, such as requirements related to the ability to pay determinations and to online trials for those trial courts that choose to offer them. We also note that, under the language, an evaluation of the pilot program activities would no longer be required.

Assessment

Premature to Cancel Pilot and Expand Statewide. As indicated above, existing state law requires the judicial branch to complete an evaluation of the pilot program by June 30, 2022. The purpose of the pilot was to determine the overall costs, effectiveness, and impacts of the specified pilot activities. Such information is intended to inform future policy and funding decisions by the Legislature regarding online adjudication and ability-to-pay determinations, including the trade-offs of certain choices. For example, the Legislature may want to consider whether a higher criminal fine and fee reduction for low-income individuals (as compared to the 50 percent minimum under the pilot program) would be more appropriate. Without the results of the pilot, the Legislature would be unable to fully understand the

costs and benefits of such choices. As such, it is premature to cancel the pilot and expand the online adjudication tool statewide.

Impacts of Online Adjudication Tool Still Uncertain... While there is a limited amount of preliminary data from the pilot—which Judicial Council used to develop this proposal—it is insufficient to determine whether to expand the tool statewide. This is because the data is both incomplete and potentially not representative. According to Judicial Council, only four of eight courts participating in the pilot program (Shasta, Tulare, Ventura, and San Francisco) have implemented the online tool with the ability-to-pay component. The remaining four courts are not expected to implement the online tool with the ability-to-pay component until the end of 2019-20. In addition, the online tool was launched at the first pilot court in April 2019 and at the fourth pilot court in December 2019. This means that none of the courts have data available that span at least one year. Moreover, the other required components of the tool—such as allowing individuals to request an online trial or a date to appear in court—will not be developed and implemented at the pilot courts until the end of 2020. As a result, the impact of these components is unknown—and could remain unknown—given that the pilot program and the required evaluation would be eliminated under the Governor’s proposal. Finally, the 2018-19 budget directed the judicial branch to select at least eight courts to participate in the pilot and provided guidelines for the selection of the courts in order to ensure a diverse sample. However, given that only four courts have implemented the pilot, it is possible that the pilot may not be representative of

Figure 10				
Governor’s Online Adjudication Proposal				
<i>(In Millions)</i>				
	2020-21	2021-22	2022-23	2023-24 and ongoing
Expanding pilot program statewide	\$3.9	\$5.4	\$5.5	\$1.8
Backfill of reductions in criminal fine and fee revenue	7.6	18.5	39.5	54.2
Totals	\$11.5	\$23.9	\$45.0	\$56.0

the state. For example, it is unclear whether other counties have similar proportions of low-income individuals or other court users who would actively seek to use the tool.

...Meaning Potential General Fund Backfill Could Be Higher. The limited availability of data from the four courts that have implemented the pilot is particularly problematic as the level of General Fund backfill the administration estimates would be necessary is based on the small amount of data available from the pilot. To the extent that more individuals than projected make use of the tool or if trial courts choose to grant reductions much greater than the minimum 50 percent required in the pilot program, the size of the backfill could be much higher than is assumed under the Governor's proposal.

We also note that this uncertainty means there is a lack of information on the impact the expansion of the tool statewide will have upon other state and local funds that receive criminal fine and fee revenue. It is reasonable to assume that these funds will similarly experience a reduction in such revenue given the expected impact on the judicial branch funds. However, the specific impact on individual funds and the programs they support—such as the Restitution Fund or the Commission on Peace Officers Standards and Training—is unknown. Additionally, it is unknown how such reductions would be addressed—such as through a General Fund backfill similar to the judicial branch funds, reductions in service, or through other means.

Recommendations

Reject Proposal. In view of the above concerns, we recommend the Legislature reject the Governor's proposal to cancel the pilot, expand the existing online adjudication tool statewide, and provide a General Fund backfill. More complete and accurate data is necessary to accurately determine the impact of the various activities being tested in the pilot program that is currently in progress. This includes the associated reduction in the amount of criminal fine and fee revenue distributed to various state and local funds (including judicial branch funds) that will need to be addressed. The forthcoming evaluation of the pilot would allow the

Legislature to assess the effectiveness and impacts of specific pilot activities, which will better inform future legislative policy and funding decisions.

COURT NAVIGATOR PROGRAM

We recommend the Legislature reject the Governor's proposal to provide \$8.1 million from the General Fund in 2020-21 (increasing to \$15.5 million annually in 2021-22) to establish a Court Navigator Program in trial courts, because it is premature to consider the proposal for a variety of reasons. For example, the proposed program would provide some services already offered by trial courts and it is unclear whether the proposed services are priorities for court users.

Background

Services for Self-Represented Litigants.

Self-represented individuals refers to those who choose to access certain court services without the assistance of legal counsel—typically related to civil matters. This is generally because the individuals cannot afford to hire legal representation. Given their lack of familiarity with statutory requirements and court procedures (such as what forms must be filled out or their legal obligations in the potential case), self-represented individuals can be at a legal disadvantage. In addition, trial court staff tends to spend significantly more time processing a self-represented filing than one with legal representation. For example, a self-represented litigant who files incomplete or inaccurate paperwork can lead to the litigant having to file paperwork repeatedly, the court to continue or delay cases, or the court needing to schedule additional hearings. To help self-represented individuals access the court system, the judicial branch offers or partners with other legal stakeholders (such as county law libraries or the State Bar) to provide various services and programs—such as legal aid and in-person self-help centers.

Increased Funding Provided for Various Services in Recent Years. Increased funding has been provided in recent years to programs intended

to assist self-represented litigants. The most significant funding increases include:

- **Legal Aid.** The 2017-18 budget included an ongoing \$10 million augmentation to the Equal Access Fund Program for the provision of legal services and assistance to indigent individuals in civil case types.
- **Self-Help Centers.** The 2018-19 budget provided an additional \$19.1 million General Fund annually through 2020-21 to support self-help centers at each trial court and required the judicial branch to conduct a cost-benefit analysis of self-help services by November 2020. Self-help centers serve as a central location for self-represented individuals to educate themselves and seek assistance with navigating court procedures. Attorneys and other trained personnel who staff the centers provide services in a variety of ways (such as one-on-one assistance in completing forms, courtroom assistance, and workshops) in various case types.
- **Self-Represented Litigants E-Services Web Portal.** The 2018-19 budget also included \$3.2 million General Fund in 2018-19, declining to \$709,000 annually beginning in 2020-21, for the judicial branch to design, build, and maintain a self-represented litigants e-services web portal. This web portal will allow self-represented litigants to research, complete and file forms electronically, and track their cases online through a user account. Interactive instructional tools and chat functions built into the system would provide litigants with assistance in completing forms, addressing questions, or prompting next steps.

