

**Judicial Reviews of  
State Developmental  
Center Placements**

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*Implementation of the In re Hop Decision*

Office of the Legislative Analyst  
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<b>Introduction .....</b>	<b>1</b>
<b>Executive Summary .....</b>	<b>2</b>
<b>Chapter I</b>	
<b>Background .....</b>	<b>5</b>
Admitting Persons with Developmental Disabilities to State Developmental Centers .....	5
<i>In re Hop</i> Decision .....	6
State and County Responses to the Decision .....	6
Senate Concurrent Resolution 45 .....	7
<b>Chapter II</b>	
<b>State Developmental Center Clients Whose Placements Have Not Received Judicial Review .....</b>	<b>8</b>
<b>Chapter III</b>	
<b>County Criteria for Commitments .....</b>	<b>10</b>
Methodology .....	10
Section 6500 Commitments .....	11
"Hop" Commitments .....	11
<b>Chapter IV</b>	
<b>Alternatives for Implementation of <i>In re Hop</i> Reviews and Costs .....</b>	<b>13</b>
Assumptions Regarding the Review Process .....	13
Cost Estimates for Reviews .....	14
Costs for Statewide Implementation .....	18
<b>Chapter V</b>	
<b>Capacity of Community Service System .....</b>	<b>20</b>
Ability of Community Service System to Absorb Existing State Referrals .....	20
Ability of System to Absorb Referrals Resulting from Hearings .....	21
<b>Appendix 1 .....</b>	<b>22</b>
<b>Appendix 2 .....</b>	<b>27</b>

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# Table of Contents

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# Introduction

# Introduction

This report is submitted in response to Resolution Chapter 147, Statutes of 1987 (Senate Concurrent Resolution 45). This measure requires the Legislative Analyst's Office to submit a report to the Legislature responding to specific questions related to the counties' implementation of the California Supreme Court's *In re Hop* decision (29 Cal. 3d 82). This decision specifies that persons with developmental disabilities who are unable to provide informed consent regarding their placement in a state developmental center (SDC) are entitled to judicial hearings regarding the need for, and appropriateness of, such placement.

In Chapter I, we provide background information on (1) the methods currently specified in statute for admitting persons with developmental disabilities to SDCs, (2) the *In re Hop* decision, (3) state and county responses to the decision, and (4) SCR 45. The remaining chapters of this report respond to the specific information requests set forth in SCR 45.

Chapter II provides estimates of the number of persons residing in SDCs whose placements have not been reviewed under the standards set forth in *In re Hop*. Chapter III dis-

cusses the criteria used by a representative number of counties for commitments under the Welfare and Institutions Code Section 6500 (which permits commitments to SDCs of mentally retarded and dangerous persons). We also discuss in Chapter III the criteria counties have developed for so-called "Hop" commitments. (Appendix 1 contains information on county-specific criteria for both Section 6500 and "Hop" commitments.) Chapter IV presents alternative methods available to counties to implement the *In re Hop* decision and the costs associated with each alternative. Chapter V discusses the capacity of the community service system to meet the needs of persons who may be referred to the community as a result of judicial reviews arising from the *In re Hop* decision.

We would like to thank the staffs of the Department of Developmental Services, regional centers, and counties who participated in the surveys needed to prepare this report.

This report was prepared by Phyllis Bramson under the supervision of Carol Bingham. It was typed by Kelly Zavas and formatted for publication by Patricia Skott. ♦

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# **Executive Summary**

# Executive Summary

In its 1981 decision, *In re Hop*, the California Supreme Court ruled that persons with developmental disabilities who are unable to provide informed consent regarding their placement in a state developmental center (SDC) are entitled to judicial reviews regarding the need for, and appropriateness of, such placement. This decision affected placements under Welfare and Institutions Code (WIC) Section 4825. This section authorizes the placement of nonprotesting adults with developmental disabilities upon application by a regional center and the request of a parent or conservator.

Subsequent to the court's decision in 1981, counties began to provide judicial reviews for clients who previously would have been admitted to SDCs under Section 4825. In the absence of a statutory implementation scheme, counties adopted a variety of commitment procedures to provide judicial reviews for this population. Some counties, for example, have interpreted WIC Section 6500, which authorizes placement of dangerous mentally retarded persons into SDCs, to authorize placement of persons with developmental disabilities who previously were admitted under Section 4825. Others have developed new so-called "Hop" procedures for authorizing admissions to SDCs. However, counties generally have not held hearings for Section 4825 clients admitted to the

SDCs prior to 1981. This is consistent with the administration's belief that *In re Hop* does not require judicial reviews for SDC residents admitted prior to 1981.

In response to the continuing confusion surrounding the counties' implementation of *In re Hop*, the Legislature adopted SCR 45 in 1987. This measure made several findings related to this decision and requested the Legislative Analyst's Office to provide the Legislature with answers to four specific questions. These four questions are discussed below along with a summary of our responses.

1. *How many clients currently reside in the SDCs whose placements have not been reviewed under the constitutional standards set forth in In re Hop?*

Data from the Department of Developmental Services indicate that approximately 4,000 clients residing in SDCs as of December 1987 had not received a judicial review of their placement. An additional 1,000 clients reside in SDCs who *have* received an initial review under "Hop" procedures. Each year, approximately 170 new clients are affected by changes in judicial review requirements.

2. *What criteria are used by a representative number of counties for commitments under Section 6500?*

To answer this question, we identified a sample of 10 counties based on information from various organizations. These counties include (a) five of the seven counties in which an SDC is located, (b) wide variability in criteria for commitments, and (c) a mix of urban, suburban, and rural counties. To obtain data on criteria used by the 10 counties, we surveyed county agencies, regional centers, and SDCs.

Our survey indicates that county criteria for making commitments under Section 6500 (mentally retarded persons who are dangerous to self or others) vary significantly. The so-called "Hop" commitment procedures developed by counties also vary significantly. Generally, the counties that limit their commitments under Section 6500 use "Hop" commitments more extensively.

3. *What are the alternative methods available to counties for implementing the In re Hop decision, and what are the costs associated with these alternatives?*

We identified three types of judicial reviews that could occur under *In re Hop*, depending on the type of client: (a) new admission of an individual to an SDC, (b) initial review of an individual currently in an SDC, and (c) recommitment to an SDC of an individual residing in such a center. Each of these reviews has four components for which we identified implementation options, as follows:

- **Petitioning for Commitment.** Two different agencies could petition the court for commitments and recommitments: (a) regional centers or (b) counties--district attorneys/county counsels. Our survey indicates that regional centers incur greater costs for performing the legal work related to these proceedings than counties. There also is some legal controversy regarding the appropriateness of regional centers, which are not governmental agencies, being involved in these proceedings. If the Legislature enacts a bill implementing *In re Hop*, we

*recommend that it assign district attorneys/county counsels with responsibility for petitioning the courts for "Hop" commitments.* While this would result in a state-mandated local program, we believe such state costs are appropriate based on cost-effectiveness and avoidance of legal challenges.

