

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY

Assemblymember Gilbert Cedillo, Chair

WEDNESDAY, FEBRUARY 2, 2011
STATE CAPITOL - ROOM 127
1:30 pm

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Public Safety Realignment Discussion

After presentations by the Administration and the Legislative Analyst's Office, panel participants will offer input on the impacts of the Governor's public safety realignment proposals.

1. California Department of Corrections and Rehabilitation/Department of Finance
2. Legislative Analyst's Office

Stakeholder Input/Panel Participants:

PANEL - 1

- **Curtis Hill, *California State Sheriff's Association***
- **Wayne Bilowit, *Los Angeles County Sheriff's Department***
- **Karen Pank, *Chief Probation Officers of California***

PANEL - 2

- **Craig Brown, *California Correctional Peace Officers Association***
- **Elizabeth Howard Espinosa, *California State Association of Counties***
- **Cory Salzillo, *California District Attorneys Association***

PANEL - 3

- **Richard Jimenez, *WestCare Foundation***
- **John Kern, *CDCR Teacher***
- **Sean Carey, *CDCR Clinical Social Worker***

ITEMS TO BE HEARD

0820 DEPARTMENT OF JUSTICE

The constitutional office of the Attorney general, as chief law officer of the state, has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice.

The Department of Justice is responsible for providing skillful and efficient legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissioners and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil laws; and assist district attorneys in the administration of justice. The Department also coordinates efforts to address the statewide narcotic enforcement problem; assists local law enforcement in the investigation and analysis of crimes; provides person and property identification and information services to criminal justice agencies; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

Below is a three-year summary of expenditures and positions. It is worth noting that the Department of Justice is supported by a variety of sources with the General Fund projected to account for approximately 33% (\$255 million) of expenditures in 2011-12.

| 2009-10 | | 2010-11 | | 2011-12 | |
|-----------------|-----------|-----------------|-----------|-----------------|-----------|
| Expenditures | Positions | Expenditures | Positions | Expenditures | Positions |
| \$681.4 million | 4,679.0 | \$724.9 million | 4,997.3 | \$775.7 million | 4,996.6 |

ISSUE 1: DEPARTMENT OF JUSTICE BILLABLE HOURS

The Governor's Budget proposes to convert all of the Department of Justice's (DOJ) state clients to fee-for-service (billable). The Governor's proposal results in a net General Fund (GF) impact of \$5.5 million. This proposal includes trailer bill language.

BACKGROUND

Currently, the DOJ has a billable relationship with clients whose budgets are supported by special funds. For clients whose budgets are supported by the GF, the DOJ receives a direct General Fund appropriation to provide legal services. The DOJ believes that the ability to bill clients for services provides a method to ensure that the level of services is warranted since the client is ultimately paying for the service.

To convert DOJ's state GF clients to billable, the Budget includes a reduction of \$50.1 million General Fund and an increase of \$60.8 million Legal Services Revolving Fund. The Budget provides GF allocations totaling \$55.6 million to the 11 largest non-billable clients (listed below) based on past actual hourly usage (fiscal year 2009-10, except for CDCR). The remaining smaller clients will receive legal services from an allocation totaling \$1.5 million GF that the DOJ will reconcile annually to ensure that appropriate funds are being used to pay for legal services. Finally, \$3.1 million GF was proposed to leave in DOJ's main item with budget bill language specifying this amount may be transferred to the Legal Services Revolving Fund for legal services provided to certain public rights division clients (Coastal Commission and State Lands Commission). It should also be noted that the Department of Mental Health (DMH) is requesting \$2.2 million GF in a separate Budget Change Proposal that would provide DMH with additional resources to pay for DOJ legal services. The Administration expects that converting these remaining "non-billable" clients to the same system that has been used by many state departments for years will result in better management of legal workload.

| DOJ GF Client | Proposed Allocation |
|--------------------------------|----------------------------|
| CDCR* | \$45,855,000 |
| State Controller's Office | 317,000 |
| Board of Equalization | 1,994,000 |
| Secretary of State | 83,000 |
| Dept. of Fair Emp. And Housing | 266,000 |
| Franchise Tax Board | 3,232,000 |
| Cal Fire | 2,759,000 |
| Parks & Rec | 271,000 |
| Water Resource Cont. Board | 324,000 |
| Developmental Services | 135,000 |
| Department of Finance | 333,000 |
| Total | \$55,569,000 |

*CDCR's allocation includes \$4.5 million for work performed for the Governor's Office

Below is a reconciliation of the GF impact of this proposal:

| | |
|-------------------------------|--------------------|
| GF Allocations to Departments | \$55,569,000 |
| Less GF Reduction to DOJ | (50,119,000) |
| Total GF Impact | \$5,450,000 |

COMMENTS

DOJ legal resources have been stretched thin in recent years. This proposal will allow the DOJ and its state clients to manage their legal services resources in a more efficient manner. However, considering the state's current fiscal situation, staff is concerned that this proposal results in a GF augmentation of \$5.5 million.

When considering the methodology used to determine the GF allocations to the largest clients, it is worth noting that CDCR's allocation is not based on the same methodology that the allocations for the rest of the clients are based on. All other clients on the above list were based on legal service hours used for 2009-10. However, in determining CDCR's allocation, the Administration used 2008-09 hours (which were much higher than 2009-10, see below) and then discounted (for efficiency) the total allocation by 15%. While there is merit in discounting CDCR's allocation for efficiency (CDCR should be able to do such things as reduce use of outside counsel and better manage which cases are sent to DOJ as opposed to handled internally), there appears to be insufficient justification for using a different base year (2008-09) than everyone else. Using the same base year as all of the other GF clients (2009-10), CDCR's initial allocation total (before applying a discount) would be approximately \$7.3 million less than is being proposed (\$48.7 million vs. \$41.4 million).

| | |
|--------------------|---------------|
| CDCR Hours 2008-09 | 295,071 |
| CDCR Hours 2009-10 | 243,638 |
| Difference | 51,433 |

Staff notes that if this proposal were amended to make CDCR's allocation methodology consistent with all other GF clients and a discount for efficiency of approximately 10% were applied, the GF impact would be negated.

Finally, staff notes that the DOJ, Administration, and affected clients have agreed that the budget bill language proposed to transfer funds for legal services work for Public Rights clients should be removed from this request.

Staff Recommendation: Approve this request with the agreed upon deletion of budget bill language. However, also revise it by reducing CDCR's allocation by \$5.5 million, making the proposal cost neutral. While keeping an adjustment for efficiencies, this reduction also is consistent with adjusting CDCR's methodology to reflect the same methodology used to calculate the allocations for all other General Fund clients. Finally, adopt placeholder budget bill language to allow the transfer of funds from CDCR's main item to pay for DOJ legal services.