Governor's Proposal

The Governor's budget proposes \$8.1 million (General Fund) in 2020-21 and \$15.5 million annually beginning in 2021-22 to establish a Court Navigator Program in trial courts. This funding would support 2.5 administrative positions at Judicial Council, as well as 50 court navigator positions in the trial courts in 2020-21 (increasing to 100 court navigators in 2021-22). According

to the administration and the judicial branch, the court navigators are intended to fill gaps they believe currently exist in the provision of services for self-represented litigants. The court navigators would (1) provide nonlegal assistance in self-help centers to allow self-help attorneys to focus on legal assistance; (2) provide directions and referrals to court services; (3) help court users employ court technology, such as for form completion; (4) support litigants, such as by accompanying them in courtrooms or taking notes in mediation processes; and (5) walking litigants through the next steps needed to complete their case. The Judicial Council would allocate funds for court navigators to the trial courts.

Premature to Consider Proposal

Some of the Proposed Services Already Offered. Some of the services that would be provided by the proposed court navigators are already provided by some self-help centers. For example, nearly all self-help centers provide assistance with form completion in some manner. Moreover, some self-help centers also provide various types of nonlegal assistance, such as offering certain workshops, ensuring litigants know where to go after leaving the center, and accompanying litigants to courtrooms.

Self-help centers generally have flexibility in the services they provide, the type and number of staff they hire, and the manner in which they provide services. As such, to the extent (1) these services are a high priority for a particular trial court and (2) court navigators were believed to be the best way to provide them, a trial court could support such services within existing resources. We note that the increased funding provided to self-help centers in 2018-19 could be used to implement or expand such services in the near term. To the extent these services are not already being provided, it is likely because they are not high priorities for individual trial courts.

Unclear Whether Proposed Activities Are Priority for Court Users. While court navigator services could provide some benefit to court users, it is unclear whether the specific activities proposed are priorities for court users. For example, to the extent more resources were available for self-help

services, court users could prefer legal assistance with completing certain forms—which cannot be offered by a court navigator—over receiving directions or courtroom accompaniment.

Evaluation of Existing Funding for Self-Help Centers Currently in Progress. The 2018-19 budget package required the judicial branch to conduct a cost-benefit analysis of self-help center services by November 2020. This analysis will determine which methods of delivering services (such as one-on-one services or workshops) are most cost-effective and in what case types. This analysis is particularly important as some services proposed to be offered by court navigators are already offered in some self-help centers and should already be part of this analysis. The cost-benefit analysis will help the Legislature determine what level of funding is merited and where funding should be targeted to maximize state benefit. In particular, the analysis could identify where gaps in services exist and whether court navigators would be the most effective way to address those gaps. Until the above evaluation is completed, it is premature to provide additional funding for self-help services.

Impact of Other Self-Help Related Services Remains Unclear. As discussed above, increased funding has been provided to other self-help related services that could reduce the overall unmet need for self-help services, including those that would be provided by court navigators. However, these services may not be captured in the pending cost-benefit analysis of services provided by self-help centers. For example, the new self-help web portal could enable litigants to successfully complete simpler or more common forms outside of the courthouse—reducing the need for self-help assistance in this area. Such a reduction raises questions about the potential need for court navigators as this type of activity is one of the responsibilities that court navigators would be responsible for. However, at this time, the impact of these recently funded services on self-help services need is unknown.

Recommendations

Reject Proposal. In light of above concerns, we recommend that the Legislature reject the

Governor's proposal to provide \$8.1 million (General Fund) in 2020-21 to establish a Court Navigator Program in trial courts.

COUNTY OFFICE OF EDUCATION OFFSET OF TRIAL COURT GENERAL FUND SUPPORT

We recommend the Legislature adjust the trial court offset in 2020-21 upward to account for property tax growth in 2019-20. Our preliminary estimates indicate that the upward adjustment is \$23.8 million, but updated data will be available in the spring to further refine this estimate. This would provide the Legislature with additional General Fund resources above the level assumed in the Governor's budget.

Background

County Offices of Education (COEs). Each of California's 58 counties has a COE. COEs oversee the budgets and academic plans of school districts within their jurisdictions, operate certain alternative schools, and provide various optional services to school districts. A primary source of funding for COEs is the Local Control Funding Formula (LCFF). Each COE's annual LCFF allotment is determined by formula.

Some COEs Collect "Excess Property Tax" Revenue. A COE's annual LCFF allotment is supported first with local property tax revenue, with the remainder covered by state Proposition 98 General Fund. Some COEs do not receive state support because they collect enough property tax revenue in a given year to cover the entire LCFF allotment. In virtually all of these cases, the COEs collect *more* in property tax revenue than their LCFF allotment. The amount collected above the LCFF allotment is known as excess property tax. Because the amount of property tax revenue collected can change from year to year, the amount of excess property tax also can change from year to year.

Offset of General Fund Support for Trial Courts. State law requires that any excess property tax revenues collected by COEs beyond their LCFF allotments be used to offset state General Fund

support of trial courts. The transfer occurs at the direction of DOF and the State Controller’s Office the year after the taxes are collected. For example, excess property taxes collected in 2018-19 offset the state’s General Fund support of trial courts in 2019-20.

Governor’s Proposal

The Governor’s budget estimates that the amount of excess property tax revenue available in 2020-21 will not increase over the 2019-20 level of \$90.1 million.

Assessment

Underestimate of Revenue Available for Offset. Our preliminary analysis of property tax growth projects higher levels of excess property tax revenues available to offset General Fund support of trial courts than assumed in the Governor’s

budget. Specifically, we estimate that \$114 million in excess property tax revenues will be available in 11 counties in 2019-20. This is \$23.8 million over the Governor’s estimate. We estimate the annual excess tax revenue will continue to increase and will exceed \$200 million in 2023-24.

Recommendation

Adjust Offset to Free Up Additional General Fund Resources. We recommend the Legislature adjust the trial court offset in 2020-21 upward to account for property tax growth in 2019-20. This would provide the Legislature with additional General Fund resources above the level assumed in the Governor’s budget. Our preliminary estimates indicate that the offset should be adjusted upward by \$23.8 million, but note that updated data will be available in the spring to further refine this estimate. We will provide updated numbers at that time.

DEPARTMENT OF JUSTICE

OVERVIEW

Under the direction of the Attorney General, DOJ provides legal services to state and local entities, brings lawsuits to enforce public rights, and carries out various law enforcement activities. DOJ also provides various services to local law enforcement agencies, including providing forensic services to local law enforcement agencies in jurisdictions without their own crime laboratory.

In addition, the department also manages the statewide criminal history database and conducts background checks required for firearm purchase and other purposes.

As shown in **Figure 11**, the Governor’s budget proposes \$1.1 billion to support DOJ operations in 2020-21, an increase of \$22 million, or 2 percent, over the revised amount for 2019-20.

About half of the proposed spending supports the department’s Division of Legal Services, while the remainder supports the Division of Law Enforcement and the California Justice Information Services Division. Of the total amount proposed for DOJ operations in 2020-21, nearly one-third—\$370 million—is from the General Fund. This is an increase of \$10 million, or 2.8 percent, from the estimated 2019-20 General Fund amount.

