

## **SENATE COMMITTEE ON PUBLIC SAFETY**

Senator Carole Migden, Chairwoman  
2005-2006 Regular Session

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AA/SM/JD

### THE GOVERNOR'S PROPOSED PUBLIC SAFETY BOND ACTS OF 2006 AND 2010

#### HISTORY

Source: The Governor

NOTE: This analysis is based on AB 1833 (Arambula), introduced on January 10, 2006 in the Assembly.

#### KEY ISSUE

SHOULD \$6.8 BILLION IN GENERAL OBLIGATION BONDS BE PROVIDED FOR INCREASING THE NUMBER OF JAIL AND PRISON INMATE BEDS AND FOR OTHER PURPOSES, AS SPECIFIED?

#### *PURPOSE*

*The purpose of this proposal is to enact the Public Safety Bond Acts of 2006 and 2010, authorizing \$6.8 billion in general obligation bonds for increasing the number of jail and prison inmate beds and other purposes, as specified.*

Current law creates in state government the Department of Corrections and Rehabilitation ("CDCR"), headed by a secretary appointed by the Governor and subject to Senate confirmation, which consists of Adult Operations, Adult Programs, Juvenile Justice, the Corrections Standards Authority, the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board. (Government Code § 12838.) As explained in the Proposed Governor's Budget 2006-07:

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Effective July 1, 2005, the Department of Corrections (CDC) was incorporated into the newly established Department of Corrections and Rehabilitation. Prior to July 1, 2005, the CDC maintained 33 institutions statewide housing approximately 165,000 inmates. The CDC also operated 40 fire camps and an extensive correctional training center responsible for training all new entry-level correctional officers as well as hosting the Parole Agent Academy.

In addition, the CDC operated or contracted for the operation of approximately 40 public or private community based facilities statewide including 20 community correctional re-entry centers; 12 community correctional facilities; and 5 prisoner/mother facilities and leased jail beds at 3 county jails. There were 182 parole units and sub-units and 4 parole outpatient clinics. The CDC's infrastructure included more than 3,000 structures throughout California which encompassed more than 37 million square feet of building space on more than 25,000 acres of land.

Current law further provides that, "(t)he common jails in the several counties of this State are kept by the sheriffs of the counties in which they are respectively situated, and are used as follows:

1. For the detention of persons committed in order to secure their attendance as witnesses in criminal cases;
2. For the detention of persons charged with crime and committed for trial;
3. For the confinement of persons committed for contempt, or upon civil process, or by other authority of law;
4. For the confinement of persons sentenced to imprisonment therein upon a conviction for crime." (Penal Code § 4000.)

According to CDCR, the average daily county jail population (including those in holding areas) in California from July to September 2005 (the most recently available data) was 83,479.

### **Housing State Inmates; Obligation for "Actual Costs," Including Capital Costs**

This bill would the authorize CDCR and a county to enter into an agreement pursuant to which the county shall be reimbursed by the CDCR "for actual costs incurred resulting from the detention of" the following prisoners:

- (1) A prisoner sentenced to state prison, as specified, who is within 90 days of his or her release from state prison.
- (2) A prisoner whose parole has been revoked pursuant to Section 3060.

This bill would provide that "'actual costs incurred resulting from detention' includes all operating costs; food costs; clothing costs; medical, dental, and mental health care costs; and costs incurred in providing program services. 'Actual costs incurred resulting from detention' also includes the capital costs for any dedicated section of a jail built to house state prisoners . . . pursuant to a cost allocation developed between the county and the Department of Corrections and Rehabilitation."

This bill would provide that this section "shall only apply to a county that has a dedicated section of a jail built to house state prisoners," as explained in detail below.

This bill contains additional provisions concerning reimbursements for these beds, as specified.

### **Bond Proposals: \$6.810 Billion General Obligation Bond**

This proposal, as reflected in AB 1833 (Arambula), is comprised of a general obligation bond commitment of \$6.8 billion over 10 years, as follows:

#### **I. Public Safety Bond Act of 2006 Program – \$2.6 Billion General Obligation Bond**

This bill would enact the "Public Safety Bond Act of 2006 Program" with the following features and requirements:

##### Specified Appropriations

This bill would provide that \$2 billion be 'continuously appropriated' to CDCR "for the purpose of making grants for the construction, expansion, renovation, replacement, or reconstruction of county jail facilities," as specified (*see* County Jail Capital Expenditure Bond Act Program, below).