1870 CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

The governing body of the California Victim Compensation and Government Claims Board (VCGCB) consists of three members: the Secretary of the State and Consumer Service Agency who serves as the chair, the State Controller, and a public member appointed by the Governor. The VCGCB provides responsive financial compensation to remedy the financial burdens of victims of crime through a stable Restitution Fund, and for those with claims against the State, an opportunity to resolve those claims or proceed with other remedies. The primary objectives of the VCGCB are to:

- Compensate victims of violent crime and eligible family members for certain crime-related financial losses.
- Review and act upon civil claims against the state for money or damages.
- Resolve bid protests with respect to the awarding of state contracts for the procurement of goods and services.
- Provide for reimbursement of counties' expenditures for special elections called for by the Governor to fill vacant seats in the Legislature and Congress.
- Determine the eligibility of individuals for compensation for pecuniary injury sustained through erroneous conviction and imprisonment.
- Process claims for the Missing Children Reward Program to assist local law enforcement agencies or other parties involved in the identification and recovery of missing children in California.
- Assist with the administration of the California State Employees Charitable Campaign.
- Process claims through the Good Samaritan Program to private citizens who are injured rescuing another person, preventing a crime, or assisting a law enforcement officer.

Below is a three-year summary of expenditures and positions. It is worth noting that the Restitution Fund is the main source of funding for the VCGCB, projected to account for approximately 77% of expenditures (\$119.4 million) in 2011-12.

| 2009-10 | | 2010-11 | | 2011-12 | |
|-----------------|-----------|-----------------|-----------|-----------------|-----------|
| Expenditures | Positions | Expenditures | Positions | Expenditures | Positions |
| \$148.8 million | 280.2 | \$151.3 million | 282.5 | \$155.2 million | 282.5 |

ISSUE 1: PREVENT INSOLVENCY OF THE RESTITUTION FUND

The Governor's budget proposes the following measures in order to maintain solvency of the Restitution Fund through 2011-12:

1. Reduce State Operations expenditures by \$3.5 million in 2010-11 and \$2.2 million in 2011-12.
2. Limit growth in claim payments to an average of 2.5 percent per year resulting in savings of approximately \$700,000 (growth projected at 3 percent).
3. Shift \$500,000 in claim payments to federal funds in 2010-11 and 2011-12.
4. Reduce Crime Restitution Compact/Joint Powers contracts by 5 percent in 2011-12 (\$707,000).
5. Align budgeted expenditures for the 10 percent county rebates with actuals (\$2.4 million in 2010-11 and 2011-12).

BACKGROUND

Victims of crime and their families are eligible to receive state funding for crime-related financial costs through the Restitution Fund. The Restitution Fund also funds other crime-related programs, including \$15.2 million to support local anti-gang grants and the Internet Crimes Against Children Task Force administered by CalEMA, as well as the Witness Protection Program administered by the Department of Justice. The Restitution Fund also funds \$11.6 million for 161.5 positions in 20 Joint Powers local claims processing units and \$1.3 million for 44 restitution specialists in the offices of 25 district and city attorneys. These specialists – mostly paralegal and support staff – work with local officials to pursue the imposition of and promote the collection of restitution fines and orders. To encourage collection of restitution, the law provides a 10 percent rebate to counties.

The Restitution Fund receives revenue from a variety of sources including court imposed restitution fines, penalty assessments, restitution orders, and through the Victims Compensation and Government Claims Board's lien and subrogation activities. As a result of recent fiscal challenges, including the transfer of \$80 million to the General Fund in 2008-09, a decline in revenue from court-imposed fines and penalty assessments, the above-mentioned expenditures for other state programs, and a continued increase in claims and compensation, the Restitution Fund is projected to become insolvent in 2011-12.

In 2008, both the Legislative Analyst's Office (LAO) and the Bureau of State Audits issued reports that, among other findings, identified what appeared to be excessive administrative costs in the department. The LAO found that in 2006-07, administrative costs equaled 31 percent of the total state and federal funding for the program, an amount significantly higher than several other states. Similarly, the BSA found that administrative costs ranged between 26 and 42 percent of Restitution Fund disbursements annually.

| | 2009-10 | 2010-11 | 2011-12 |
|--------------------|---------------|---------------|--------------|
| Beginning Balance | \$51.8 | \$45.8 | \$27.4 |
| Revenues | 117.3 | 113.3 | 112.3 |
| Expenditures | 123.4 | 131.7 | 134.8 |
| End Balance | \$45.8 | \$27.4 | \$4.9 |

COMMENTS

In recent years, the Restitution Fund has been heading for insolvency because its annual expenditures exceed its annual revenues. Even with this proposal, in 2011-12, the projected revenues are \$22.5 million less than projected expenditures (\$134.8 million in expenditures vs. \$112.3 million in revenues).

Staff Recommendation: Approve as Budgeted. Encourage Board staff to continue to work on long-term solutions, including Administrative costs, which may be considered in future Budget deliberations.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION – HEALTH CARE

In 2002, a Federal Court (*Plata*) found that the state of health care in California prisons violated the 8th amendment of the U.S. constitution, which prohibits cruel and unusual punishment. California was ordered to reform the system. In February 2006, the *Plata* court appointed a Receiver to take over the direct management and operation of the state's prison medical health care delivery system from the California Department of Corrections and Rehabilitation (CDCR). (A nonprofit corporation was subsequently created as a vehicle for operating and staffing the Receiver's operation). Almost two years later, the court appointed a new Receiver to continue and expand the efforts initiated by the first Receiver in bringing prison medical care up to federal constitutional standards.

It should be noted that the *Plata* court, along with courts overseeing other CDCR lawsuits requiring remedy, has found that overcrowding is a primary cause of unconstitutional care. A three-judge panel (consisting of the judge overseeing the *Plata* case along with judges overseeing other CDCR suits) ordered that overcrowding be reduced to 137.5 percent of "design capacity" within two years, which would result in prison population reductions of approximately 40,000 inmates. The court reaffirmed its decision and ordered the implementation of the state's plan in a January 2010 order. The decision is currently being appealed.

The February 14, 2006 Order Appointing Receiver requires the Receiver to "develop a detailed Plan of Action designed to effectuate the restructuring and development of a constitutionally adequate medical health care delivery system". The Receiver's "Turnaround Plan of Action" was submitted to the Court on June 6, 2008. On June 16, 2008, the Court approved the plan "as a reasonable and necessary strategy to address the constitutional deficiencies in California's prison health care system", also finding "the plan's six strategic goals to be necessary to bring California's medical health care system up to constitutional standards." The six main objectives of the Turnaround Plan are:

1. Ensure Timely Access to Health Care Services;
2. Establish Medical Program Addressing the Full Continuum of Health Care Services;
3. Recruit, Train and Retain a Professional Quality Medical Care Workforce;
4. Implement Quality Improvement Programs;
5. Establish Medical Support Infrastructure; and,
6. Provide for Necessary Clinical, Administrative, and Housing Facilities.