Figure 11

Total Expenditures for the Department of Justice
(Dollars in Millions)

	2018-19	2019-20	2020-21	Change From 2019-20	
	Actual	Estimated	Proposed	Amount	Percent
Legal Services	\$465	\$547	\$554	\$7	1.3%
Law Enforcement	230	300	309	9	3.1
California Justice Information Services	206	239	244	5	2.1
Totals	\$902	\$1,086	\$1,107	\$22	2.0%

BUREAU OF FORENSIC SERVICES SUPPORT

We recommend the Legislature approve the Governor's proposals to provide (1) \$32 million one-time General Fund to backfill declines in criminal fine and fee revenue deposited into the DNA Identification Fund to support the Bureau of Forensic Services (BFS) and (2) a \$17.7 million General Fund augmentation for site acquisition and the planning phase for a new consolidated forensic science laboratory campus, equipment replacement and facility maintenance, and workload related to the implementation of recent legislation. We also recommend requiring local agencies to partially support BFS beginning in 2021-22 and directing DOJ to develop a plan to implement of these changes.

Background

Overview of BFS. The BFS provides criminal laboratory services—such as DNA testing, alcohol and controlled substances analysis, and on-site crime scene investigative support—predominantly for local law enforcement agencies that do not have access to such services. BFS operates ten regional crime laboratories that serve law enforcement and prosecutorial agencies in 46 counties at no charge. BFS also assists the 12 counties and 8 cities that operate their own laboratories in cases where BFS offers services their laboratories lack. (Local agencies also contract with private or other governmental laboratories for services.) BFS offers its services free of charge. Additionally, BFS operates the state's DNA laboratory as well as the state's criminalistics training institute.

Funding for BFS. BFS receives support from various sources, including the General Fund, the DNA Identification Fund (a state fund that receives criminal fine and fee revenues), and grants and reimbursements. In 2013-14, BFS received most of its support from the DNA Identification Fund (84 percent), with the remainder from the General Fund (5 percent) and various other sources (11 percent). However, the amount of criminal fine and fee revenue deposited into the DNA Identification Fund has steadily declined since

2013-14. For example, the amount of revenue deposited in 2020-21 is projected to be about 38 percent (or about \$26 million) lower than the 2013-14 level. To help address this steady decline in DNA Identification Fund revenue and to maintain BFS service levels, the state has provided steadily increasing amounts of support from the General Fund.

Governor's Proposal

The Governor's 2020-21 budget proposes \$101 million in total operational support for BFS with nearly 50 percent coming from the General Fund, 37 percent from the DNA Identification Fund, and the remainder from various other sources.

General Fund Backfill to Support Existing Service Levels. The Governor's budget includes \$32 million in one-time General Fund support to backfill a projected decline in criminal fine and fee revenue in the DNA Identification Fund in order to maintain existing levels of service. Of this amount, \$10 million would be redirected from the California Justice Information Services Division within DOJ. This redirection would then be backfilled by revenue from another DOJ special fund—the Fingerprint Fees Account.

Increased Funding to Support BFS. The Governor's budget also proposes a \$17.7 million General Fund augmentation to support BFS. This amount includes:

- \$7.3 million in ongoing funding for equipment replacement (\$5.8 million) and facility maintenance and repairs (\$1.5 million).
- \$896,000 in ongoing funding and four positions for increased workload from the implementation of Chapter 588 of 2019 (SB 22, Leyva). Senate Bill 22 requires—within certain time frames—law enforcement agencies to submit sexual assault forensic evidence for testing and crime laboratories to either process or transmit the evidence to another laboratory.
- \$9.5 million (one time) for site acquisition and the planning phase for a proposed consolidated forensic science laboratory campus. The campus would consolidate the state's DNA laboratory, the Sacramento

regional laboratory, the state's criminalistics training institute, and BFS headquarters into one facility in the Sacramento region. The estimated total cost of the project is \$444 million.

Assessment

Governor's Proposals Appear Reasonable...

We find that the Governor's proposals generally appear reasonable as DOJ has provided sufficient workload justification for the total level of funding proposed for BFS operations and the ongoing need for equipment and repair funding. We also find it reasonable for DOJ to purchase land and begin the planning process for a new consolidated forensic laboratory campus.

...But Do Not Fully Address Ongoing Decline in DNA Identification Fund Revenues. The Governor's proposal does not provide a permanent solution to the ongoing decline in criminal fine and fee revenues that are deposited in the DNA Identification Fund to support BFS. As such, an ongoing and sustainable funding solution for BFS would still need to be identified.

BFS Provides Certain Local Governments Substantial Benefits. City and county law enforcement and prosecutorial agencies are predominantly responsible for collecting and submitting forensic evidence for testing as well as using the evidence to pursue criminal convictions in court. A large share of BFS resources are dedicated to providing support to these agencies. However, certain counties and cities benefit significantly more than others. Specifically, while 12 counties and 8 cities currently use their own resources to support local criminal laboratories, 46 counties generally do not have to use any of their resources for criminal laboratory services. This is because BFS is effectively subsidizing the agencies in these counties with tens of millions of dollars in services annually.

Local Governments Lack Incentive to Use BFS Services Cost-Effectively. BFS's current funding structure provides the agencies it serves with little incentive to use its services in a cost-effective manner. Since BFS does not charge for its services, these local agencies lack incentive

to prioritize what forensic evidence is collected and submitted for testing. Their submissions instead are generally only limited by BFS's overall capacity and service levels, as determined by the amount of funding provided to the bureau in the annual state budget. In contrast, counties and cities that use their own resources to support their labs—or those that decide they want to pay a private laboratory for testing—have greater incentive to carefully prioritize what evidence should be tested and how quickly it should be done.

Recommendations

Approve Governor's Proposals. We recommend that the Legislature approve the Governor's proposals to provide (1) General Fund support to backfill a projected decline in criminal fine and fee revenue in the DNA Identification Fund and (2) increased funding for equipment and facility maintenance and repairs, workload associated with SB 22, and site acquisition and the planning phase for a proposed consolidated forensic science laboratory campus.

Require Local Governments to Partially Support Bureau Beginning in 2021-22. Given the substantial benefit that local agencies receive from BFS services, we recommend the Legislature take steps to require local agencies to partially support BFS. Under our recommendation, agencies that receive service from BFS would be required to pay for a portion of the services they receive. This would provide them with a greater incentive to prioritize workload that is submitted to DOJ. Additionally, local agency contributions would reduce the amount of state funding required to support BFS, which would provide an ongoing solution to the decline of fine and fee revenue deposited into the DNA Identification Fund. Since it will take time to calculate each agency's appropriate share of support and to allow the agencies to adapt to the new BFS funding structure, we recommend that this new structure go into effect in 2021-22.