This bill would make \$610 million "available for appropriation by the Legislature" as follows:

- \$215 million for the Department of Forestry and Fire Protection for facilities that "support emergency fire response activities;"
- \$200 million to the Department of Justice for a new state DNA laboratory;
- \$170 million to CDCR for state adult and youth correctional facilities, as specified; and
- \$25 million for state military facilities.

##### Administrative Costs

This bill would provide up to five percent of the principal amount of bonds for administrative costs.

### County Jail Capital Expenditure Bond Act Program

This bill would make \$2 billion in general obligation bond funds available to CDCR to make grants for the construction, expansion, renovation, replacement, or reconstruction of county jail facilities with specified features and requirements, including the following:

- States legislative intent that moneys be appropriated on a competitive basis to counties with established and documented needs for capital projects for jails, providing "that money shall be used to build, expand or renovate facilities that counties can afford to staff and operate fully and safely."
- Requires CDCR to adopt regulations for the approval of county jail projects;
- Requires CDCR to "consider cost-effectiveness in determining approval" of projects;
- County Match: This bill would require participating local governments to match any state grant of bond funds as an eligibility requirement of the grant program, and would provide that no more than 50% of their match could be in-kind contributions.

This bill would authorize CDCR to reduce match requirements for counties with a general population below 200,000 upon petition by a county to CDCR requesting a lower level of match.

- Additional County Beds for Prison Inmates: In addition to the match requirement, this bill would require counties receiving funding to fund and construct additional bed space equal to the amount of their grant award which would be required to be designated to hold the following specified state inmates:
  - (1) A prisoner sentenced to state prison under specified provisions who is within 90 days of his or her release from state prison; and
  - (2) A prisoner whose parole has been revoked, as specified.
- Mandatory Start Dates: This bill would require counties to "begin construction or renovation work within 42 months of the effective date of this chapter," unless CDCR waives this requirement if it determines delays are unavoidable. This bill would provide that if a county fails to meet this requirement, any allocations to the county would be deemed void and moneys allocated to the county would revert to CDCR "for reallocation."

- Bond Provisions: This bill contains specified fiscal provisions concerning the issuance and sale of general obligation bonds in the amount of \$2.6 billion for this program, including the following:
  - An appropriation from the General Fund in an amount that will equal the total of the following:
    - (1) The sum annually necessary to pay the principal and interest on the bonds authorized by this measure, as specified; and
    - (2) The sum that is necessary to carry out the provisions of Section 16018, appropriated without regard to fiscal years.
  - A provision authorizing the Director of Finance to authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out the requirements of this bill, providing that these moneys be returned to the General Fund, as specified, from proceeds received from the sale of bonds for the purpose of carrying out this title.

## **II. Public Safety Bond Act of 2010 – \$4.2 Billion General Obligation Bonds**

This bill would enact the "Public Safety Bond Act of 2010," with the following features and requirements:

### Specified Appropriations

This bill would provide that \$2 billion be "continuously appropriated" to CDCR "for the purpose of making grants for the construction, expansion, renovation, replacement, or reconstruction of county jail facilities," as specified. (See County Jail Capital Expenditure Bond Act Program, below).

This bill would provide that \$1.1 billion be "available for appropriation by the Legislature for the acquisition, construction, renovation, or remodeling of state adult and youth correctional facilities."

This bill would provide that \$1.1 billion be "available for appropriation by the Legislature for the development, renovation, repair, relocation, or restoration of state facilities that are public safety related buildings and structures."

### Administrative Costs

This bill would provide up to five percent of the principal amount of bonds for administrative costs, as specified.

This bill would enact a "County Jail Capital Expenditure Bond Act Program" identical in features and requirements to the 2006 program described in detail above.

**Legislative Findings and Declarations**

This bill makes specified legislative findings and declarations.

**Effective Upon Approval of the Voters**

This measure would provide that its provisions would be effective upon approval of the voters, as specified.

**Urgency Measure**

AB 1833 is an urgency measure.