- **Defending Clients.** Counties provide for the public defense of persons who are unable to pay. For SDC residents, our review indicates that a number of counties currently do not attempt to recoup their costs from the clients. We identified potential savings to counties of 62 percent if counties choose to recoup their costs, rather than the current practice of providing representation without charge. If the Legislature enacts a bill implementing *In re Hop*, we recommend that it consider encouraging counties to recoup the costs of providing public defense to SDC residents.
- **Hearings by the Court.** Counties could use either judges or commissioners/referees to hear these cases. Per-case costs are lower using commissioners/referees. Counties also could hold hearings for current SDC residents in one of two locations: (a) the county courthouse or (b) the grounds of the SDC. We believe that holding hearings on the grounds of the SDCs would be less disruptive for clients and would result in savings to SDCs related to travel and other administrative costs that significantly exceed any increases in county costs. Accordingly, if the Legislature enacts a bill implementing *In re Hop*, we recommend that it consider requiring counties to (a) use commissioners/referees to hear the cases and (b) hold court hearings for SDC residents on the grounds of the SDC. These requirements would result in a state-mandated local program only in those counties which decide *not* to participate in the trial court funding program. This is because

counties that *do* participate in the trial court funding program are required to forego state reimbursements for trial court-related mandates.

- **Regional Center and SDC Documentation.** Counties could schedule hearings for SDC residents to coincide with the development of each client's Individual Habilitation Plan (IHP). We estimate that scheduling hearings in this manner could save 25 percent of regional center and SDC costs because it would consolidate otherwise separate (a) assessments of a client's needs, (b) evaluations of potentially appropriate community facilities, and (c) travel to the SDC where the client resides. If the Legislature enacts a bill implementing *In re Hop*, we recommend that it require judicial reviews of SDC residents to be scheduled to coincide with the development of each client's IHP.

**Length of Commitment.** By statute, Section 6500 commitments must be renewed annually. Currently, for "Hop" commitments, most counties have required renewal every year, although some have required renewal every two years or allowed them to remain in placed indefinitely. Our survey respondents indicated that annual reviews of "Hop" commitments are unnecessary because the condition of the client is unlikely to change substantially within a year. If the Legislature enacts a bill implementing *In re Hop*, we therefore recommend that it require that "Hop" commitments be renewed every two or three years, rather than annually.

Depending on the implementation option selected, we estimate one-time costs ranging from \$2.2 million to \$4.1 million for providing the 4,000 clients currently residing in the SDCs with initial judicial reviews of their placements. Annual costs for judicial reviews of new admissions would range from \$125,000 to \$165,000. Annual costs for recommitments--for the 4,000 clients who have not yet had initial reviews and the 1,000 clients admitted under "Hop" procedures--would be from \$2.5 million to \$4.9 million if recommitment hearings were held annually. Costs for recommitments would be less if commitments extended for longer than one year.

The costs for initial reviews and recommitments also could be less to the extent that regional centers are not involved in hearings for all clients residing in SDCs.

4. *What is the capacity of the community service system to accept SDC clients who are referred to the community as a result of judicial reviews provided pursuant to In re Hop?*

We believe it is likely that relatively few additional clients would be referred from SDCs to community placement as a result of holding judicial reviews pursuant to *In re Hop*. Nevertheless, it is likely that the community service system would be unable to accept any additional clients identified pursuant to these judicial reviews. This is because the community service system is currently unable to accept all clients for whom community living represents the most appropriate and least restrictive environment. ♦

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# Chapter I

# Chapter I

# Background

In this chapter, we review (1) the methods currently specified in statute for admitting persons with developmental disabilities to state developmental centers (SDCs), (2) the *In re Hop* decision, (3) state and county responses to the decision, and (4) SCR 45.

## Admitting Persons with Developmental Disabilities to SDCs

Generally, regional centers and the state Department of Developmental Services determine whether a person with developmental disabilities qualifies for placement in an SDC. To be admitted, the person must fall into a legal category for which admission is authorized. These categories are described below in order to provide a context for understanding the remainder of the report.

**Welfare and Institutions Code (WIC) Section 4825.** This section permits placement of nonprotesting adults with developmental disabilities into SDCs upon application by a regional center and the request of a parent or conservator. This is the section that was affected by *In re Hop*.

**WIC Section 6500.** This section permits commitment of mentally retarded persons who are dangerous to themselves or others into SDCs. District attorneys or county counsels must file petitions for commitment under Section 6500. Commitments must be renewed annually.

**Lanterman-Petris-Short (LPS) Conservatorships.** Under WIC Sections 5350 *et seq.*, courts may appoint LPS conservators for persons who are gravely disabled (unable to provide their own food, clothing, or shelter) as a result of a mental disorder. Under WIC Section 6000, LPS conservators may place conservatees into SDCs. LPS conservatorships must be renewed annually.

**Probate Conservatorships.** Under Probate Code Sections 1801, 1227.5, and 2351 *et seq.*, courts may appoint conservators for incompetent adults. Conservators may make decisions regarding residence for their conservatees. The courts also may appoint probate conservators with limited powers for persons with developmental disabilities. These "limited" probate conservatorships may or may not include the ability to determine residence for the conservatee. Probate conservatorships, including limited probate conservatorships, remain in force until the conservatee dies or is restored to capacity.

**Penal Commitments.** Under Penal Code Sections 1370 *et seq.*, courts may commit to SDCs mentally disordered and developmentally disabled persons who are charged with crimes but who are unable to stand trial due to mental incompetence. These commitments remain in force until the person becomes competent to stand trial or for the shorter of (1) three years or (2) the maximum term of imprisonment provided by law for the most

serious offense charged by the court. At the end of the commitment period, if the defendant remains mentally incompetent, the court can consider other means of commitments.

**Voluntary Admissions.** Under WIC Section 6000, competent adults may request admission to SDCs. Minors may be admitted upon request of a parent, guardian, or conservator.

## ***In re Hop* Decision**

This case involved Irene Hop, an adult with developmental disabilities who was admitted to the Lanterman SDC under WIC Section 4825 upon the request of her mother, who was not her conservator. The public defender filed a writ of habeas corpus, requesting her release. The California Supreme Court concluded in 1981 that her confinement in the SDC without a judicial hearing or knowing agreement was illegal [*In re Hop* (1981) 29 Cal. 3d 82].

In making its ruling, the court concluded that:

- Her admission at the request of her mother, who was not her conservator, could not be considered voluntary because she did not request nor knowingly agree to placement.
- Her failure to object could not be interpreted as a waiver of constitutional rights because such a waiver must be knowing and intelligent.

- Her situation was similar to the situation of an LPS conservatee involuntarily placed in a state hospital. Consequently, she was entitled to a "judicial hearing on...whether because of developmental disability she is gravely disabled or a danger to herself or others and whether placement in a state hospital is warranted." Further, because LPS commitments require the application of criminal due process standards, her rights include the right to a jury trial and application of the standard of proof beyond a reasonable doubt.

The court did not require the immediate release of "Hop" or of others held in SDCs under Section 4825 because "the precipitous release of these (adults) to families and facilities unprepared to care for them could be disruptive to the treatment program and potentially harmful to the (patient) and the community."