Require Development of Plan for Calculating Local Government's Share of Bureau Support. We recommend the Legislature direct DOJ to develop a plan to calculate each local agency's share of the BFS services it uses and report

this plan by January 10, 2021 to enable its consideration as part of the 2021-22 budget. This should include staff, operating expenses (such as the regular replacement of equipment), and facility costs (such as maintenance costs). The Legislature should provide guidance to DOJ on the development of the plan. For example, we recommend the Legislature direct DOJ to develop a plan in which at least half of BFS operating revenues come from local agencies. This funding would replace the 50 percent of BFS's budget which is proposed to be supported by the General Fund in 2020-21. DOJ would then be provided with flexibility to develop the specifics of the plan after consulting with stakeholders. For example, DOJ could require local agencies to pay more or less based on various factors—such as the specific type of forensic service being sought, the speed of the service, the size of the agency, or the crime rate in a local jurisdiction. If structured appropriately, this could provide a permanent ongoing funding solution for the support of BFS.

Direct DOJ to Update Future Facility Request if Necessary. Requiring local agencies that use the services of BFS to help support the costs of the bureau would incentivize them to find the most cost-effective way to obtain laboratory services. This could result in some agencies choosing to use other labs instead of BFS (such as private or other government labs) or send fewer cases to BFS. This, in turn, could result in BFS modifying the services it provides if there is a change in demand for specific services or in particular regions. To the extent that this results in changes to BFS's overall workload or organization, it could impact its need for the proposed consolidated forensic science laboratory campus. As such, we recommend the Legislature direct DOJ to update its future budget request for the next phase of the project to reflect any necessary changes.

FIREARM PRECURSOR PARTS

We recommend the Legislature reject the Governor's proposal to provide \$5 million (General Fund) in 2020-21 and \$5 million in 2021-22 to expedite the implementation of new firearm precursor parts regulatory requirements than envisioned in existing law. We find that

the expedited time frame would likely result in higher costs than currently identified and increase the risk that this project and other DOJ technology projects are delayed and not completed successfully.

Background

Regulation of Firearms and Ammunition.

Under federal and state law, certain individuals are not permitted to have firearms or ammunition. These "prohibited persons" include individuals (1) convicted of felonies and some misdemeanors (such as assault or battery), (2) found by a court to be a danger to themselves or others due to mental illness, and (3) with a restraining order against them. To implement this restriction, state law includes various regulations—including regulations on firearm and ammunition sales. These regulations include requirements for vendors to (1) be licensed, (2) conduct background checks to ensure sales are not made to prohibited persons, and (3) record and report certain pieces of information to DOJ. The recorded information, along with other data (such as criminal history data), are stored on various databases that DOJ uses to regulate firearms and ammunition sales. Fees charged to vendors and buyers are intended to offset the state's regulatory costs.

Regulation of Firearm Precursor Parts

Authorized. Chapter 730 of 2019 (AB 879, Gipson) extends state regulation regarding prohibited persons to firearm precursor parts. A precursor part is defined as a component of a firearm that is necessary to build or assemble a firearm, such as an unfinished handgun frame. Beginning July 2024, AB 879 requires vendors of precursor parts be licensed and that sales of such parts be processed through a licensed vendor. Additionally, beginning July 2025, the legislation requires licensed vendors to conduct background checks to ensure sales are not made to prohibited persons. It also requires the collection and electronic submission of certain information—such as the date of sale and the purchaser's name, date of birth, address, and telephone number—to DOJ. Finally, AB 879 authorizes fees on vendors and purchasers to cover state administrative, regulatory, and enforcement costs.

Governor’s Proposals

Increased Resources to Expedite Regulation of Firearm Precursor Parts. The Governor’s budget for 2020-21 proposes \$5 million from the General Fund annually for two years to expedite implementation of AB 879—for a total of \$10 million. Specifically, the administration proposes to move the date by which (1) vendors must be licensed, (2) sales must be processed through a licensed vendor, and (3) vendors must begin conducting background checks to July 2022. This would move the deadline for licensure and processing of sales up two years and the deadline for conducting background checks up three years earlier than otherwise required in statute. The administration and DOJ indicate that the implementation of AB 879 should be expedited because untraceable guns (commonly known as “ghost guns”)—which can be built from precursor parts—are a public safety issue. The proposed resources would be used to initiate a technology project to update various firearms-related databases that are needed to implement AB 879. The administration specifically states that this request is an estimate and that a revised request will be submitted in the spring to provide updated costs as well as details on such costs.

Assessment

We find the administration’s desire to implement AB 879 on an expedited time frame has merit from a public safety standpoint. However, the proposal raises two concerns, as we discuss below.

Implementation Costs Likely to Be Higher Than Assumed. We find the costs to implement AB 879 on an expedited time frame could likely be higher than assumed in the Governor’s budget. First, at the time the Legislature was considering AB 879, the cost to implement the legislation was estimated to total \$12.3 million, spread over five years (see **Figure 12**). Second, DOJ indicates that meeting the proposed expedited time frame would likely require greater use of outside consultants than initially planned. Since outside consultants are often more expensive than state employees, the actual cost to expedite the implementation of AB 879 could be even higher than \$12.3 million.

Expedited Time Frame Could Increase Project Risks. Expediting the implementation of AB 879 could make it more difficult to ensure that DOJ successfully completes the project on time, without error, and within budget. This is because the expedited time frame means that the planning and execution of the project will be much more compressed than originally planned and envisioned by the Legislature and, thus, could impact the department’s ability to ensure that the project operates as intended.

We also note that expediting the process to update various firearms-related databases could affect various other DOJ technology projects currently underway, such as a new tiered sex offender registry that is currently scheduled to be completed at the end of March 2022 at an estimated cost of \$73.6 million. Additionally, the Governor’s budget proposes initial planning and analysis to determine resource needs for the modernization of nearly a dozen firearms-related systems. Working on too many projects simultaneously means that DOJ’s capacity to effectively monitor the progress of projects is limited, which can increase the risk that projects are delayed, not completed successfully, and cost more than initially planned.

Recommendation

Reject Governor’s Proposal to Expedite Implementation. In view of the above concerns, we recommend that the Legislature reject the Governor’s proposal to provide DOJ with additional resources to expedite the implementation of

Figure 12

Legislative Committee Analysis of AB 879^a Implementation Costs

(In Millions)

Fiscal Year	Costs
2021-22	\$1.0
2022-23	3.3
2023-24	3.8
2024-25	2.9
2025-26 and ongoing	1.3
Total	\$12.3

^a Chapter 730 of 2019 (AB 879, Gipson).

AB 879. We find that the time frame envisioned by the Legislature when it approved AB 879 will help avoid increased implementation costs and reduce the risk that this project and other DOJ technology projects are not delayed and completed successfully.

RESOURCES TO IMPLEMENT LEGISLATION AND OTHER WORKLOAD

The Governor's budget proposes a total of \$15.3 million from various fund sources in 2020-21 (declining to \$12.5 million annually in 2022-23) for 11 different proposals—10 proposals related to recently enacted legislation and 1 proposal related to workload changes for the oversight of cardrooms. We find that the proposals generally fall into one of three categories: (1) proposals for anticipated workload that can be accommodated within existing resources or can be addressed in alternative ways than proposed, (2) proposals for which it is premature to provide some or all of the requested resources at this time, and (3) proposals which are unnecessary given that there is a separate proposal elsewhere in the Governor's budget for DOJ that would address the identified workload. Accordingly, we make various recommendations consistent with our findings.