Spending on inmate medical services grew from \$882 million in 2005-06 (when the Receivership was established) to almost \$2 billion in 2008-09, an average annual increase of 31 percent. This increase was largely driven by greater usage of contract medical services, such as for specialty medical care provided outside prison, private ambulance transportation, and nursing and pharmacy registry usage. In addition, the hiring of over 1,000 additional medical staff and the increase in salaries for physicians and nurses in recent years has also driven up inmate medical care expenditures.

The Receiver's Office has taken steps to implement cost cutting and containment measures in the last couple of fiscal years such as a utilization management program to reduce the reliance on costly outside medical care, centralizing its pharmacy operations to provide a more efficient and effective dispensing process, and reducing costs of outside hospital and specialty care by capping reimbursement rates and contracting with a provider network.

The Governor's Budget provides increases of \$643.4 million in 2010-11 and \$562.8 million in 2011-12 to restore a large portion of savings included in the 2010 Budget Act associated with the delivery of medical care to inmates. The Budget included a reduction to the Medical Services Program of \$820 million. However, the Receiver indicates that the Program will only be able to achieve \$94 million of the target, and has requested a restoration of \$726 million. While the Budget recognizes much of the unrealized savings, the Administration believes the Medical Services Program can achieve a greater level of savings than proposed by the Receiver. As such, the Budget restores less than the Receiver has requested by \$82.6 million in 2010-11 and \$163.2 million in 2011-12, which represents five-percent and ten-percent reductions, respectively.

ISSUE 1: ESTRELLA CORRECTIONAL FACILITY

The Governor's budget proposes \$2.7 million GF and 21.4 positions in 2011-12 (growing to \$41.5 million GF and 442.6 positions in 2012-13 and ongoing) to support the pre-activation, activation, and ongoing operation of the new Estrella Correctional Facility.

BACKGROUND

The Estrella Correctional Facility project is the re-purposing of the Division of Juvenile Justice Facility previously known as El Paso De Robles Youth Correctional Facility in Paso Robles, California. This project is included in the CDCR's long-range plan for medical and mental health beds provided to the *Coleman* Court in November 2009.

The project includes housing, programming, health care facilities, inmate visiting and support facilities. The Estrella conversion will include 207 Specialized General Population, 150 Enhanced Outpatient Program (EOP), 40 EOP Administrative Segregation, and 311 Inmate Work Crew for a total of 1,000 inmates.

Assembly Bill 900 (Public Safety and Offender Rehabilitation Services Act of 2007) authorized construction of infill beds, and support program space at existing prison facilities. CDCR, working collaboratively with the Federal Receiver filed a long-range Integrated Strategy Plan to reduce overcrowding and provide for increased medical and mental health beds (the *Coleman* court approved this plan).

The requested resources are based on a rollout schedule that projects facility activation beginning September 14, 2012.

COMMENTS

The Receiver's office has reported that minor delays have occurred and the construction schedule now assumes completion on October 4, 2012.

The LAO recommends the Legislature reduce the Governor's proposal to account for cost reductions that would be incurred at other facilities resulting from the activation of the four new prison facilities.

Staff Recommendation: Approve with the LAO's recommendation to offset to account for standard population adjustment. The final offset amount should be worked out by the LAO, staff, and DOF.

ISSUE 2: CALIFORNIA HEALTH CARE FACILITY - STOCKTON

The Governor's budget proposes \$948,000 and 5 positions in 2011-12 (\$1.9 million and 10 positions in 2012-13 and ongoing) to provide resources for a core Pre-Activation Management Team for the planned California Health Care Facility (CHCF).

BACKGROUND

The CHCF is located on the site of the Northern California Youth Correctional Center and includes 1,722 beds of all security levels, along with all necessary support and rehabilitation program space. This project will replace temporary beds currently in use, and it is included in CDCR's long-range plan for medical and mental health beds provided to the *Coleman* court. It includes 337 high acuity or Correctional Treatment Beds, 673 low acuity or Outpatient Housing unit beds, 137 Mental Health Crisis Beds, 475 Department of Mental Health Intermediate Care Facility beds, and 100 Inmate Work Crew beds. In total, 949 of the 1,722 beds will require licensure under Title 22.

This project will provide specialized housing with necessary health care treatment for a population of seriously and chronically, medically and mental ill inmates consistent with state and federal requirements, and will permit the replacement of temporary beds currently in use. The facility mission is to house inmate-patients of all security levels efficiently, safely and cost effectively, and provides necessary medical and mental health treatment while continuing to provide opportunities for rehabilitative programming through participation in vocational and academic programs, substance abuse treatment, and other offender programs.

The CDCR and California Prison Health Care Services is requesting an initial core pre-activation team for the CHCF effective January 1, 2012, which is 18 months in advance of the activation of the CHCF, which will begin in July 2013 in order to achieve licensure and complete inmate-patient intake by December 31, 2013. These positions are comprised mainly of the CHCF Leadership Pre-Activation Team that will have overall responsibility for the management and delivery of health care and custody at the CHCF.

COMMENTS

Major facilities typically employ a phased activation of staffing that starts with the management team that will operate it. The 10 positions requested in this proposal will form the leadership team for CHCF, carrying out pre-activation activities, then deploying to the facility to conduct its ongoing operations.

Staff Recommendation: Approve this request. These resources are necessary to ensure proper activation of the California Health Care Facility.

ISSUE 3: PRE-ACTIVATION HEADQUARTERS AND LICENSURE SUPPORT

The Governor's budget proposes \$5.1 million GF and 17 positions in 2011-12 (\$5.0 million and 17 positions in 2012-13) to support the activations of the new facilities funded through Assembly Bill 900 (AB 900).

BACKGROUND

Assembly Bill 900 (Public Safety and Offender Rehabilitation Services Act of 2007) authorized construction of infill beds, and support program space at existing prison facilities. CDCR, working collaboratively with the Federal Receiver filed a Long-Range Integrated Strategy Plan to reduce overcrowding and provide for increased medical and mental health beds.

On January 4, 2010, Judge Karlton (*Coleman* court) ordered that all projects in the defendant's Long-Range Integrated Strategy Plan are approved. Projects that reflect patient admissions must be completed by 2013. In order to ensure that this timeline is met, the CDCR and CPHCS believe these resources are necessary.