## **State and County Responses to the Decision**

The Legislature responded to this decision by passing AB 3278 in 1982. Among other things, AB 3278 would have established new procedures governing involuntary admissions to SDCs. This measure was vetoed by the Governor due to his belief that the bill exceeded the scope of the court's decision.

The Legislature has considered additional proposals for implementing the court's decision since that time, but none of these proposals have been enacted.

In response to the *In re Hop* decision, counties have altered their commitment proce-

dures in various ways. (County agencies involved in commitment proceedings may include superior courts, district attorneys, county counsels, public defenders, and public guardians.) Some counties have interpreted WIC Section 6500 to authorize placement of persons with developmental disabilities previously admitted under Section 4825. Others have developed new procedures for authorizing admissions to SDCs. These new so-called "Hop" commitment procedures vary in numerous ways. For example, counties vary in (1) the categories of persons with developmental disabilities they will authorize for

placement under the new procedure, (2) the role played by various parties in submitting petitions to the court, and (3) whether or not the procedures apply to persons protesting placement in an SDC. Inconsistencies in county procedures are discussed in Chapter III of this report.

Generally, counties have not developed procedures for judicial reviews of placements for clients who (1) were placed in SDCs under WIC Section 4825 prior to the *In re Hop* decision in 1981 or (2) were placed in SDCs as minors and have reached majority since 1981.

## Senate Concurrent Resolution 45

In response to continuing confusion surrounding implementation of *In re Hop*, the Legislature adopted SCR 45 in September 1987. This measure found, among other things, that:

- Persons admitted to SDCs prior to 1981 are entitled to judicial review of their placements.
- The Department of Developmental Services has not established procedures for judicial review of placements of persons residing in SDCs prior to the decision.
- There are no statutory procedures for judicial review of new placements.
- County procedures developed in response to *In re Hop* are inconsistent and conflicting.
- In the absence of state laws establishing uniform procedures, some counties are

committing persons with developmental disabilities to SDCs under WIC Section 6500. The resolution found that commitments under WIC Section 6500 are inappropriate because of its implications of criminality.

- There is a need to establish uniform procedures for commitments and to analyze the costs of providing judicial reviews for persons being committed or already committed to SDCs.

The measure requires the Legislative Analyst's Office to submit a report to the Legislature containing specified information. The remaining chapters of this report respond to the specific information requests set forth in SCR 45. ♦

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# Chapter II

## Chapter II

# State Developmental Center Clients Whose Placements Have Not Received Judicial Review

This chapter addresses the first question posed by SCR 45: How many clients currently reside in SDCs whose placements have not been reviewed under the constitutional standards set forth in *In re Hop*? We assumed for this report that the purpose of this question is to establish a basis for projecting the costs of alternative methods for administering judicial reviews--the second question posed by SCR 45. Accordingly, we developed estimates of the total numbers of clients who would be affected both initially *and* on an ongoing basis by changes in commitment procedures--not just current SDC residents whose placements have not received judicial review under *In re Hop*.

It should be noted that the administration believes that the *In re Hop* decision does not require judicial reviews for SDC residents admitted prior to 1981. For purposes of addressing the first question of SCR 45, we have assumed that these individuals will require judicial reviews.

Specifically, we developed estimates of the numbers of clients in three categories:

- Current SDC residents whose placements have not received judicial review. These clients would be subject to any requirements related to both initial reviews and renewal of commitments on an ongoing basis.

- Current SDC residents who have had (or are scheduled to have) an initial review. These clients were placed in SDCs under "Hop" procedures developed by the counties. These clients would be subject to any review requirements related to renewal of commitments on an ongoing basis.

- Persons newly admitted to SDCs.

***SDC Residents Who Have Not Had Judicial Reviews.*** We estimate that 4,000 clients residing in SDCs as of December 1987 had not had judicial reviews of their placements. This estimate is based on Department of Developmental Services (DDS) admissions data for SDC residents as of December 1987. These data include:

- Adult "voluntary" admissions. In the DDS data, this category includes Section 4825 admissions. The DDS advises that very few, if any, of these clients would have been capable of authorizing their own admission. Thus, we assume that all of these persons would be eligible for judicial review under *In re Hop*.
- Adults admitted as minors under a parent's signature who remain under the signature of a nonlegally authorized person. We reduced the department's figures for this category by 10 percent

based on data from two SDCs which indicated that approximately 10 percent of clients in this category had received judicial reviews through probate conservatorship proceedings, which, as discussed below, are the current subject of legal debate.

According to numerous individuals we surveyed, there is a legal controversy regarding whether hearings for probate conservatorships meet the "constitutional standards set forth in *In re Hop*." We did not include probate conservatees in our counts of clients needing judicial reviews because, at the time this report was prepared, the courts had not ruled that this commitment procedure was invalid.

We estimate that there are about 500 clients in this category.

***SDC Residents Who Have Had Initial Reviews.*** Department data indicate that there are approximately 1,000 clients currently residing in SDCs who were admitted under "Hop" procedures developed by the counties.

***New Admissions.*** In addition to clients currently residing in SDCs, we estimate that there are a total of 170 new clients each year who are potentially affected by changes in judicial review requirements. This consists of (1) 80 minors reaching adulthood who were placed in SDCs as minors and (2) 90 clients admitted under county "Hop" procedures. ♦

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# Chapter III

## Chapter III

# County Criteria for Commitments

This chapter addresses the third question posed by SCR 45: What criteria are used by a

representative number of counties for commitments to SDCs under Section 6500?

## Methodology

We chose our sample of counties based on discussions with the Department of Developmental Services, the California District Attorneys Association, the California Public Defenders Association, the Judicial Council, the Association for Retarded Citizens--California, Protection and Advocacy, Inc., the State Council on Developmental Disabilities, the Organization of Area Boards, and the Association of Regional Center Agencies. We selected specific counties in order to include (1) a large proportion of counties in which an SDC is located, (2) wide variation in criteria for commitments, and (3) a mix of urban, suburban, and rural counties.

Our sample includes 10 counties (Los Angeles, San Diego, Orange, Ventura, Napa, Tulare, Fresno, Butte, Alameda, and Santa Clara). These counties represent 5 of the 7 counties in which an SDC is located. The 10 counties accounted for 77 percent of the "Hop" admissions to SDCs during 1985-86 and 80 percent of the admissions during 1986-87.

To obtain information on county criteria for Section 6500 commitments, we surveyed

county agencies, regional centers, and SDCs. We relied most heavily on the offices of the county district attorney or county counsel for our information on county criteria, because these agencies are responsible for petitioning the court for a client's admission under Section 6500.

We focused our survey questions on how counties interpreted the two key phrases in Section 6500: "mental retardation" and "dangerousness to self or others." While not specifically required by SCR 45, we also surveyed counties regarding their criteria for "Hop" commitments. Specifically, we asked counties (1) which agency petitions the courts for "Hop" commitments and (2) the criteria used to determine whether to petition for commitment using "Hop" procedures.

The information we obtained from counties on their criteria for commitments was quite subjective; written criteria tended to exist only where ongoing disputes have developed regarding Section 6500 and/or "Hop" commitments. On occasion we received conflicting information from different agencies regarding the criteria used in a particular county. For

example, the criteria described by the county might differ from the criteria reported to be used by the county according to the regional center or the SDC in the area.