Background

DOJ Often Has Flexibility in Ensuring Compliance With State Laws. Statute places various responsibilities on DOJ to ensure compliance with state laws. In some cases, statute specifically requires DOJ to engage in certain activities to accomplish its responsibilities. For example, the department is required to maintain and monitor the state's criminal justice databases and conduct background checks on individuals seeking cardroom gaming licenses. We note, however, that the department maintains some flexibility in how they carry out such required activities. For example, DOJ has some flexibility in determining the methods it uses to conduct

oversight over the cardroom industry and how frequently it pursues investigations of the industry.

In other cases, statute gives DOJ significant flexibility in how it carries out certain responsibilities by authorizing—but not requiring—the department to engage in certain activities. For example, DOJ generally sets its own priorities on how to use its legal resources to pursue cases against private businesses or other entities that engage in dishonest or anticompetitive business practices. Accordingly, DOJ can determine which cases to pursue, how to pursue them, and the level of resources dedicated to pursuing cases.

Governor's Proposals

Increased Resources Related to Recently Enacted Legislation and Other Workload Changes. The Governor's budget proposes a total of \$15.3 million from various fund sources in 2020-21 (declining to \$12.5 million annually in 2022-23) for 11 different proposals—10 proposals related to recently enacted legislation and 1 proposal related to workload changes for the oversight of cardrooms. These resources would support 73 positions. **Figure 13** (see pages 54 and 55) summarizes the Governor's 11 proposals.

Assessment

In our review of the Governor's proposals, we find that the proposals generally fall into one of three categories: (1) proposals for anticipated workload that is absorbable (meaning it can be accommodated within existing resources) or could be addressed in alternative ways than being proposed, (2) proposals for which it is premature to provide some or all of the requested resources at this time, and (3) proposals which are unnecessary given that there is a separate proposal elsewhere in the Governor's budget for DOJ that would address the identified workload.

Some Requests Are Absorbable or Can Be Addressed in Alternative Ways. In reviewing the Governor's proposals, we identified a few proposals that are requesting additional resources for workload that the department should be able to accommodate within existing resources or in

alternative ways. The specific proposals are for increased resources to implement:

- **Chapter 432 of 2019 (AB 649, Garcia).**
This legislation authorizes cardrooms to employ individuals between 18 to 20 years of age in certain job classifications, if the local ordinance governing the cardroom is amended to allow this. However, it is unclear whether any local ordinances will actually be changed and require DOJ review. Moreover, DOJ is already required to review changes in local ordinances when made for other reasons and the legislation only authorizes a change in employee age. Accordingly, we find that DOJ should be able to address this workload with existing resources.
- **Chapter 581 of 2019 (AB 1331, Bonta).**
This legislation generally requires DOJ to retain and provide more criminal record data. DOJ seeks additional resources to handle an anticipated increase in (1) requests for criminal record information, (2) costs associated with retaining and providing more data, and (3) workload related to verifying that requestors are authorized to receive the information. We find that to the extent to which DOJ will actually experience increased data requests is unclear as it is unknown how many additional requests will be submitted specifically as a result of the changes made by Chapter 581. Additionally, we find that a reasonable alternative to providing the requested resources for certain workload would be for DOJ to improve its existing processes. For example, DOJ can require that individuals requesting data provide information or documentation demonstrating why they are eligible to receive the information—rather than having DOJ conducting in-depth research on the requestor. Accordingly, we find that DOJ should be able to address this workload within existing resources.
- **Chapter 726 of 2019 (AB 164, Cervantes).**
This measure generally prohibits individuals subject to temporary restraining orders, injunctions, or protective orders issued in other states from purchasing or possessing

firearms and authorizes DOJ to seize them. While DOJ previously lacked authority to seize firearms from these individuals, it was tracking these individuals. As such, the department seeks additional resources to seize these firearms and to update statewide lists of all crimes for which individuals can be arrested or cited (also known as statewide master code tables). We find that DOJ seizure workload should be absorbable given the increased number of positions provided to DOJ for firearm seizures in the 2019-20 budget, which are in the process of being filled. Additionally, we find the other workload to be similarly absorbable. For example, the Legislature regularly enacts legislation that requires updates to the statewide master code tables. However, these tables should generally only need to be updated once a year and existing staff who are currently doing this workload should be able to do it for Chapter 726 as well.

- **Bureau of Gambling Control (BGC) Cardroom Oversight Request.** The Governor's budget provides BGC with additional resources to (1) shift to a proactive approach towards the regulation of the cardroom industry and (2) hire two attorneys and one legal secretary to carry out various responsibilities, including reviewing warning letters and other compliance-related correspondence prepared by BGC analysts and staff as well as attending meetings with attorneys representing licensees. While additional resources appear needed for BGC to take on a more proactive approach, we find that the bureau can pursue other alternatives to hiring attorneys and a legal secretary. For example, BGC could provide additional training for existing analytical staff to ensure they appropriately and consistently prepare warning letters and other compliance-related correspondence. This would eliminate the need for attorneys to review such correspondence.

Other Requests Are Premature. We also find that it is premature to provide funding for all or parts of a few of the Governor's proposals at this

time. The specific proposals are for increased resources to implement:

- **Chapter 589 of 2019 (SB 36, Hertzberg).**
This legislation requires pretrial services agencies to validate their pretrial risk assessment tools by January 1, 2021 and regularly revalidate them at least once every three years. In the process of validating such tools, pretrial agencies will need to request certain data from DOJ. While the department will need additional resources to address this workload, the level of resources that are needed on an ongoing basis remains unknown as it will depend on how frequently agencies choose to validate their tools as

well as the methods DOJ develops to provide the data. For example, the development of an automated script to query data from DOJ databases would minimize future workload associated with these requests.

- **Chapter 737 of 2019 (SB 61, Portantino).**
This legislation (1) generally prohibits the sale of semiautomatic centerfire rifles to individuals under the age of 21 and (2) limits the number of such weapons that can be purchased in a 30-day period beginning July 1, 2021. DOJ requests resources to modify the state’s firearms databases and to defend the law in court when challenged. While DOJ’s request for additional resources to modify the state’s