CDCR and California Prison Health Care Services (CPHCS) anticipate pre-activation activities will continue for 4-5 years. The CDCR and CPHCS have established a core Facilities Planning and Activation Management Team and are requesting this additional staff for pre-activation staffing of individual projects.

COMMENTS

The LAO found that while CDCR has identified an increase in workload that will result from the planning for the activation of new prison facilities, their analysis indicates that the Department currently has unutilized resources within its central administration budget that could be used for such planning activities. This is because the department currently has vacancies in several of the employee classification categories for which it is requesting additional positions and funding. For example, CDCR is requesting two additional program analysts in central administration despite the fact that the Department currently has over 100 vacancies in this classification. Furthermore, in 2009-10, CDCR had \$43 million in savings in its budget for central administration at the end of that year. The fact that the Department has not spent all of its allocated funding for administration in the past suggests that there could be savings in other central administration functions that the Department has not identified which could support the above facility activation planning activities.

In view of the above, the LAO recommends that the Legislature reject the Governor's proposal.

Staff Recommendation: Deny this proposal. Given the state's fiscal situation, if these positions are a priority of the Receivership and the CDCR, they should find a way to absorb the workload by redirecting existing positions.

ISSUE 4: MEDICATION MANAGEMENT

The Governor's budget proposes \$11.9 million GF and 211.3 two-year limited term Licensed Vocational Nurse (LVN) positions in 2011-12 to perform medication management functions in outpatient clinics.

BACKGROUND

Providing timely access to the full continuum of care, including access to prescribed medications, treatment modalities, and appropriate levels of care, is an essential component of the Receiver's Turnaround Plan of Action. At the same time, it is also incumbent on California Prison Health Care Services to mitigate health care expenditures. To that extent, proper staffing authority should be in place so that more expensive options, such as overtime and use of registry, are not necessary to perform essential daily health care functions within institutions.

Medication administration falls under the purview of nursing care. Each institution utilizes Registered Nurses (RN), LVNs, and Certified Nursing Assistants (CNA) to provide nursing care. While RNs are responsible for assessing, planning, implementing, and evaluating patient care, and CNAs perform simple nursing tasks associated with activities of daily living, it is the LVN who is responsible for administering most medications in the prison setting. Currently, only individuals who have completed the licensure requirements for RN or LVN may administer medications. RNs typically are not used to administer medications in outpatient health care settings because of the associate labor costs. The LVN is the lowest cost provider that can perform medication administration functions.

COMMENTS

Staff notes that last year the Receiver's Office was provided with \$10.1 million General Fund and 145 LVN positions to perform medication management functions in outpatient clinics.

Staff Recommendation: Deny without prejudice, which will allow time to evaluate the effectiveness of the 145 LVN positions that were provided in the current Budget.

5225 PUBLIC SAFETY REALIGNMENT

CALIFORNIA COMMUNITY CORRECTIONS PERFORMANCE INCENTIVE ACT OF 2009

The Governor's budget estimates that \$55.2 million General Fund will be paid to counties pursuant to the California Community Corrections Performance Incentive Act of 2009 (SB 678).

BACKGROUND

In an effort to stem the flow of felony probationers being sent to state prison, the Legislature approved two distinct measures aimed at improving felon outcomes. First, the Budget Act of 2009 included a \$45 million appropriation of federal Edward Byrne Justice Assistance Grant (JAG) funds that was distributed to all 58 county probation departments. This funding is being used by counties to provide evidence-based supervision, programs, or services to adult felon probationers.

The purpose of the JAG funding was to provide immediate funding to county probation departments to jumpstart development of evidence-based probation supervision practices in order to improve felony probation performance and reduce the likelihood that these probationers will commit new crimes or other violations and be sent to state prison.

Second, the California Community Corrections Performance Incentive Act of 2009 (SB 678) builds upon the initial allocation of JAG funding by establishing a system of performance-based funding that will share General Fund savings with county probation departments when they demonstrate success in reducing the number of adult felony probationers going to state prison because of committing new crimes or violating terms of probation.

This measure is designed to help lower California's prison admissions by reducing criminal behavior, and thus relieve overcrowding and save public funds.

SB 678 creates a State Community Corrections Performance Incentive Fund and authorizes the state to annually allocate money from this fund into a Community Corrections Performance Incentive Fund established by each county.

Each county must use the funding to establish a local community corrections program. These local programs must be targeted towards felony probationers and the funding should be used for specified purposes related to improving local probation practices. Each county is also required to identify and track outcome-based measures and report their plans and progress to the Administrative Office of the Courts.

At the end of every calendar year, the Department of Finance (DOF) is required to determine the statewide and county specific felony probation failure rates. Using a

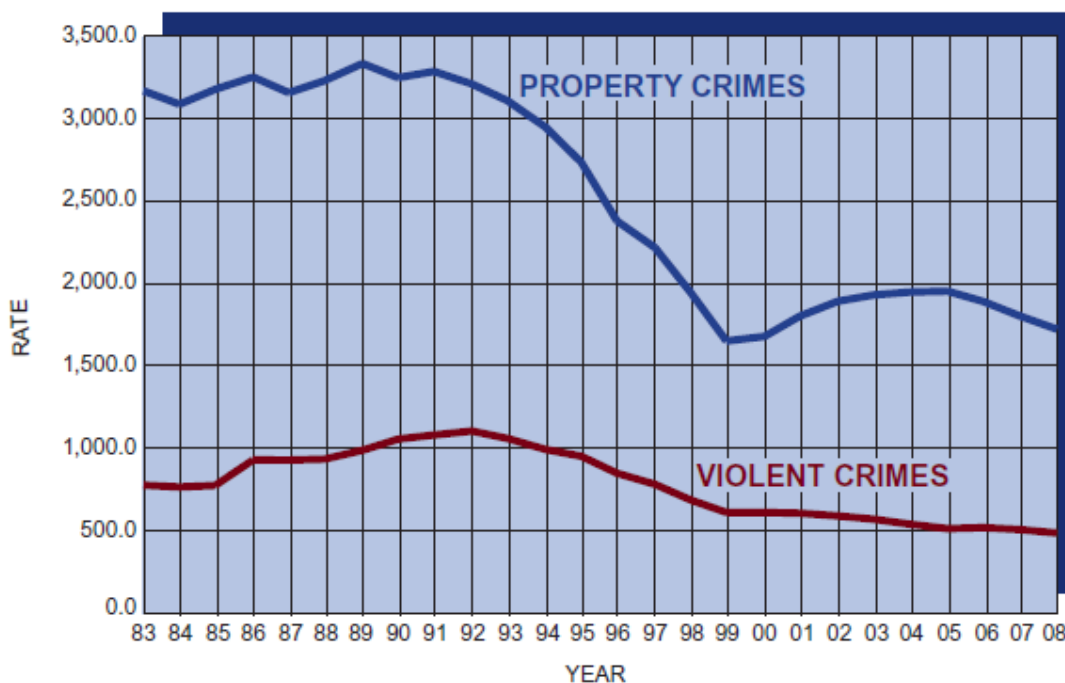
baseline felony probation failure rate of the years 2006-2008, DOF will then calculate the amount of savings to be provided to each county.