The following is a summary and analysis of the criteria used in the counties we surveyed.

## Section 6500 Commitments

**Mental Retardation.** Six of the 10 counties we surveyed require that a person meet the clinical definition of mental retardation (that is, an I.Q. of 70 or below) before the county will seek a commitment under Section 6500. Two counties indicate that, while they rely primarily on the clinical definition, they do not use it exclusively. For example, they might petition for commitment if the person is "functionally retarded." Another two counties indicate that they define mental retardation according to the regional center's definition for "developmental disability." The term developmental disability includes conditions other than mental retardation such as cerebral palsy, epilepsy, and autism if the conditions constitute a substantial handicap.

**Dangerousness to Self/Others.** For purposes of commitments under Section 6500, the

Appendix 1 contains a description of the criteria utilized for both Section 6500 and "Hop" commitments in each of the 10 counties we surveyed.

10 counties we surveyed vary considerably in what constitutes "dangerousness." One county terms a person dangerous only if he or she is charged with the specific criminal acts mentioned in Section 6500 (such as murder and violence against others). Two counties term a person dangerous if he or she has a history of violent acts, physical aggression, or attempted suicide. These counties do not consider clients with "behavior" problems to be dangerous. Three counties consider a person to be dangerous if the person has a severe behavioral disorder that poses a threat to their continued safety in the community. Four counties consider a person dangerous if the person would be harmed if unattended and/or if no appropriate placement exists in the community.

## "Hop" Commitments

Of the 10 counties we surveyed, 6 indicated that they utilize so-called "Hop" procedures to commit persons to SDCs. Three counties indicate that they do not utilize "Hop" commitments. We received conflicting information for the tenth county.

**Who Petitions.** Among the six counties that utilize "Hop" commitments, all but one report that the regional center petitions the court under these procedures. The other county reports that it requires a family member or other third party to petition the court for a probate conservatorship in order to specifi-

cally provide the legal authority to place a person in an SDC. The procedures used by this county include both probate conservatorship and *In re Hop* requirements.

**Criteria.** All but one of the six counties using "Hop" procedures specifically indicate that they use these commitments for persons who are (1) unable to object to their placement in an SDC and (2) described as "gravely disabled" or unable to care for themselves in the community. The other county also uses "Hop" commitments for persons who are able to object to their placement in an SDC.

Generally, the counties that use "Hop" procedures extensively to commit persons to SDCs have more restrictive criteria for using Section 6500 for such commitments. For example, some counties broadly interpret the "dangerousness" provisions of Section 6500 to include persons who are gravely disabled. These counties do not use "Hop" procedures to commit gravely disabled persons to SDCs. Conversely, counties with more restrictive criteria for dangerousness under Section 6500

allow for commitments of gravely disabled persons using "Hop" procedures.

Regardless of whether they use "Hop" or Section 6500 procedures, counties appear to commit gravely disabled persons to SDCs. The lack of statutory specificity related to "Hop" and Section 6500 commitments allows counties to adapt either procedure for this category of persons.❖

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# Chapter IV

## Chapter IV

# Alternatives for Implementation of In re Hop Reviews and Costs

This chapter addresses the second question asked by SCR 45: What alternative methods are available to counties for implementing the *In re Hop* decision, and what are the costs associated with these alternatives? We interpreted this question to mean: What are the alternatives for administering *judicial reviews*,

and what are the *statewide* costs associated with these alternatives? Our response is in three parts: (1) assumptions regarding the form of the review process, (2) cost estimates for each of the agencies involved in the review process, and (3) costs for statewide implementation.

## Assumptions Regarding the Review Process

We assumed for this report that the review process, from an administrative perspective, would be similar in form to the Section 6500 review process: (1) petitioning the court for commitment, (2) providing for a client's defense, (3) hearings by the court, and (4) documenting the appropriateness of SDC placement. Specifically, we made the following assumptions related to these four components of the review process:

- *Commitments Would Be Initiated By Filing a Petition With the Court.* Currently, Section 6500 commitment petitions are initiated by district attorneys/county counsels. "Hop" commitment petitions are initiated by district attorneys/county counsels in some counties and regional centers or parents in other counties.
- *A Public Defender Would Be Appointed to Represent the Client.* This is consistent with the current requirement that persons be provided legal representation at public expense if unable to pay for their own counsel. Currently, county public defenders represent most clients in Section 6500 and "Hop" commitment proceedings.
- *Hearings Would Be Held By the Courts.* These hearings would be held in the county of origin for clients initially being placed in an SDC, and in the county in which the SDC is located for clients already living in an SDC. This is generally consistent with current practice for both Section 6500 and "Hop" commitments.

- *Regional Center and SDC Staff Would Be Involved in Documenting the Appropriateness of Placing Clients in the SDC.* Regional center and/or SDC staff would review a client's history in order to assess (1) the client's condition and treatment/service needs and (2) whether SDC placement represents the least restrictive living environment. In addition, staff would attend court hearings in order to accompany a client and/or present reports to the court. Regional center and SDC staff report that this is consistent with current practice for both Section 6500 and "Hop" commitments.

We identified three categories of judicial reviews, based on the type of client involved, for purposes of developing cost estimates. These are:

- New admission of an individual to an SDC.
- Initial review of an individual residing in an SDC.
- Recommitment to an SDC of a person who resides in such a center.

## Cost Estimates for Reviews

In this section, we estimate the per-client costs for each of the three types of judicial reviews. The three types of judicial reviews are new admissions, initial review of an SDC resident's placement, and recommitments. For each type of judicial review, we examine the four components of the review process separately in order to identify costs for the agency or agencies involved. These components are (1) legal work associated with preparation

**Length of Commitments.** We did not make any assumptions regarding length of commitments. Commitments could be limited in length or indefinite. The length of the commitment, however, has a major effect on the ongoing costs of administering hearings.

By statute, Section 6500 commitments must be renewed annually. Currently, for "Hop" commitments, most counties have required renewal every year, although some have required renewal every two years or allowed them to remain in place indefinitely.

During our survey, we found a consensus that annual reviews of "Hop" commitments are unnecessary because the condition of a client is unlikely to change substantially within a year. Almost all of the individuals we surveyed recommended that "Hop" commitments be reviewed every two or even three years, not annually. Based on our review, we believe that a two- to three-year commitment period would be reasonable. Accordingly, if the Legislature enacts a bill implementing *In re Hop*, we recommend that "Hop" commitments be renewed every two or three years.

and presentation of petitions, (2) public defense, (3) hearings by the court, and (4) preparation and presentation of supporting documentation by regional centers and SDCs. We also discuss cost-savings options where available.

Table 1 displays our estimates of costs for each of the three reviews.