Figure 13

Summary of 11 Governor’s Proposals Included in This Analysis

Workload	Proposed Resources	Description
Recently Enacted Legislation		
Chapter 432 of 2019 (AB 649, Garcia)	2 limited-term positions and \$379,000 (Gambling Control Fund) in 2020-21 and \$362,000 in 2021-22	Authorizes cardrooms to employ individuals between 18 to 20 years of age in certain job classifications, if local ordinances are amended to allow this. Existing law requires the Department of Justice (DOJ) to review amended ordinances. DOJ requests resources to do so.
Chapter 452 of 2019 (AB 1132, Gabriel)	2 positions and \$377,000 (General Fund) in 2020-21 and \$364,000 annually in 2021-22	Authorizes DOJ to investigate and enforce prohibitions on (1) telemarketers entering false government information into a caller identification system to mislead call recipients and (2) callers from making calls knowing that such false information was entered. Authorizes district and city attorneys and DOJ to investigate and enforce the law. DOJ requests resources to do so.
Chapter 531 of 2019 (AB 824, Wood)	7 positions and \$1.7 million (Attorney General Antitrust Account) in 2020-21 and \$1.6 million annually in 2021-22	Creates a presumption that an agreement that resolves or settles a patent infringement claim related to the sale of a pharmaceutical product to be anticompetitive under certain circumstances. Specifies violations are punishable by a civil penalty that is recoverable only in litigation brought by DOJ. The department requests resources to pursue investigations and litigation.
Chapter 581 of 2019 (AB 1331, Bonta)	1 position and \$161,000 (General Fund) in 2020-21 and \$152,000 annually in 2021-22	Requires DOJ to retain and provide additional criminal record information when requested and generally prohibits individuals from being denied criminal record information solely on the basis of their criminal records. DOJ seeks resources to (1) address an anticipated increase in requests due to the availability of more complete data and the removal of prohibitions on who can request information, (2) meet requirements to retain and provide more data, and (3) verify the status of data requesters.
Chapter 589 of 2019 (SB 36, Hertzberg)	2 positions and \$314,000 (General Fund) in 2020-21 and \$297,000 annually in 2021-22	Requires pretrial services agencies to validate their pretrial risk assessment tools by January 2021 and regularly revalidate it at least once every three years. DOJ requests additional resources to fulfill data requests from these agencies.

(Continued)

firearms databases is justified, we find that the request for additional legal resources—one attorney and one legal secretary on a limited-term basis—to defend the law in court is premature. According to DOJ, litigation is currently pending related to the enactment of legislation in 2018 that generally prohibits the sale or transfer of firearms to individuals under the age of 21. A legal challenge to Chapter 737 has been folded into that litigation. This should reduce the amount of work needed to defend Chapter 737 as work prepared for the existing litigation would similarly apply to Chapter 737—particularly since both involve the prohibition of sales to individuals under the age of 21. Accordingly, we find that the additional legal resources proposed are not needed at this time.

- **Chapter 789 of 2019 (AB 1747, Gonzalez).**
This measure limits the use of the state’s telecommunications system for immigration enforcement purposes and requires documentation of certain inquiries. Since this change requires DOJ to modify the existing system, the additional resources requested to do this are justified. However, we find that the additional legal resources—one attorney and one legal secretary beginning 2021-22—to defend Chapter 789 in court is premature. This is because no legal challenge to the legislation has been filed at this time.
- **Chapter 840 of 2019 (SB 172, Portantino).**
This legislation authorizes—but does not require—certain licensed community care facilities to centrally store the firearms and ammunition belonging to their residents

Workload	Proposed Resources	Description
Chapter 726 of 2019 (AB 164, Cervantes)	2 positions and \$654,000 (General Fund) in 2020-21 and \$538,000 annually in 2021-22	Generally prohibits individuals subject to certain types of temporary restraining orders, injunctions, or protective orders issued in other states from purchasing or possessing firearms. DOJ requests additional resources for the seizure of firearms from such individuals who were previously tracked but for whom DOJ lacked seizure authority as well as other workload .
Chapter 737 of 2019 (SB 61, Portantino)	6 positions (2 permanent, 4 limited term) and \$2.4 million Dealers’ Record of Sale Special Account in 2020-21, declining to \$379,000 annually in 2022-23	Generally prohibits the sale of semiautomatic centerfire rifles to individuals under the age of 21. Limits the number of such weapons that can be purchased in a 30-day period beginning July 1, 2021. DOJ requests resources to modify the state’s firearms databases and to defend the law in court.
Chapter 750 of 2019 (AB 1130, Levine)	2 positions and \$375,000 (General Fund) in 2020-21 and \$362,000 annually in 2021-22	Expands the definition of personal information subject to state’s existing data breach laws to also include various data such as unique biometric data and passport numbers. DOJ requests additional resources for enforcement of the expanded scope of the state’s data breach and security laws.
Chapter 789 of 2019 (AB 1747, Gonzalez)	16 positions and \$2.8 million (General Fund) in 2020-21, increasing to 18 positions and \$2.9 million annually in 2022-23	Limits the use of the state’s law enforcement telecommunications system for immigration enforcement purposes and requires documentation of the reason for certain inquiries beginning July 1, 2021. DOJ requests additional resources to modify the system, ensure compliance, and defend the law in court.
Chapter 840 of 2019 (SB 172, Portantino)	3 positions (2 permanent, 1 limited term) and \$379,000 (General Fund) in 2020-21, declining to \$211,000 annually in 2022-23	Authorizes certain licensed community care facilities to centrally store the firearms and ammunition belonging to their residents upon verification with DOJ that the firearms were appropriately registered. DOJ requests resources to develop regulations and to address increased firearm registration verification requests.
Other Workload		
Bureau of Gambling Control—Increased Cardroom Oversight	30 positions and \$5.4 million (Gambling Control Fund) in 2020-21 and \$5.6 million annually in 2021-22	DOJ requests resources to (1) allow the bureau to shift to a proactive approach towards regulation of the cardroom industry and (2) hire two attorneys and a legal secretary for various responsibilities, such as legal review of bureau correspondence and attending meetings with attorneys representing licensees.

upon verification with DOJ that the firearms were appropriately registered. Accordingly, it unknown at this time (1) the number of facilities that would choose to store firearms and (2) the number of residents that would choose to do so. For example, facilities could determine that for insurance, liability, or other reasons that it would not be a beneficial business practice for them to accept and store firearms and ammunition. To the extent that DOJ finds that the measure results in a large increase in workload, the department could always request additional resources at that time.

Other Requests Unnecessary With Approval of Another Budget Proposal. We find the need for requested resources in three of the Governor's proposals are unnecessary given that there is a separate proposal elsewhere in the Governor's budget for DOJ that would address the identified workload. Specifically, in addition to the 11 proposals discussed in this section, the Governor proposes 37 positions and \$9 million from various funds to support a new Healthcare Rights and Access (HRA) Section that would focus on litigation to ensure compliance with the state's health-care related laws. (We do not raise concerns with that proposal.) As such, we find that DOJ would not need the requested resources to implement:

- **Chapter 531 of 2019 (AB 824, Wood).** We find that DOJ would be able to investigate anticompetitive activities in the pharmaceutical industry with the additional resources for the new HRA Section, which would have complete flexibility in determining the cases it pursues.
- **Chapter 452 of 2019 (AB 1132, Gabriel) and Chapter 750 of 2019 (AB 1130, Levine).** A significant portion of the workload that would be handled by the HRA Section is currently supported by resources from the Consumer Law and Antitrust Sections. Specifically, DOJ reports using an estimated 20,000 hours annually from the Consumer Law Section to address workload that would be addressed by the new HRA Section. As a result, the resources that would be freed-up in the

Consumer Law Section could be used to implement Chapters 452 and 750. We note that DOJ reports that the workload associated with these measures would require about 3,200 hours.