COMMENTS

1. The Governor's Strategic Growth Plan: Public Safety

In January, the Governor proposed a "comprehensive Strategic Growth Plan" for the following six areas: transportation/air quality; K-12 education; higher education; flood control and water supply; public safety; and courts and "other public service infrastructure." With respect to public safety, the Governor's Plan states:

The Governor is proposing a groundbreaking partnership between the state and local agencies to help manage inmate population at all levels of government. This proposal will result in an increase in the number of available local jail beds that will alleviate overcrowding in both state and local facilities, enhance the safety for correctional staff and inmates, and enhance the safety of the local communities by keeping offenders locked up for the appropriate time as prescribed by the court. The \$6 billion proposal is the initial five-year plan to address state and local detention facility needs. In the second five years, the Governor proposes another \$6 billion for local jail construction (\$2 billion GO bonds); along with \$1.1 billion additional GO bonds to build new prisons or juvenile detention facilities at CDCR.

...

The Strategic Growth Plan includes \$600 million in GO bonds to fund critical public safety projects, including replacement or relocation of old and deteriorated emergency response facilities for the Department of Forestry and Fire protection, such as forest fire stations, air attack bases, and conservation camps. In addition, the multiyear funding proposal includes funding for the Department of Justice to provide for the permanent replacement of the current DNA lab. All these programs support the essential efforts of the state's public safety employees.

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The Governor's public safety bond proposal is set forth in AB 1833 (Arambula), which is the basis of this analysis.

## 2. What This Measure Would Do

As explained above in detail, this measure proposes a public safety general obligation bond commitment of \$6.8 billion over 10 years, divided into two 5-year periods:

- First Five Years – 2006 Total General Obligation Bond: \$2.6 billion
- Second Five Years – 2010 Total General Obligation Bond: \$4.2 billion

With respect to jails, this proposal essentially contemplates state general obligation funds "continuously appropriated" to CDCR, which would make grants to local governments for increasing county jail capacities, including jail capacity for state prison inmates. Counties would be required to equally match any funds received from the state, allowing up to half of their match to be in-kind, unless exempted from the match (i.e., small counties). All of the state bond monies and corresponding county matches would be for county inmates. However, participating counties also would be required to construct additional bed space equal to the amount of their grant award. These beds would be required to be designated for state prison inmates. While the bill is silent on how local governments would fund these additional designated beds, it is presumed it would be through local lease revenue bonds. This proposal would require the state to reimburse counties for the "actual costs" of detaining state inmates.

This proposal also contains provisions for additional expenditures, noted in the following summary:

### **First Five Years – 2006**

(1) General Obligation bond of \$2 billion to be continuously appropriated to CDCR for the purpose of making local government grants for the construction, expansion, renovation, replacement, or reconstruction of county jail facilities.

- Requires participating local governments to proffer a dollar-for-dollar match, allowing no more than 50% in-kind contributions, with specified exemptions.
- Requires local governments to fund and construct additional beds to be designated for prison inmates (presumably lease revenue paid over a period of 25-30 years from the CDCR budget for population and contract jail beds). CDCR would be required to pay "actual" costs to lease these beds, as enumerated in the bill (see Purpose section, above), including capital costs.

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## (2) General Obligation bond for appropriation by the Legislature: \$610 million

- \$215 million for the replacement or relocation of facilities for emergency fire response.
- \$200 million to DOJ for a new DNA laboratory.
- \$170 million to CDCR for the acquisition, construction, renovation, or remodeling of adult and youth facilities.
- \$25 million for state military facilities.

**Second Five Years – 2010**

(1) Funding is the same as the 2006 plan with \$2 billion coming from a general obligation bond for jails, subject to the local matches and additional requirements described above.

## (2) General Obligation for appropriation by the Legislature:

- \$1.1 billion for the acquisition, construction, renovation, or remodeling of state adult and youth facilities
- \$1.1 billion for the development, renovation, repair, relocation, or restoration of public safety related buildings.