**Table 1**  
**Summary of Per-Client Costs for Reviews<sup>a</sup>**

Components	New Admission	Initial Review of SDC Resident	Recommitment
Petitions			
District attorney/county counsel (low cost) or regional center (high cost)	\$206-\$439	\$128-\$439	\$123-\$439
Public defense (public defender)	124	22-58	16-42
Hearings (courts)	135-141	135-141	135-141
Documentation			
SDCs	147 <sup>b</sup>	79-147	79-147
Regional centers	259	176-235 <sup>c</sup>	158-210 <sup>c</sup>
Totals	\$725-\$960	\$540-\$1,020	\$510-\$980

<sup>a</sup> Detail may not add to total due to rounding.

<sup>b</sup> Applies only to clients already admitted pursuant to a "hold order" (that is, pending a hearing).

<sup>c</sup> Applies to cases in which the regional center is involved in initial review and recommitment reviews.

## Methodology

The estimates in Table 1 are based on cost data collected from (1) public defenders and district attorneys/county counsels in the 10 counties we surveyed, (2) 11 of the 21 regional centers, and (3) all 7 of the SDCs. We also relied on the Judicial Council's 1987 *Report to the Governor and the Legislature* to determine the costs incurred by the superior courts. Appendix 2 outlines the methodology we used to estimate the costs shown in Table 1.

## Preparing and Presenting Petitions

The two basic implementation options for this component of the review process relate to which agency is responsible for preparing and presenting petitions. In one option, district attorneys/county counsels are responsible. In another option, regional centers are responsible.

**New Admissions.** In our survey, regional centers reported greater legal costs for filing "Hop" petitions than district attorneys/county counsels reported for filing Section 6500 commitments. Specifically, the regional centers we surveyed used in-house and/or private counsel to prepare and submit "Hop"

petitions to the court. They reported per-case costs for "Hop" admissions ranging from \$120 to \$1,500 and averaging \$439. The district attorneys/county counsels we surveyed (1) report per-case costs averaging \$206 for Section 6500 commitments and (2) estimate that they would incur similar costs in filing for "Hop" commitments.

The difference in costs reported by district attorneys/county counsels and regional centers appears to be especially dramatic in Los Angeles County. Departmental data indicate that Los Angeles County accounts for approximately 52 percent of the annual number of "Hop" admissions to SDCs. Based on our survey, which includes four of the seven regional centers serving Los Angeles County, the typical regional center in Los Angeles incurs legal costs averaging \$1,093 per "Hop" admission as compared to the \$262 cost reported by the Los Angeles District Attorney's Office.

**Initial Review of SDC Residents.** Our data indicate that district attorneys/county counsels would incur an average cost of \$128 per case for preparing an initial petition for the

clients currently residing in the SDCs. If regional centers were responsible, they report they would incur average per-case costs of \$439.

**Recommitments.** We estimate that district attorneys/county counsels and regional centers incur an average cost of \$123 and \$439 per case, respectively, when petitioning for a client's recommitment.

**Discussion.** In our survey, we identified two reasons that the Legislature may wish to assign responsibility for petitions to district attorneys/county counsels. First, we found that regional centers incur significantly higher costs to prepare "Hop" petitions than district attorneys/county counsels. Second, according to numerous individuals we surveyed, there is a legal controversy regarding the appropriateness of regional centers, which are not governmental agencies, being involved in this type of proceeding. Thus, assigning responsibility for petitions to district attorneys/county counsels would result in lower costs and avoid possible legal challenges. Accordingly, if the Legislature enacts a bill implementing *In re Hop*, we recommend that it assign district attorneys/county counsels with responsibility for petitioning the court for "Hop" commitments. While this would result in a state-mandated local program, we believe such state costs are appropriate based on considerations of cost-effectiveness and avoidance of legal challenges.

## Public Defense

**New Admissions.** Based on costs reported by 8 of the 10 counties we surveyed, we estimate that public defenders incur per-case costs of approximately \$124 in defending clients during initial "Hop" commitment proceedings. We have no basis for estimating what proportion of clients might be able to reimburse counties for the costs of their defense.

**Initial Reviews of SDC Residents.** Our survey indicates that public defenders would incur costs of approximately \$58 per case for initial reviews of SDC residents. We estimate that counties could reduce their public defense costs to \$22 per case (a reduction of 62 percent) if they chose to recoup their costs from SDC residents. In deriving this estimate, we assumed that no client would be required to spend more than 10 percent of the funds available in his/her personal trust account and that clients provided judicial reviews would not differ from the general SDC population. The department's data indicate that 62 percent of all SDC clients have trust fund balances of \$500 or more.

**Recommitments.** Based on our survey, we estimate that public defenders incur costs of no more than \$42 per case for defending "Hop" clients during recommitment proceedings. If counties are able to recoup 62 percent of these costs from clients who are able to pay, the average per-case cost would be approximately \$16.

**Discussion.** In our survey, we found that a number of county public defenders do not currently recoup any costs from SDC clients. These counties could reduce their net costs significantly by doing so. Accordingly, if the Legislature enacts a bill implementing *In re Hop*, we recommend that it consider encouraging county public defenders to recoup costs from SDC clients.

## Hearings by the Court

Counties have two implementation options affecting hearing costs. First, counties could use commissioners/referees instead of judges to hear the cases. Second, counties could hold hearings for SDC residents on the SDC grounds instead of the county courthouse.

**New Admissions.** Based on our survey, we estimate that the average case consumes approximately 18 minutes of court time.

Based on the cost per minute for superior courts reported in the Judicial Council's 1987 *Report to the Governor and the Legislature*, we estimate that counties would incur per-case costs of approximately \$141 if judges hear the case. If counties use commissioners/referees to hear "Hop" cases, the average cost would be approximately \$135. This is based on data provided by the Judicial Council which indicate that counties can save between 15 percent and 25 percent in *salary-related costs* if they use commissioners/referees to hear certain cases. (Judicial salaries constitute approximately 15 percent of total court costs for judicial hearings.)

**Initial Reviews of SDC Residents.** Per-case costs would be similar to those incurred during initial hearings.

We do not have any data on the relative costs of hearings for SDC residents held in different locations. However, we believe that there could be significant savings in travel and other administrative costs to SDCs if hearings were held on SDC grounds, and that these savings would be significantly greater than any increased costs incurred by counties. In addition, holding the hearings on SDC grounds would be less disruptive for clients. Accordingly, if the Legislature enacts a bill implementing *In re Hop*, we recommend that it consider requiring counties to (1) use commissioners/referees to hear the cases and (2) hold hearings for SDC residents on the grounds of the SDCs. These requirements would result in a state-mandated local program only in those counties which decide *not* to participate in the trial court funding program. This is because counties that *do* participate in the trial court funding program are required to forego state reimbursements for trial court-related mandates.

**Recommitments.** Per-case costs are similar to those incurred during initial hearings.

### Documentation--Participation by Regional Centers

**New Admissions.** We estimate that regional centers incur an average per-case cost of ap-

proximately \$259 related to assessing a client's history, needs, and access to an appropriate community facility prior to a client's initial commitment to an SDC.