Recommendations

In view of our above assessment of the Governor's proposals, we recommend that the Legislature (1) reject proposals that are premature or are for workload that can be addressed with existing resources or with improvements to existing processes, (2) modify those proposals that include requests for some resources that are not justified at this time, and (3) reject proposals that are unnecessary given a separate proposal elsewhere in the Governor's budget for DOJ that would address the identified workload. We note that our recommendations would not prevent the various pieces of legislation from being implemented as envisioned by the Legislature. Specifically, we recommend that the Legislature:

- Reject proposed resources related to Chapters 432, 581, 726, and 840.
- Modify four proposals as follows:
 - » Approve only one-year, limited-term funding for Chapter 589.
 - » Do not approve the two limited-term positions for Chapter 737—one attorney and one legal secretary—related to defending the law in court.
 - » Do not approve the two positions—one attorney and one legal secretary—that are proposed for Chapter 789 on an ongoing basis beginning in 2021-22.
 - » Do not approve three positions—two attorneys and one legal secretary—related to providing BGC with in-house legal resources.
- Reject proposed resources related to Chapters 452, 531, and 750. However, if the Legislature does not approve a separate proposal to establish a new HRA Section, we would recommend approval of the proposed resources to implement Chapters 452, 531, and 750.

LICENSING STAFF FOR BUREAU OF GAMBLING CONTROL

The Governor's budget proposes \$867,000 (Gambling Control Fund) and 8 nonanalyst positions to take on some of the tasks currently being completed by the 52 analyst positions currently conducting background investigations, including 32 positions funded on a limited-term basis. We find that it is premature to approve the proposed positions before the full impact of recently implemented efficiencies is known and the Legislature determines how many analyst positions to approve as part of the 2021-22 budget when the limited-term funding currently supporting the 32 positions expires.

Background

BGC. The BGC within DOJ and the California Gambling Control Commission jointly regulate the state's gambling industry—which currently includes 86 cardrooms and 65 tribal casinos. The bureau has investigation, compliance, and enforcement responsibilities, while the commission has policymaking, licensing, and adjudication responsibilities. In 2019-20, the bureau received nearly \$36 million to support its workload. Of the total, about 42 percent comes from the Gambling Control Fund (GCF)—which receives revenue from the cardroom industry—and nearly all of the remainder from tribal gaming revenues.

Licensing Section Workload. State law generally requires businesses, business owners, and employees who operate, work, or benefit from gaming activities to be licensed. Businesses or individuals submit applications to either obtain a license or renew a license, along with a processing fee, to the bureau. The bureau is then responsible for conducting background investigations and making recommendations to the commission on whether licenses should be approved, renewed, or denied. The length of time it takes to conduct such investigations depends on the type of license. For example, the investigations related to business owner license applications can be significantly more extensive than for a regular cardroom employee. These investigations include various inquiries, such as a criminal background check and a review of

financial statements. Since 2015-16, the section has received limited-term funding to address a growing backlog of licensing investigations cases. Despite these additional resources, the backlog has persisted. Currently, the section has 52 analyst positions—32 supported by limited-term funding and 20 supported by ongoing funding—tasked with completing background investigations.

Concerns Raised in Audit of Cardroom Licensing. The Legislature directed the California State Auditor (CSA) to conduct an audit of the cardroom licensing process. In May 2019, CSA identified three major concerns related to BGC. Specifically, CSA found that (1) inefficiencies have driven delays and compounded backlogs in licensing processes; (2) fees charged do not align with regulatory costs, resulting in fairness concerns; and (3) inconsistent regulations and practices have resulted in the unequal treatment of applicants. CSA also made specific recommendations for the bureau to address these findings. These included implementing procedural changes to improve the timeliness and efficiency of processing applications (for example ensuring that analysts spend most of their time on actual licensing workload), developing a plan to address the remaining backlog strategically and accountably, and conducting a cost analysis of all of its activities. Additionally, CSA recommended that the Legislature extend the limited-term funding for the 32 analyst positions for another two years, which was done as part of the 2019-20 budget. According to CSA, this would allow the backlog to be cleared and provide the Legislature time to consider long-term staffing needs *after* taking into consideration the impacts of the implementation of the recommendations.

Governor's Proposal

The Governor's budget proposes eight new nonanalyst positions and \$867,000 (GCF) in 2020-21 and \$779,000 annually beginning in 2021-22 for BGC. These positions would take on some of the tasks currently being completed by the 52 analyst positions conducting background investigations. According to DOJ, shifting these tasks would allow the 52 analysts completing background checks to increase their productivity and efficiency by reducing their workload that

is not directly related to processing background checks. The tasks that would be shifted to the eight nonanalyst positions include checking whether applications are completed, imaging case files, coordinating requests, completing database inquiries, and creating files.

Request for Resources Is Premature

We find that the request for the additional resources is premature. BGC has only recently taken steps to implement a number of the recommendations made by CSA. This means that the full impact of such changes on the overall licensing process is still unknown. For example, CSA recommended BGC reassess its policies on how much time analysts spend on actual licensing workload as well as how they report spending their time. This should make analysts more productive as they should be reducing time spent on workload unrelated to licensing. This should reduce the total amount of resources needed on an ongoing basis to process cases. Only after these efficiencies have been fully implemented will it be possible for the Legislature to determine whether the bureau needs

additional resources to address its workload on an ongoing basis.

Moreover, this request should be considered concurrently with a request for ongoing resources for analyst positions. This is because these nonanalyst positions directly impact the need for the analyst positions. By approving these nonanalyst positions, the ongoing need for the analyst positions should decline given that some analyst workload is being shifted to them. Therefore, it is premature to approve these positions before the Legislature determines how many analyst positions to approve as part of the 2021-22 budget, given that the two-year, limited-term funding currently supporting the 32 positions expires at the end of 2020-21.

Recommendation

Reject Proposal. In light of the above concerns, we recommend the Legislature reject the Governor's proposal to provide \$867,000 (GCF) for eight nonanalyst positions.