3. Lack of Legislative Oversight

Both the 2006 and 2010 bonds proposed by the Governor contain continuous appropriations for their \$2 billion earmarks for jail construction (p. 4, line 21; p. 11, line 38). The Legislature may wish to make these funds available upon appropriation to the CDCR and clarify various provisions of AB 1833 for the following reasons:

- AB 1833 does not direct CDCR as to the Legislature's funding priorities, so geographic distribution, facility saturation, inmate origin, special consideration for facilities operating under court order and other factors are not specifically addressed.
- There is nothing in this proposal that caps a local government's grant amount or prevents a small number of jurisdictions from being awarded a disproportionate share of funds. Further, AB 1833 does not require that local governments with the greatest demonstrated need will receive special consideration during the competitive grant process. These factors may be addressed through the regulatory process, but there is nothing in AB 1833 indicating the Legislature's intent in these areas.
- AB 1833 does not require a concomitant local commitment to providing programs to inmates at the to-be-built facilities (though the measure does require any program costs for prison inmates housed in local beds to be reimbursed through the new "actual costs" calculation), nor does the measure set a floor for the level of program inmates are to receive for the local government to qualify for the "actual cost" reimbursement rate.



- The "actual cost" reimbursement rate, total number of local beds, needed number and level of prison beds to be constructed by locals and lease terms for CDCR of the local prison beds are not specified in AB 1833. The Legislature may wish these factors to be clarified prior to authorizing bond funds to be spent on jail projects.
- There are no reporting requirements placed on local governments or the department to inform the Legislature of the regulatory process, approval process or ongoing spending.

#### SHOULD LEGISLATIVE OVERSIGHT OVER THE EXPENDITURE OF BILLIONS OF GENERAL OBLIGATION PROCEEDS BE ASSURED?

##### 4. Additional Concerns Relating to the Operation of this Proposal

- 2006 Bond: \$25 million to Department of the Military

The bill does not spell out specifically what types of facilities are to be developed with bond funds. It also does not require federal matching funds for these projects.

- 2006 Bond: \$215 million to Department of Forestry and Fire Protection

The Legislature may wish to consider making these funds available for facilities that "*directly* support emergency fire response activities" (p. 4, lines 30-31).

- Use of Bond Funds for Equipment

AB 1833 authorizes the use of bond funds for the "development and equipping of a new state DNA laboratory" (p. 4, line 33). The Legislature may wish to cross reference this authorization with Government Code Section 16727 to ensure any equipment purchased as "capital assets" with bond funds have "useful lives" of appropriate statutory lengths.

- Administrative Costs

AB 1833 limits administrative expenses for both bonds to 5 percent of the principal amount of bonds issued (p. 5, lines 4-7; p. 12, lines 12-15). It is not clear, however, if this 5 percent is to be taken from the total amount issued or if it is in addition to the total amount bonded. The Legislature may wish to clarify its intent by stating in both places either "Of the funds made available pursuant to (a) and (b), no more than five percent may be expended for administrative costs . . ." or, "In addition to the funds made available pursuant to (a) and (b), no more than five percent may be expended for administrative costs . . .".

- Bed Space Match

AB 1833 requires local governments accessing jail construction funds from either bond "to fund and construct additional bed space equal to the amount of their grant award" and designate them to hold state inmates (p. 7, lines 8-12; p. 14, lines 14-18). "Equal" is not defined as either a

number of beds or an equivalent amount of money to be spent on bed space. The Legislature may wish to clarify this point.

Additionally, AB 1833 places no security-level requirements on the beds to be built by locals for state inmates and, since AB 1833 makes all inmates within 90 days of release or those whose parole has been revoked eligible for housing in locally-built state beds, it is unclear if those beds will meet incarceration standards for the varying "levels" of inmates slated to be housed there.

As drafted the bill would impose no requirements on the kind of beds locals would be required to provide for state inmates. Members may wish to explore with the administration its intent with respect to developing traditional jail beds for prison inmates, or whether other kinds of custodial housing might be better suited, and more cost-effective, for the inmates targeted for housing at the local level.

- Start of Construction

Counties receiving grants from either bond must begin construction or renovation "within 42 months of the effective date of this chapter" (p. 7, lines 13-14; p. 14, lines 19-20). Assuming this bill chapters in June 2006, 42 months would fall in December 2009, which is prior to the voters considering the 2010 measure. The Legislature may wish to tie this construction timeline either to voter approval or allocation of funds by the Corrections Standards Authority instead of the chaptering date.