**Initial Reviews of SDC Residents.** Regional centers report that they would incur per-case costs of approximately \$235 related to participating in judicial reviews of current SDC residents. We estimate that regional centers could save up to 25 percent of their per-case costs if "Hop" reviews for SDC residents were scheduled to coincide with the annual preparation of each client's Individual Habilitation Plan (IHP). The savings would occur as a result of consolidating otherwise separate (1) assessments of a client's needs, (2) evaluations of potentially appropriate community facilities, and (3) travel to the SDC where the client resides. We base this estimate on information provided by the department, which indicates that (1) regional center staff may travel to the SDC in order to participate in the development of a client's IHP if that client is on a waiting list for placement in the community and (2) approximately 25 percent of the 4,000 current SDC residents whose placements have not received judicial review are also on referral for community placement.

Based on the 25 percent savings estimate, regional center costs would be approximately \$176 per case if initial reviews were scheduled to coincide with each client's IHP.

Accordingly, if the Legislature enacts a bill implementing *In re Hop*, we recommend that it require judicial reviews of SDC residents to be scheduled to coincide with the development of each client's IHP.

**Recommitments.** We estimate that regional centers incur costs of approximately \$210 per case when preparing for recommitment hearings of SDC residents. Should these hearings be scheduled to coincide with each client's IHP, regional center costs would be reduced to approximately \$158.

**Discussion.** The cost estimates for SDC residents do not account for the fact that regional centers may not be involved in hearings for all

clients residing in SDCs. However, we do not have any basis for estimating the proportion of clients affected.

### Documentation--Participation by SDC Staff

**New Admissions.** Generally, SDCs prepare for initial court-ordered admissions only when the client has already been admitted to the facility pursuant to a "hold order," that is, pending a hearing. The department's data indicate that "Hop holds" constitute between 11 percent and 56 percent of the 90 annual "Hop" admissions. Statewide costs resulting from SDC participation in these admissions will therefore be negligible; thus, we did not address them in our analysis.

**Initial Reviews of SDC Residents.** Our survey indicates that SDCs would incur per-case costs of approximately \$147 for an initial review. We estimate that SDCs could reduce

these costs to \$79 (a savings of 54 percent) if judicial reviews for SDC residents were scheduled to coincide with the annual preparation of each client's IHP. These savings would occur as a result of consolidating otherwise separate (1) reviews of a client's history, programmatic needs, and the availability of less restrictive placements and (2) preparation of reports. To derive our estimate, we assumed that the client assessment and report-writing costs reported by SDC staff in preparation for a court hearing would be duplicative of similar work performed for a client's IHP.

**Recommitments.** Our survey indicates that SDCs incur per-case costs of approximately \$147 for a client's recommitment hearing. If these hearings are scheduled to coincide with the development of each client's IHP, we estimate that per-case costs could be lowered as much as 54 percent, to approximately \$79.

## Costs for Statewide Implementation

Table 2 summarizes our estimates of the statewide costs of implementing judicial reviews under the *In re Hop* case. These estimates are based on the cost data in this chapter and the number of clients by client category discussed in Chapter II. In addition, we assumed that "Hop" reviews for SDC residents would coincide with the preparation of the client's IHP.

As the table shows:

1. We estimate that one-time costs for providing initial reviews to current SDC residents whose placements have not received judicial reviews would range from \$2.2 million to \$4.1 million, depending on the cost-saving options that are implemented.

2. After these initial reviews, annual costs for recommitments of these clients would range between \$700,000 to \$1.3 million if commitments were three years long and \$2 million to \$3.9 million if commitments were one year long.

3. Costs for judicial reviews of new admissions would range between \$125,000 and \$165,000 annually. We note that providing district attorneys/county counsels with responsibility for petitioning the court for commitments would result in savings to regional centers of up to \$75,000.

4. Annual costs for recommitments of current SDC residents who *have* had judicial reviews of their placements would range between \$510,000 and \$980,000. Again, providing district attorneys/county counsels with responsibility for petitioning the court for "Hop" commitments would result in savings of up to \$440,000 to regional centers.

The costs for initial reviews and recommitments could be less depending on the extent to which regional centers are involved in hearings for all clients residing in SDCs. ♦

Table 2

**Estimate of Statewide Costs for Judicial Reviews****SDC Residents Who Have Not Had an Initial Review**

Number of clients	4,000
Per-client hearing costs -- initial review of SDC resident	\$540-\$1,020
One-time costs for initial reviews	\$2.2 million-\$4.1 million
Per-client hearing costs -- recommitments	\$510-\$980
<i>Annual costs:</i>	
Assuming recommitments every year	\$2 million-\$3.9 million
Assuming recommitments every three years	\$700,000-\$1.3 million

**New Admissions**

Number of new admissions annually	170
Per-client hearing costs -- new admissions	\$725-\$960
Annual costs	\$125,000-\$165,000 <sup>a</sup>

**SDC Residents Who Have Had an Initial Review**

Number of clients	1,000
Per-client hearing costs -- recommitments	\$510-\$980
<i>Annual costs:</i>	
Assuming recommitments every year	\$510,000-\$980,000 <sup>b</sup>
Assuming recommitments every three years	\$170,000-\$325,000 <sup>b</sup>

<sup>a</sup> Does not reflect savings of up to \$75,000 to regional centers if district attorneys/county counsels--instead of regional centers--are responsible for petitioning the court for commitments.

<sup>b</sup> Does not reflect savings of up to \$440,000 to regional centers if district attorneys/county counsels--instead of regional centers--are responsible for petitioning the court for "Hop" commitments.

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# Chapter V

## Chapter V

# Capacity of Community Service System

This chapter addresses the final question posed by SCR 45: What is the capacity of the community service system to accept SDC clients who are referred to the community as a result of a judicial review pursuant to *In re*

*Hop*? We address this question in two parts: (1) Is the community service system able to absorb *existing* referrals from the SDCs? and (2) Is the system able to absorb referrals resulting from "Hop" reviews?

## Ability of Community Service System to Absorb Existing State Referrals

The community service system is currently unable to accept all clients for whom community living would represent the least restrictive and most appropriate living environment. We base this conclusion on the large number of clients at the SDCs who are "on referral" (that is, identified as appropriate for community placement). In 1984 the department identified approximately 2,200 SDC clients who could receive more appropriate care in a less restrictive community setting. Since that time, the department has placed in the community approximately 1,700 clients. In the meanwhile, however, it has identified additional clients for community placement. Some of these were residing in the SDC in 1984, and some have been admitted since 1984. The department estimates that approximately 1,600 clients are currently "on referral" for community placement.

In fact, the lack of appropriate community facilities is a factor in a number of SDC admissions. For example, the department reports that local facility closures were the reason for admitting 96 clients, or 19 percent of its SDC admissions during 1987-88. The department was unable to provide similar data on prior-year admissions. Regional centers and counties we surveyed cited the lack of appropriate community facilities among the reasons they committed individuals to SDCs under Section 6500 or "Hop" procedures.

The Auditor General examined the cause of the community service system's inability to accept all appropriate community placements in a report released in December 1987, titled *The Lack of Community Facilities Limits the Placement of Persons With Developmental Disabilities*. In this report, the Auditor General indicated that regional centers (1) find it diffi-

cult to recruit new providers because of high start-up and operations costs, (2) report a lack of sufficient resources to develop new facilities to accommodate clients on referral, and (3) have not developed the type of facilities necessary to care for approximately 300 clients on referral who require skilled nursing care.