PUBLIC SAFETY REALIGNMENT

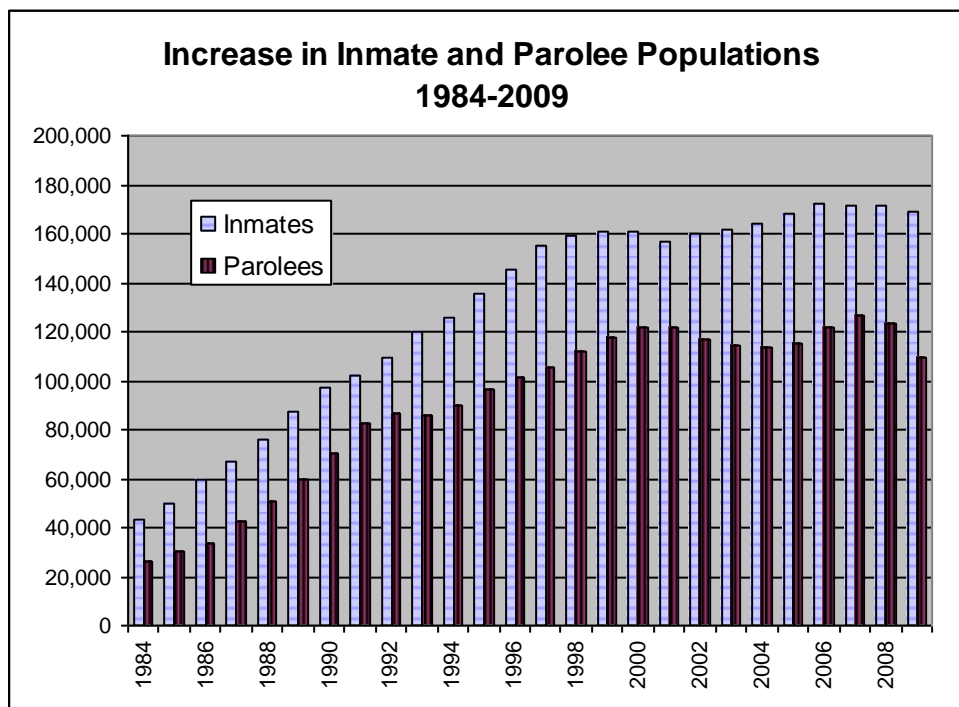
California Corrections in a Historical Context – Trends in Crime and Caseloads.

Violent and property crime rates have declined over the past 25 years. According to a recent annual Crime in California report released by the Attorney General’s office, the violent crime rate in California declined 37 percent between 1983 and 2008, and the property crime rate declined by 46 percent over that period. As shown in the figure below, most of these declines began in the early 1990s. These crime rate trends largely mirror a nationwide trend with both property and violent crime rates peaking nationally in 1991 and declining steadily ever since according to U.S. Department of Justice data. The table below shows the change in property and violent crime rates in California over the past 25 years.

CRIME TRENDS, 1983–2008
By Category
Rate per 100,000 Population



Adult Prison Population Grew Dramatically During 1980s and 1990s. As shown in the figure below, the prison population has increased by almost 300 percent in the 25 year period from 1984 to 2009 (from 43,000 to 169,000 inmates). Most of that significant increase occurred in the 1980s and 1990s with much slower growth occurring since the late 1990s. The parole population has grown at a similar pace over that period.

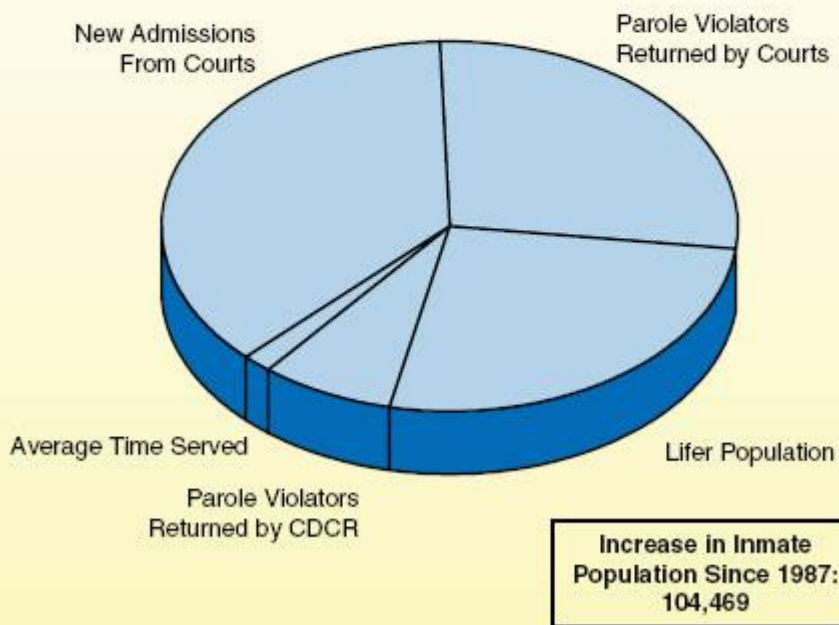


Interestingly, California's local corrections systems – jails and probation – also increased during this period, though not nearly at the same rate as the increase in the state prison and parole populations. The local jail and probation populations have increased by about 73 percent since 1984. According to the Department of Justice, there were about 83,000 jail inmates and 342,000 adult probationers in 2008.

Prison Population Growth Driven Primarily by Court Admissions and Lifer Population. In a recent report, *The 2009-10 Budget Analysis Series: Judicial and Criminal Justice*, the Legislative Analyst's Office (LAO) reviewed historical data to identify what factors most contributed to the increase in the prison population. Looking at the 20-year period between 1987 and 2007, the LAO estimated that about two-thirds of the total increase in the prison population since 1987 was attributable to the increase in court admissions, including both new admissions and parole violators returned to prison by the courts. The increase in the lifer population contributed to an additional 26 percent of the population growth, and the increase in parole violators returned to prison by CDCR and the average time served in prison combined contributed to only about 9 percent of the growth. The figure below is taken from the LAO's report and summarizes the share of the prison population increase that can be attributed to each of these explanatory factors.

