

OCTOBER 16, 2019

Planning for a Declining Inmate Population

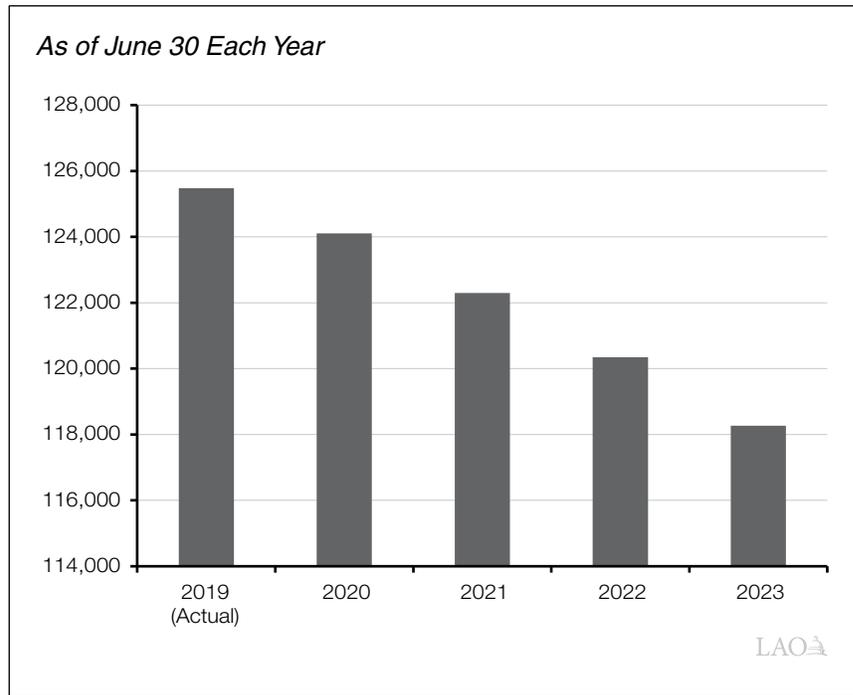
PRESENTED TO:

Assembly Budget Subcommittee No. 5 on Public Safety
Hon. Shirley N. Weber, Chair



LEGISLATIVE ANALYST'S OFFICE

State Inmate Population Projected to Decline



- The state’s inmate population is projected to decline by 6,800 inmates over the next few years—from about 125,100 inmates as of October 9, 2019 to 118,300 as of June 30, 2023. We note, however, that there is considerable uncertainty regarding the specific magnitude.
- The decline is primarily due to Proposition 57 (2016), which made certain nonviolent offenders eligible for parole consideration and expanded the California Department of Correction and Rehabilitation’s (CDCR’s) authority to reduce prison terms through credits.
- The above population projections reflect adjustments that we made to the administration’s most recent inmate population projections to account for the last nine months of actual data and the estimated effects of certain sentencing changes. One such change is Chapter 590 of 2019 (SB 136, Wiener), which eliminates a one year sentence enhancement for prior offenses in certain cases.



Court-Ordered Prison Population Cap

State Required to Limit Prison Overcrowding

- The state is under a federal court order to limit the population of its 34 state-owned prisons to about 117,000 inmates, based on their current capacity.
- To ensure the state does not exceed this cap, CDCR keeps the population in the state-owned prisons below the cap by a couple thousand inmates to “buffer” against unexpected increases in the population.

Inmates Housed Outside of State-Operated Prisons to Avoid Exceeding Population Cap

- CDCR is able to maintain compliance with the court order by housing inmates outside of the 34 state-owned prisons.
- As of October 9, 2019, CDCR housed about:
 - 1,400 male inmates and 270 female inmates in privately operated contract prisons.
 - 1,700 male inmates in publicly operated contract prisons.
 - 6,700 inmates in various other placements, such as state conservation camps.



Accommodating the Projected Decline in the Inmate Population

CDCR Required to Consider Various Criteria in Accommodating Population Declines

- As the inmate population declines, existing state law requires CDCR to first remove all male inmates housed in privately operated prisons.
- State law then authorizes CDCR to determine how to accommodate further population declines in the population, but specifies the various criteria that the department must use (such as cost and gender-specific housing needs).

Closing State-Operated Prisons Would Likely Allow for Greatest Savings

- After removing male inmates from privately operated prisons, we project that the state would need to accommodate a remaining reduction of 5,500 inmates by June 2023
- This decline could be accommodated in various ways. The three main ways are:
 - **Closing State-Operated Prisons.** The state could close both a small- and medium-sized prison yielding total operational savings of around a few hundred million dollars annually. In addition, this could also eliminate the need for costly infrastructure improvements that would otherwise have been made to these prisons.
 - **Eliminating Remaining Contract Prison Beds.** The state could remove the nearly 2,000 remaining inmates from contract prison beds (270 privately operated female beds and 1,700 publicly operated male beds). We note that, given the size of the population decline, the state could eliminate all such beds, as well as close a medium-sized prison. We estimate that such actions could yield total operational savings of a couple hundred million dollars annually.
 - **Allowing Population of State-Operated Prisons to Decline Without Closures.** We estimate that this approach could yield total operational savings in the several tens of millions of dollars annually.



Options to Accelerate Elimination of Contracts and/or Prison Closure

- To the extent that the state is interested in closing state-operated prisons or eliminating contract prison beds, it could take steps to accelerate the timing of such actions. Below, we discuss some of the options available to achieve this. The impacts of these options may vary significantly in their magnitude and timing and could be subject to implementation challenges.

Make Further Reductions to the Overall Inmate Population

- Require the Board of Parole Hearings to initiate release consideration for certain nonviolent offenders 60 days earlier than they do now to expedite releases, as we have previously recommended.
- Expand access to minimum custody placements, allowing some inmates to earn more credits, such as by admitting inmates with minor felony detainees, as we have previously recommended.
- Enact sentencing changes, such as expanding eligibility for the youth offender or elderly parole processes. For example, elderly inmates are generally considered for release if they have served more than 25 years in prison and reach 60 years old. Reducing the time served or age eligibility requirements could increase releases.
- Increase credit earning rates and recommend inmates to the courts for resentencing.

Increase the Number of Inmates in Placements Not Subject to the Population Limit

- Increase the conservation camp population by expanding inmate eligibility (such as by allowing inmates with minor felony detainees into camps) or providing greater participation incentives (such as better pay), as we have previously recommended.
- Allow more inmates to serve the last portion of their sentence outside of prison through the Alternative Custody Program, such as by admitting inmates with more than 12 months left to serve.



Options to Accelerate Elimination of Contracts and/or Prison Closure

(Continued)

Operate 34 Prisons With a Smaller Buffer

- CDCR could house more inmates in state-owned prisons by reducing the roughly 2,000 inmate buffer against the cap. For example, CDCR could shift 500 inmates from contract beds to state-owned prisons without exceeding the cap. However, the state may want to take additional actions to mitigate the increased risk of violating the court order.