The 1988 Budget Act and Ch 85/88 authorized a variety of changes that may improve the capacity of the community service system to accept additional SDC clients. Specifically, these measures provide \$32.8 million to implement a new residential care rate system. In

addition, the 1988 Budget Act provides (1) additional staff to local area boards for consolidating regional center and area board community development activities, (2) additional staff to regional centers to help clients at SDCs obtain Medi-Cal home- and community-based services, and (3) \$500,000 for converting residential care facilities to small intermediate care facilities aimed at providing nursing supervision and intermittent health care services to clients with medical problems.

## Ability of System to Absorb Referrals Resulting From Hearings

Based on our review, we believe it is likely that relatively few additional clients would be referred for community placement as a result of holding judicial hearings pursuant to *In re Hop* for clients residing at SDCs who have not received reviews. First, regardless of the capacity of the community service system, it is likely that only a small number of additional clients would be identified as appropriate for community placement. This is because, according to the department, it annually conducts a comprehensive review of each SDC client in order to determine whether the client could be placed more appropriately in the community. In fact, SDC staff report that virtually all, if not all, of the SDC clients already provided judicial reviews and found by the court to be inappropriately placed have been referred already for community place-

ment. The department's data indicate that 25 percent of the clients whose placements have not received "Hop" reviews are on referral for community placement.

Furthermore, in light of the inability of the community service system to accept clients currently on referral for community placement, it is likely that the system would be unable to accept any additional clients who may be identified pursuant to judicial reviews. While it is possible that court-ordered community placements may provide greater stimulation to the department and/or the regional centers to develop additional community resources, such court-ordered placements might instead add to the existing backlog or displace an individual who was otherwise scheduled for placement. ♦

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# Appendix 1

## Appendix 1

# County Commitment Criteria

## Los Angeles

### Use of Section 6500

1. **Mental Retardation.** The district attorney's office applies Section 6500 to those individuals whose retardation can be proved beyond a reasonable doubt. Virtually all of its Section 6500 cases are clients whose I.Q. scores are 70 or below.

2. **Dangerousness to Self or Others.** The district attorney's office indicates that it interprets "dangerousness" to include only those types of criminal acts specifically defined in statute (such as murder or felonies involving the death or threat of bodily harm to another person).

3. **Other.** Los Angeles County avoids using Section 6500 whenever possible.

### Use of "Hop" Reviews

1. **Criteria.** The district attorney indicates that Hop reviews are used for persons who are:

- Gravely disabled.
- Dangerous to self or others.

Unlike other counties we surveyed, Los Angeles uses "Hop" commitments for persons who object to placements.

2. **Who Petitions.** The district attorney's office has determined that it is not authorized to participate in "Hop" hearings. As a result, regional centers petition the courts for "Hop" commitments in Los Angeles County.

3. **Other.** The Los Angeles courts will allow for temporary "Hop" commitments pending judicial review, known as "Hop holds." As a result of the county's broad application of "Hop" proceedings, Los Angeles County accounted for 54 percent of the state's "Hop" admissions in 1985-86 and 50 percent in 1986-87.

## Ventura

### Use of Section 6500

1. **Mental Retardation.** The district attorney's office requires substantiation of mental retardation by an I.Q. score of 70 or below. It

will not file a Section 6500 petition on persons with developmental disabilities such as cerebral palsy or autism unless they also meet the I.Q. requirement for mental retardation.

2. **Dangerousness to Self or Others.** The county's written policy indicates that a client must have a history that includes four acts of violence or physical aggression in order to be considered dangerous to others. Being verbally assaultive, obstinate, defiant, or attempting to run away does not qualify. "Dangerousness to self" must be substantiated beyond a reasonable doubt; that is, the subject will seriously injure or kill himself/herself if not committed. The office will not accept as substantiation a psychiatric opinion that a person might pose a danger to self or others if he or she is not committed.

3. **Other.** The county utilizes commissioners rather than judges to hear Section 6500 cases, unless a jury trial is required. The district attorney's office petitions for Section 6500 commitments but does not participate at the court hearings held on the grounds of Camarillo SDC. Regional center staff act in its stead.

### Use of "Hop" Reviews

1. **Criteria.** The district attorney's office and/or public defender's office indicate that

the regional center will use "Hop" reviews only for commitments of persons who are:

- Gravely disabled.
- Unable to object to placement.

2. **Who Petitions.** The regional center files "Hop" petitions with the court because the district attorney's office will not do so.

3. **Other.** The Ventura County courts have been active in setting up procedures for implementing the *In re Hop* decision. The court has required judicial reviews of (a) persons admitted voluntarily to the Camarillo SDC prior to the *In re Hop* decision in 1981 and (b) "Hop" placements every two years. The court does not recognize a "Hop hold" as a valid commitment procedure for protesting persons and has released persons committed to Camarillo SDC through a "Hop hold" issued by the Los Angeles courts.

## Orange

### Use of Section 6500

1. **Mental Retardation.** The county requires that an individual have an I.Q. score of 69 or below before it will consider him/her to be "mentally retarded."

2. **Dangerousness to Self and Others.** The county will consider dangerous an individual (a) whose medical/developmental condition

would result in harm if unattended and (b) for whom no appropriate placement is available in the community.

### Use of "Hop" Reviews

According to the district attorney's office, the county courts are not willing to order commitments under *In re Hop*.

## San Diego

The district attorney's office indicated that it was not responsible for setting criteria for Section 6500 or "Hop" commitments and that

this was being done by the regional center. The regional center reports using the following criteria within San Diego County.

### Use of Section 6500

1. *Mentally Retarded.* The regional center reports that it uses a clinical definition of "mentally retarded," but it will sometimes use a psychiatric report in order to determine if a person is functioning as mentally retarded.

2. *Dangerousness to Self or Others.* The regional center terms a client dangerous if the client has a history of (a) criminal behavior, (b) attempted suicide, (c) serious or overt dangerous acts (such as sexual assaults), or (d) a severe behavioral disorder resulting in repeated property destruction.

## Santa Clara

### Use of Section 6500

1. *Mental Retardation.* The district attorney's office defines mental retardation as an I.Q. of 70 or below.

2. *Dangerousness to Self or Others.* To meet the county's standard of "dangerousness to self or others" a person must have (a) a history of violence or (b) behavior which indicates that the person may hurt himself or herself either directly or indirectly (for example, behavior that causes other people to react toward the person in a dangerous manner). The district attorney's office indicates that it does not include gravely disabled persons in its definition of "dangerousness."

### Use of "Hop" Reviews

1. *Criteria.* The regional center and/or public defender report that the county holds

## Alameda

### Use of Section 6500

1. *Mental Retardation.* The district attorney's office indicates that it applies Section 6500 to persons who are mentally retarded to

### Use of "Hop" Reviews

1. *Criteria.* The regional center indicates that "Hop" hearings are held for persons who are:

- Nonprotesting.
- In need of a level of care and supervision that is provided by the SDC system and for whom no less restrictive community settings exist.