SUMMARY OF RECOMMENDATIONS

Issue	Governor's Proposal	LAO Recommendation
Cross Cutting Issue		
Combining the state's programs for victim services	Delay temporarily the planned consolidation of victim services programs.	Direct administration to provide a time line for consolidation of victim programs. Consider directing administration to complete the consolidation within a designated time frame if administration does not provide time line.
Probation funding and reforms	\$71 million in 2020-21 (\$11 million ongoing) from the General Fund and trailer bill legislation to (1) modify the SB 678 funding formula, (2) require increased supervision of certain misdemeanor probationers and provide limited-term funding to support this supervision, and (3) reduce the length of felony and misdemeanor probation.	Reject proposals and instead expand SB 678 funding formula to reward counties for keeping misdemeanor probationers out of prison.
Indigent defense grant program	\$10 million (General Fund) one time for a pilot program to provide grants to eligible county public defender offices for indigent defense services.	Direct administration to provide details, including the primary goals of the program, by April 15, 2020. Withhold recommendation until this information is provided, but reject proposal if not provided.
California Department of Corrections and Rehabilitation (CDCR)		
Trends in the adult inmate and parolee populations	\$29.5 million reduction (primarily General Fund) for various adjustments associated with inmate and parolee caseload changes.	Withhold recommendation until May Revision.
Conservation camps	Estimates that the average daily conservation camp population will be 2,900 inmates in 2020-21, which would leave 37 percent of camp beds vacant.	Direct CDCR to report at budget hearings on (1) what options it is considering (if any) to increase the camp population and (2) the feasibility of removing restrictions on camp eligibility for certain low-risk inmates.
Correctional staff training and job shadowing	\$21.4 million in 2020-21 (\$19.8 million ongoing) from the General Fund to implement various initiatives to improve correctional staff training, such as a facility for hands-on officer training and job shadowing program.	Reject 42 of the requested 85 positions and associated \$6.7 million due to lack of justification and require the administration to provide an annual report on training outcomes.
Applying credits to advance youth offender parole hearings	\$504,000 in 2020-21 (\$796,000 ongoing) from the General Fund to make information technology upgrades and for staff to process parole eligibility date changes when certain inmates earn credits for significant achievements.	Reduce proposal by \$258,000 in 2021-22 (\$516,000 ongoing) based on a more reasonable workload estimate.
Exonerated housing assistance	\$621,000 in 2020-21 (\$1.6 million ongoing) from the General Fund to provide housing assistance to exonerated individuals.	Reduce proposal by \$321,000 in 2020-21 (\$1 million ongoing) based on more reasonable cost assumptions.
Expansion of the Male Community Reentry Program (MCRP)	\$280,000 in 2020-21 (\$6 million ongoing) from the General Fund to expand MCRP by opening a new 80 to 100 bed facility.	Reject proposal given that the results of an ongoing evaluation of MCRP are expected to be available in December 2020.
Expansion of higher education opportunities for inmates	\$1.8 million in 2020-21 (\$3.5 million ongoing) from the General Fund for CDCR to partner with five California State University (CSU) campuses to provide in-person instruction for the final two years of four-year college degrees for up to 350 inmates.	Withhold action and direct the administration to coordinate with the CSU system to provide updates on the structure and necessary resources for the program no later than the May Revision.
Technology for inmates participating in academic programs	\$27 million in 2020-21 (\$18 million ongoing) from the General Fund to provide inmates in academic programs with thin-client laptops and access to other technologies to improve academic outcomes.	Approve proposal but adopt budget trailer legislation to require a cost-effectiveness evaluation be completed.
Medication room projects	\$31.7 million (General Fund) for the construction phase of medication room projects at 13 prisons.	Withhold action and direct the department to report at budget hearings on its medication room needs.

(Continued)

Issue	Governor's Proposal	LAO Recommendation
Telehealth services building	\$2 million (General Fund) for the preliminary plans phase of a project to construct office space for telehealth providers.	Reject proposal and adopt supplemental report language directing the administration to develop an alternative plan to implement telecommuting.
Psychiatric registry funding	\$1.4 million (General Fund) for psychiatric registry services.	Approve request on a one-time basis as the amount of funding needed beyond 2020-21 is unclear.
Contract medical services	Make ongoing a \$61.9 million (General Fund) augmentation provided in 2019-20 for contract medical services.	Withhold action and direct CDCR to report at budget hearings on specific steps it will take to increase the amount of federal reimbursement the state receives and the amount of additional reimbursements such actions would create.
Medical imaging equipment	\$1.5 million in 2020-21 (\$2.3 million ongoing) from the General Fund to replace medical imaging equipment and fund a maintenance and warranty contract.	Approve proposal but also reduce CDCR's base budget for medical guarding by \$150,000 per year (increasing annually to \$1.5 million) to account for an anticipated reduction in medical escorts.
Department of Youth and Community Restoration (DYCR)		
Resources and augmentation authority to establish DYCR	\$19.8 million (General Fund) to support the reorganization and establishment of DYCR and provisional language authorizing the administration to augment DYCR's budget by an additional \$10 million to further support the reorganization.	Approve the \$19.8 million but reject the provisional language authorizing the administration to augment DYCR's budget by an additional \$10 million due to lack of justification.
Training for Youth Correctional Counselors and Officers	\$5.6 million (General Fund) to provide resources to train up to 120 cadets and establish a job shadowing program.	Modify proposal to approve a total of \$3.2 million in 2020-21 and 2021-22 as this is sufficient to address typical hiring needs. This would allow the department time to better estimate its needs and correct a technical budgeting error.
Judicial Branch		
Online adjudication of infractions	\$11.5 million in 2020-21 (\$56 million ongoing) from the General Fund to expand statewide the use of an online adjudication tool and backfill resulting reductions in criminal fine and fee revenue for the judicial branch.	Reject proposal as the impacts of the online adjudication tool are still uncertain and it is premature to expand the tool prior to the completion of the required evaluation of the program.
Court Navigator Program	\$8.1 million in 2020-21 (\$15.5 million ongoing) from the General Fund to establish a Court Navigator Program in trial courts.	Reject proposal as it is premature to consider it for various reasons, including because the proposed program would provide some services that are already provided by trial courts.
County Office of Education offset of trial court General Fund support	Estimates that the amount of excess property tax revenue available to offset General Fund support for trial courts will not increase above the 2019-20 level of \$90.1 million.	Adjust trial court offset in 2020-21 upward to account for property tax growth in 2019-20. Preliminary estimates indicate a \$23.8 million adjustment, but updated data will be available in the spring to further refine the estimate.

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Issue	Governor's Proposal	LAO Recommendation
Department of Justice (DOJ)		
Bureau of Forensic Services (BFS) support	\$32 million (General Fund) one time to backfill declines in fine and fee revenue in the DNA Identification Fund. \$9.5 million (General Fund) for the site acquisition and planning phase of a project to construct a new consolidated forensic science campus. \$8.2 million (General Fund) ongoing for equipment replacement, facility maintenance, and new workload.	Approve proposals. Require local agencies to partially support BFS beginning in 2021-22. Direct DOJ to develop a plan to implement this change and to update its future facility request to reflect any resulting impacts on BFS.
Firearm precursor parts	\$5 million (General Fund) in both 2020-21 and 2021-22 to expedite the implementation of new firearm precursor parts regulatory requirements.	Reject proposal as the expedited time frame would likely result in higher costs and increase the risk that this technology project and others are delayed or not completed successfully.
Resources to implement legislation and other workload	\$15.3 million in 2020-21 (\$12.5 million ongoing) from various fund sources for 11 different proposals—ten related to recently enacted legislation and one related to workload changes for the oversight of cardrooms.	Reject or modify proposals because (1) workload can be accommodated within existing resources or addressed in alternative ways, (2) it is premature to provide some or all of the resources, and (3) proposals are unnecessary given a separate proposal that would address the workload.
Licensing staff for Bureau of Gambling Control	\$867,000 in 2020-21 (\$779,000 ongoing) from the Gambling Control Fund to support nonanalyst positions that would take on some of the tasks currently being completed by analysts conducting background investigations.	Reject proposal as it is premature to approve it before ongoing resource needs for the section are known.

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