Figure 6

Growth in Court Admissions Drove Two-Thirds of Increased Prison Population



The LAO further finds that changes in demographics and crime rates do not explain the increase in court admissions to prison. Between 1987 and 2007, California's population of ages 15 through 44—the age cohort with the highest risk for incarceration—grew by an average of less than 1 percent annually, which is a pace much slower than the growth in prison admissions. As discussed above, the state's crime rate actually decreased over the past two decades.

Instead, the LAO finds that arrest and prosecution data explain much of the increase in the prison population. Despite declining crime rates, the number of adult felony arrests has remained relatively stable over the past two decades. However, the number of felony charges filed, convictions achieved, and prison sentences ordered by the courts have significantly increased during the same time period. These outcomes suggest that law enforcement has increased the percent of felony crimes resulting in arrests. In addition, prosecutors have increased the proportion of (1) arrests resulting in prosecution, (2) charges resulting in a conviction, and (3) convictions resulting in a prison sentence. As a consequence, a felony arrest is almost twice as likely to result in a prison sentence than it was two decades ago. The table below illustrates these findings.

Proportion of Arrests Resulting in A Prison Term Has Increased

| Adult Felony Outcomes | 1987 | 2007 | Percentage Change In Factor |
|---|-----------|------------|-----------------------------------|
| Arrests | 423,000 | 457,000 | +8% |
| Charges filed | 197,000 | 280,000 | +42% |
| Convictions | 154,000 | 231,000 | +50% |
| Prison sentences ^a | 33,000 | 68,000 | +106% |
| Percent of Arrests Resulting in Prison | 8% | 15% | +91% |

^a Includes both new admissions and parole violators returned by the courts.

According to a Pew Center study from 2009 (*Arming the Courts with Research*), 60 to 80 percent of all state felony defendants are placed on probation, fined, or jailed in their local communities. Although the United States has the highest incarceration rate in the world, there are nearly three times more offenders on probation than in state prisons. Recidivism rates among these felony defendants are at unprecedented levels. Almost 60 percent have been previously convicted and more than 40 percent of those on probation fail to complete probation successfully. The high recidivism rate among felons on probation pushes up state crime rates and is one of the principal contributors to our extraordinarily high incarceration rates. High recidivism rates also contribute to the rapidly escalating cost of state corrections, the second fastest growing expenditure item in state budgets over the past 20 years.

The Pew Center report went on to state that for many years, conventional wisdom has been that “nothing works” to change offender behavior—that once an offender has turned to crime little can be done to help turn his or her life around. Today, however, there is a voluminous body of solid research showing that certain “evidence-based” sentencing and corrections practices do work and can reduce crime rates as effectively as prisons at much lower cost. A comprehensive study by the Washington legislature (*Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates*), for example, showed that greater use of these evidence-based practices would reduce Washington’s crime rate by 8 percent while saving taxpayers over \$2 billion in additional prison construction.

According to another Pew Center study from 2008 (*Putting Public Safety First*), high failure rates, the continued rise in prison costs, the release each year of more than 700,000 persons from confinement, and the mounting economic downturn—are all trends that present policy makers and corrections executives with a rare opportunity, even an imperative, to reform probation and parole in ways that will keep communities safe and save scarce public funds. Decades of learning in the field and a growing research base has led to a consensus among many corrections professionals about

what needs to be done to achieve better results. The report cites that this consensus is reflected in the following 13 strategies: 1) Define Success as Recidivism Reduction and Measure Performance, 2) Tailor Conditions of Supervision, 3) Focus Resources on Higher Risk Offenders, 4) Frontload Supervision Resources, 5) Implement Earned Discharge, 6) Supervise Offenders in Their Communities, 7) Engage Partners to Expand Intervention Capacity, 8) Assess Criminal Risk and Need Factors, 9) Balance Surveillance and Treatment in Case Plans, 10) Involve Offenders in the Supervision Process, 11) Engage Informal Social Controls, 12) Use Incentives and Rewards, and, 13) Respond to Violations with Swift and Certain Sanctions.

GOVERNOR'S PUBLIC SAFETY REALIGNMENT PROPOSALS

The Governor's budget calls for realignment of various state programs to local governments. The programs proposed for realignment fall broadly into the category of public safety. This realignment is proposed to be funded through the continuation the 1 percent sales tax and 0.5 percent Vehicle License Fee increases set to expire at the end of the 2010-11 Fiscal Year. In total, the administration estimates that \$5.9 billion in revenue would be generated in 2011-12, growing to \$7.3 billion in 2014-15. The Governor's plan calls for a phased approach to realignment.

The Administration's stated goals of realignment include (1) protection of California's essential public services, (2) improved efficiency and reduction of government duplication, (3) focus of state resources on oversight and technical assistance, (4) assigning program and fiscal responsibility at the level of government that can best provide the service, and (5) providing dedicated revenues to fund programs.

Of the total realignment package, a large share is dedicated specifically to criminal justice programs. Specifically, the Governor proposes realignment of the following criminal justice programs:

1. Court security;
2. Local public safety grant programs;
3. Low level offenders;
4. Adult parole; and,
5. Division of Juvenile Justice.

The Governor's proposal dedicates \$2.6 billion of the revenues for these purposes when the realignment is fully implemented in 2014-15. In 2011-12, the proposal provides \$1.5 billion to local governments and assumes that \$2.3 billion would be sent to the state as reimbursement of state costs. This reimbursement would occur in the near term because much of the realignment would take a couple of years to be fully implemented.

- 1) **Court Security.** The Governor proposes to transfer responsibility for the funding of court security to the counties. Revenue (\$530 million) will be provided through the extension of current tax measures (mentioned above). Security for the trial courts is currently provided by county sheriffs with the exception of two small counties. In recent years, there have been several attempts to change the way court security has been provided and to contain costs. Currently, while the state has assumed the costs of operation of the trial courts, and there have been some modifications in the employment status of court employees, the function of court security largely remains a county sheriff responsibility. The state has a role in court security standards, but has no control over what level (and cost) of deputy is assigned to the court.

Total security costs have increased from about \$263 million in 1999–00 to roughly \$500 million in 2009–10, for an average annual increase of about 7 percent. The Governor's budget estimates that court security costs will be about \$530 million in 2011–12. While most of these costs are funded each year from the General Fund, a small portion is funded with revenue collected from a \$40 court security fee paid by individuals convicted of a criminal offense (including all non-parking traffic violations).

The LAO has reported that the Governor's approach does not make sense. While control of funding for court security would be shifted to counties, the state judicial system would continue to be responsible for the overall operation of the courts. Absent financial control, the courts would have difficulty ensuring that the sheriffs provided sufficient security measures.