2. *Who Petitions.* The regional center petitions the court in "Hop" proceedings.

3. *Other.* The regional center reports that "Hop" commitments are reviewed annually.

"Hop" hearings for clients who cannot be cared for in a community environment due to (a) a severe behavioral/aggression problem, (b) a severe medically involved condition, or (c) any other type of condition that warrants placement in an SDC but is not considered dangerous by the district attorney's office.

In addition, the county holds "Hop" reviews for minor clients at AgnewsSDC as they age into majority.

2. *Who Petitions.* A family member or another third party petitions.

3. *Other.* The regional center indicates that "Hop" hearings are held in conjunction with probate conservatorship hearings in order to provide the legal authority to place a person who is unable to protest in an SDC.

the point of not being able to care for themselves. It will include persons with autism, cerebral palsy, or other developmental disabilities under this definition only if they also

meet the I.Q. criteria for mental retardation (that is, an I.Q. of 70 or below).

2. *Dangerousness to Self or Others.* The county considers a client dangerous if he or she performs acts that are overtly dangerous, self-destructive, or suicidal. The office indicates that the application of these criteria is somewhat subjective; if the person's family supports his/her involuntary commitment to an SDC due to a lack of appropriate care in the

community, the office will pursue a commitment under Section 6500 by arguing that the person will *become* dangerous if proper care is not received.

### Use of "Hop" Reviews

Both the district attorney's office and the regional center indicate that "Hop" commitments are not utilized in the county.

## Butte

### Use of Section 6500

1. *Mental Retardation.* The district attorney's office indicates that it pursues commitments of persons under Section 6500 who meet the clinical definition of mental retardation, that is, having an I.Q. of 70 or less.

2. *Dangerousness to Self or Others.* The county considers persons to be dangerous if they perform violent acts and/or have severe

behavioral disorders that place the person in danger or limit the person's ability to care for himself or herself. This definition would include repeated acts of running away from a community facility.

### Use of "Hop" Reviews

The county does not use "Hop" commitments.

## Napa

### Use of Section 6500

1. *Mental Retardation.* The district attorney's office indicates that it will seek a Section 6500 commitment for an individual who is developmentally disabled according to the regional center's assessment.

2. *Dangerousness to Self or Others.* The district attorney's office indicates that it defines (a) "dangerous to self" as intentionally inflicting injury to self and (b) "dangerous to others" as overt acts of violence/assaultive behavior directed at others.

### Use of "Hop" Reviews

1. *Criteria.* The district attorney's office indicates that "Hop" reviews are held for developmentally disabled clients who are:

- Nonprotesting.
- Dangerous to himself/herself due to self-neglect.

2. *Who Petitions.* The district attorney's office indicates that "Hop" petitions are the jurisdiction of the regional center. However, the public defender has filed an appeal contesting the legality of the regional center's petitioning the court for these commitments.

3. *Other.* The district attorney's office indicates that "Hop" commitments have been reviewed annually.

## Fresno

### Use of Section 6500

1. **Mental Retardation.** The county counsel indicates that it will file petitions for persons who are developmentally disabled according to documentation provided by the regional center.

2. **Dangerousness to Self or Others.** The county counsel indicates that "dangerousness" may include (a) threatening others, (b) suicidal behavior, and (c) affirmative efforts at self-destruction. The county requires the regional center to document through a client's history and a professional psychological/medical opinion that a client meets the criteria for being dangerous.

## Tulare

### Use of Section 6500

1. **Mental Retardation.** The district attorney's office indicates that it defines mental retardation to be an I.Q. of 70 or below.

2. **Dangerous to Self or Others.** The county includes in its definition of "dangerousness" (a) self-abusive or violent behavior and (b) grave disability.

### Use of "Hop" Reviews

1. **Criteria.** The district attorney indicates that "Hop" hearings can be held in instances where:

### Use of "Hop" Reviews

1. **Criteria.** The county counsel's office indicates that "Hop" procedures may be used to commit persons who are unable to care for themselves in the community.

2. **Who Petitions.** The regional center petitions the court for "Hop" commitments in Fresno County.

3. **Other.** The regional center reports that it writes the petitions in order to require that "Hop" commitments be renewed annually.

- The client is gravely disabled.
- Neither the person nor the person's family protests commitment.

2. **Who Petitions.** The district attorney's office indicates that it will petition for "Hop" commitments. The regional center indicates, however, that no "Hop" petitions are filed in the county because all persons are committed under Section 6500.

3. **Other.** According to the district attorney's office, "Hop" commitments need never be reviewed. ♦

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## **Appendix 2**

## Appendix 2

# Methodology for Estimating Per-Client Costs

We estimated the per-client costs shown in Table 1 of this report based on cost data collected from (1) public defenders and district attorneys/county counsels in the 10 counties we surveyed, (2) 11 of the 21 regional centers,

and (3) all 7 of the SDCs. We also relied on the Judicial Council's 1987 *Report to the Governor and the Legislature* to determine the costs incurred by the superior courts.

## Data Collected

Specifically, we asked the district attorneys/county counsels in the 10 counties we surveyed to estimate how much they incurred in professional and clerical time related to all aspects of work on Section 6500 and "Hop" new admissions and recommitments. This time includes: filing the petition, preparing the case, court time, and travel. The cost figures provided us include salary and benefits for the staff typically performing these

activities. We asked public defenders for similar information.

We asked SDCs and regional centers (1) the amount of staff time devoted to a client's new admission and recommitment proceedings under both Section 6500 and "Hop" and (2) the travel time associated with each proceeding. The cost figures provided us include salary and benefits.

## Cost Estimates

In order to estimate average per-client costs for new admissions and recommitments, we generally used the Section 6500 cost data reported to us from public defenders and district attorneys/county counsels from five of the seven counties in which developmental centers are located (Stockton and Sonoma are

excluded). We used data on "Hop" proceedings when sufficient data were available.

We then weighted the counties' recommitment costs to reflect the proportion of the SDC residents residing in each of the five counties whose placements have not received judicial review. (These five counties represent the

counties of residence for 74 percent of the 4,000 clients who have not had a judicial review and approximately 80 percent of those admitted annually pursuant to "Hop" procedures.) Through use of these weighted averages, we are assuming that the costs incurred in Sonoma and Stockton Counties will not differ dramatically from the average cost incurred within the other five counties. We weighted new admission costs generally according to the distributions of new admissions by county.

We were unable to collect data on costs for an initial review of a client already residing in an SDC. We believe that costs for these reviews will be between the costs for a new admission and a recommitment. This is because there are fewer issues to consider in

these reviews than in new admissions reviews, yet costs may not be as low as those incurred during a recommitment hearing. Consequently, we used the average of the new admission and recommitment costs for each county as an estimate of costs for initial reviews of SDC residents.

We constructed cost estimates for the regional centers and SDCs in a similar manner. However, we used a different methodology for constructing a per-case cost for the courts. Specifically, we applied the average cost per minute for the superior courts as reported in the Judicial Council's 1987 *Report to the Governor and the Legislature* to the average hearing time of 18 minutes reported by district attorneys/county counsels, public defenders, regional center, and judicial staff. ♦