The LAO believes a better and more cost-effective alternative would be for the Legislature to direct the courts to contract on a competitive basis with both public and private security providers for the provision of security services. This new approach would probably have to be phased in over time to allow existing contractual obligations to expire. However, establishing a competitive bidding process would provide a strong incentive for whichever public agency (such as the sheriffs) or private firm that won the bid to provide security in the most cost-effective manner possible. Courts would be able to select among the proposals offered to them by different security providers, thus allowing them to select the level of security that best meets their needs. Depending upon when and how this change was implemented, the LAO estimates that the state could save about \$20 million in 2011–12 and that these savings could exceed \$100 million annually within a few years.

- 2) **Local Public Safety Grant Programs.** Historically, the General Fund has supported various local public safety grant programs designed to enhance local criminal justice efforts. In the last couple of fiscal years, these programs have been funded from the temporary VLF increases that are currently set to expire at the end of the current fiscal year. The table below lists each of grant programs, as well as the recipient agencies and purpose of the grant.

| Title of Program | Description |
|--|--|
| Programs within Local Government Funding | |
| Citizens' Option for Public Safety (COPS) | This program was established in statute with Chapter 100 of 2000, and funding began in FY 2000-01. It is a direct subvention to local law enforcement, meant to pay for front line law enforcement. |
| Juvenile Justice Crime Prevention Grants (JJCPA) | This program was established in statute with Chapter 353 of 2000, and funding began in FY 2000-01. The Act redefined front line law enforcement services to include locally developed programs based on approaches that have proved effective in reducing juvenile crime and delinquency among at-risk youth. The Act required the integral involvement of Juvenile Justice Coordinating Councils in the development of comprehensive multi-agency juvenile justice plans. These plans included an assessment of existing resources targeting at-risk youth, juvenile offenders and their families and an action strategy that demonstrated a collaborative, integrated approach to implementing graduated responses to juvenile crime and delinquency. The program is required to publish an annual report of activities. |
| Booking Fees | Chapter 466 of 1990 established the system whereby Sheriffs' may charge a booking fee to police desiring to incarcerate a person in the county jail. Subsequently, Police Chiefs claimed it was unfair and that the booking fees were impacting public safety by requiring police to consider the cost of an arrest rather than going solely on the merits of the arrest. In FY 1999-2000, the state began funding the cost of the booking fees. Notably, it is reported that California is the only state in the union that allows booking fees to be charged. |
| Small and Rural Sheriffs' Grants | This program was initiated with Chapter 205 of 2001 to enhance law enforcement efforts in 37 enumerated rural counties. |
| Programs within CDCR | |
| Juvenile Probation Funding | This program began in FY 1997-98 as a federal TANF option. The state used the TANF funds for some years, but eventually found other uses for the funds and backfilled the program with General Fund. Since FY 2004-05, the program has been |

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| | <p>funded with all General Fund. The funding goes to support a broad spectrum of county probation services targeting at-risk youth, juvenile offenders, and the families of these youth. Counties may use their JPCF funds to serve parents or other family members of eligible youth if doing so will promote increased self-sufficiency, personal responsibility, and family stability for the child. In these situations, services must be provided pursuant to a family service plan and, if multiple agencies are involved in delivering services, the plan must be developed through a collaborative effort involving representatives from those agencies. The programs include:</p> <ol style="list-style-type: none"> 1. Educational Advocacy/Attendance Monitoring 2. Mental Health Assessment/Counseling 3. Home Detention 4. Social Responsibility Training 5. Family Mentoring 6. Parent Peer Support 7. Life Skills Counseling 8. Prevocational/Vocational Training 9. Family Crisis Intervention 10. Individual, Family and Group Counseling 11. Parenting Skills Development 12. Drug and Alcohol Education 13. Respite Care 14. Counseling, Monitoring and Treatment 15. Gang Intervention 16. Sex and Health Education 17. Anger Management, Violence Prevention, Conflict Resolution 18. Aftercare Services 19. Information/Referral–Community Services 20. Case Management 21. Therapeutic Day Treatment 22. Transportation for JPCF Services 23. Emergency and Temporary Shelter |
| <p>Juvenile Camp Funding</p> | <p>This program funds specified services in counties that operate juvenile camps and/or ranches. These funds are allocated to counties according to the number of occupied camp/ranch beds.</p> |
| <p>Programs within CalEMA</p> | |
| <p>California Multijurisdictional Methamphetamine Enforcement Teams (Cal-MMET)</p> | <p>Combats the production and distribution of methamphetamine and the related chemical compounds and precursors. Targets other</p> |

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|--|---|
| | problems in city jurisdictions within the counties to reduce and remove methamphetamine and the criminal elements involved in the trafficking, manufacturing, and sales. |
| Vertical Prosecution Block Grants | Proven program model in which highly experienced and skilled prosecutors carry a reduced caseload of specific types of serious criminal cases from the filing of the case through sentencing. |
| Evidentiary Medical Training | Develop curriculum and training materials for sexual assault, child sexual abuse, child physical abuse, domestic violence, and elder abuse forensic examiners; train on photography; expert witness testimony; conduct telemedicine and teleconferencing. |
| Public Prosecutors and Public Defenders | Purpose of this program is to conduct ongoing legal education to prosecutors throughout California with specific focus on domestic violence and rape crime types. |
| Gang Violence Suppression | Reduce the level of gang violence in communities and to divert potentially dangerous gang activity into positive and constructive behavior. |
| CALGANG® | Automated gang intelligence database system (Department of Justice) providing intelligence information to assist local, state, and federal law enforcement agencies in the investigation of gang related crimes. |
| Multi-Agency Gang Enforcement Consortium (MAGEC) | Eradicates criminal activity of street gangs whose members threaten, terrorize, and commit a multitude of crimes against citizens and/or communities. |
| Rural Crime Prevention | Using both a local and regional task force for the protection and safety of the state's agricultural industry by creating statewide standards and methods for detecting and tracking agrarian crime. |
| Sexual Assault Felony Enforcement Teams | Identify, monitor, arrest, and assist in the prosecution of habitual sexual offenders who violate the terms and conditions of their probation or parole, fail to comply with the registration requirements, or commit new sexual assault offenses through proactive surveillance. |
| High Technology Theft Apprehension and Prosecution | To investigate, apprehend, and prosecute criminal organizations, networks, and groups of individuals engaged in high technology crimes under the defining terms of California Penal Code Section 13848 et al. |

The Governor proposes to fully fund these programs, as part of the overall realignment package using largely the same funding formula as currently exists. The only difference would be that booking fees would be fixed at \$35 million. The table below lists the programs by estimated funding levels in the current year and budget year. The funding levels would increase between the current year and budget year due to projected inflationary growth of VLF revenues. Below is a breakout of programs and funding:

| Program | <i>(dollars in millions)</i> | FY 2010-11 | FY 2011-12 |
|--|------------------------------|-------------------|-------------------|
| Programs within Local Government Funding | | | |
| Citizens' Option for Public Safety (COPS) | | \$94.2 | \$107.1 |
| Juvenile Justice Crime Prevention Grants (JJCPA) | | 94.2 | 107.1 |
| Booking Fees | | 27.7 | 35.0 |
| Small and Rural Sheriffs' Grants | | 16.3 | 18.5 |
| Total Local Government Funding | | \$232.4 | \$267.7 |
| Programs within CDCR | | | |
| Juvenile Probation Funding | | \$133.4 | \$151.8 |
| Juvenile Camp Funding | | 25.9 | 29.4 |
| Total CDCR Programs | | \$159.3 | \$181.2 |
| Programs within CalEMA | | | |
| Cal-MMET | | \$17.1 | \$19.5 |
| Vertical Prosecution Block Grants | | 12.8 | 14.6 |
| Evidentiary Medical Training | | 0.5 | 0.6 |
| Public Prosecutors and Public Defenders | | 0.0 | 0.0 |
| California Gang Violence Suppression Program | | 1.4 | 1.6 |
| CALGANG | | 0.2 | 0.3 |
| Multi-Agency Gang Enforcement Consortium | | 0.1 | 0.1 |
| Rural Crime Prevention | | 3.3 | 3.7 |
| Sexual Assault Felony Enforcement | | 4.5 | 5.1 |
| High Technology Theft Apprehension and Prosecution Program | | 10.5 | 12.0 |
| Total OES Programs | | \$50.4 | \$57.5 |
| Grand Total | | \$442.1 | \$506.4 |

- 3) **Low Level Offenders.** The Governor's Budget proposes to implement a change in mission for the state's prison system, which includes proposing that offenders convicted of non-violent, non-serious, non-sex offenses, and without any previous convictions for such offenses, would fall under local jurisdiction.

The Administration also estimates that this shift would result in \$336 million in state savings and reduce the prison population by about 9,800 inmates in 2011-12. Upon full implementation in 2014-15, the estimated state savings would increase to about \$1.4 billion with a prison population reduction of roughly 38,000 inmates. In 2011-12, \$150 million of the savings relates to a proposed one-time reduction in inmate and parole rehabilitation programs.

According to the Administration, local jurisdictions would receive \$212 million in realignment revenues in 2011-12 and \$821 million upon full implementation to accommodate the offenders shifted.

The proposal would be applied prospectively to offenders sentenced for criminal convictions occurring after July 1, 2011. No offenders currently in state prison would be transferred to the local level.

The LAO has found that this proposal has merit. According to the LAO, this proposal could provide the following benefits:

Improved Program Outcomes. Realignment lower-level offenders would allow local governments to utilize different approaches to rehabilitate offenders and protect public safety. This is important since local communities are different and most low-level offenders sent to prison are eventually returned to the community from which they came.

Better Coordination of Programs. Since most health and human services programs in California are administered at the local level, local governments are better positioned to provide rehabilitation services for offenders.

Reduced Cost Shifting. Realignment would reduce the incentives for local governments to shift costs to the state for certain offenders. In addition, it would provide incentives for local governments to improve crime prevention efforts since they would bear more fiscal responsibility for offenders in the criminal justice system.

Better Prioritization of Correctional Resources. It costs on average about \$46,000 to incarcerate an inmate in state prison each year. In contrast, it costs around half that amount to incarcerate an offender in county jail for an equivalent time period—and significantly less for community supervision. Given the state's massive fiscal shortfall, it makes sense to prioritize expensive prison space for the most serious and violent offenders.

Reduced Prison Overcrowding. The proposal would put the state closer to meeting a potential court-ordered reduction in the inmate population. Reducing prison over-crowding could improve state prison operations, such as by reducing the number of lockdowns and increasing access by the inmates who remain to rehabilitation programs.

- 4) Adult Parole.** The Governor proposes to realign all of state parole to county probation departments. This would be done on a prospective basis only. So, no offenders currently on parole would be shifted to county responsibility. About 60,000 inmates are first released to parole each year.

Under the Governor's realignment plan, counties would receive an estimated \$113 million in 2011-12 (with an additional \$86.9 million for Parole Violators) to begin supervising parolees locally. Because most parolees would remain on state caseloads in the budget year, a share of realignment funding - \$628 million - would be sent to the state to reimburse CDCR for the costs of managing those existing caseloads. When fully implemented, counties would receive an estimated \$410 million annually to manage these offenders.

Since these offenders typically live in the community from which they were sentenced to prison, the Administration argues that local law enforcement and probation are usually more knowledgeable about the offender, suggesting local supervision of parolees is a better policy and public safety option.

Under current law, inmates released from state prison are placed onto state parole generally for three years. There are currently about 108,000 parolees statewide. Parolees who commit new crimes or violations of the terms of parole can be returned to state prison administratively for up to one year. (Parolees can be returned for a longer period if convicted of a new crime). More than 60,000 parolees are returned to state prison through the administrative process run by the Board of Parole Hearings each year.

County probation departments also supervise offenders in the community. There are about 350,000 probationers statewide. This includes offenders sentenced for misdemeanors and felonies. Judges grant felony probation as a sentence in lieu of state prison, though jail time frequently is also part of the sentence. According to CDCR data, about half of all inmates are returned to state prison within one year of release, and two-thirds are returned to prison within three years.

- 5) Division of Juvenile Justice.** The Governor proposes to shift full responsibility for all remaining juvenile offenders from the state to counties. Currently, counties initially oversee all juveniles entering the criminal justice system and supervise most juveniles determined to be certain serious offenders. The state, on the other hand, supervises the most serious juvenile offenders, housing them in facilities run by the Division of Juvenile Facilities (DJF).

The proposal would be applied prospectively after July 1, 2011. No juvenile offenders currently in DJF would be transferred to the local level. In 2011-12, counties would start receiving wards who would have otherwise been sentenced to DJF. The Administration estimates that this will initially amount to several hundred wards and would be around 1,200 wards upon full implementation in 2014-15.

The Administration's proposal would result in about \$258 million in state savings in 2011-12. Initially, counties would receive \$78 million in realignment revenues to supervise wards who would have otherwise been committed to DJF, while the state would receive about \$180 million in realignment revenues to supervise the wards currently housed by DJF.

As wards currently in DJF were released to local jurisdictions, the state's share of realignment revenues would decline. Upon full implementation, counties would receive all of the realignment revenue related to juvenile offenders—about \$242 million, according to the Administration.