- Absence of Cost-Containment Controls

Although the contracts between CDCR and the counties contemplated under AB 1833 would obligate the state to pay the operating costs related to the state inmates housed in the "dedicated beds," there are no cost-containment measures specified in the bill in relation to those costs.

**SHOULD THE LEGISLATURE APPROVE A MEASURE THAT WOULD AUTHORIZE CDCR TO OBLIGATE THE STATE FOR 25-30 YEARS TO PAY UNKNOWN, UNCONTROLLED OPERATING COSTS?**

- County Match Amounts

AB 1833 provides that for counties under 200,000 in population, the CDCR can reduce the match amount.

**SHOULD THERE BE ANY GUIDELINES OR SPECIFIED CRITERIA CONTAINED IN THE BOND PROPOSAL TO ELIMINATE POTENTIAL DISPARATE TREATMENT?**

AB 1833 provides that 50% of the matching funds from the counties may be in the form of "in-kind" contributions. What would constitute an "in-kind" contribution if not specified?

SHOULD THE DEFINITION OF "IN-KIND CONTRIBUTION" BE SPECIFIED IN THE BILL?

- Gap Funding for County-Financed Projects; Proposed Cap

This bill would authorize the Director of Finance to use General Fund monies not to exceed the amount of the unsold bonds for the purposes of carrying out this proposal, to be repaid from the proceeds from the sale of the bonds, as specified. As explained by the Governor's Strategic Growth Plan, a 6 percent cap is part of the plan:

The Governor will propose a constitutional amendment that would limit the ability of the Legislature and the Governor to incur certain General Fund-supported debt – including voter approved General Fund-supported debt – if debt service on that debt plus the debt service on similar, outstanding General Fund-supported debt is expected to exceed 6% of General Fund revenues in any given year for five years into the future.

The measure would require the Governor's budget to contain five-year estimates of General Fund revenues and debt service payable on outstanding certain General Fund-supported debt. The Legislature and the Governor will be permitted to budget the expenditure of General Fund revenue that will result in new General Fund-supported debt of this type only to the extent that debt service on that resulting debt will not exceed 6% of the estimated General Fund revenues in any of those five years.

HOW WOULD THE PROVISION ABOVE AUTHORIZING ESSENTIALLY A LOAN ANTICIPATING BOND PROCEEDS WORK GIVEN THIS CAP? WHAT WOULD OCCUR IF THE FUNDING IS "LOANED" AND THE BOND SUBSEQUENTLY NOT SOLD BECAUSE CALIFORNIA EXCEEDS THE 6 PERCENT CAP PROPOSED BY THE GOVERNOR?

5. Prison Population Projections: Data and Projection Methodology in CDCR

The current CDCR inmate population is approximately 168,000. This is an all-time high which is projected by the department to increase further in the budget year. As explained in the "Overview of the 2006-07 Budget Bill" prepared by the Senate Committee on Budget and Fiscal Review:

The budget increases the estimates for the adult prison and parolee populations for both the current year and the budget year. For the current year, the proposed budget increases the average daily inmate population from 165,249 in the 2005 Budget Act to 167,630 and the average daily parole population from 110,335 in the 2005 Budget Act to 115,524. For 2006-07, the budget assumes that the average daily inmate population increases to 171,497 and the average daily

parole population increases to 116,220. The fiscal impact of these population increases is \$48.4 million General Fund in 2005-06 and \$123.2 million General Fund in 2006-07.

. . . CDCR's current inmate population of approximately 168,000 is an all-time high and the population is projected to increase further in the budget year. The budget makes no population or savings adjustments for implementation of inmate and parole programs as it has in last few years. The CDCR indicates that the continuing growth of the inmate population is having significant impacts on its ability to safely house the inmate population. The CDCR indicates that it is currently managing the population increase through the activation of the new Kern Valley State Prison, as well as implementing measures such as the "Right Prison, Right Mission" initiative to make better use of space, in addition to using gyms, day rooms, and other program space to house inmates.

The Administration provides the following population projections over the next 15 years as the basis for this proposal:

<b>Fiscal Year</b>	<b>05/06</b>	<b>06/07</b>	<b>07/08</b>	<b>08/09</b>	<b>09/10</b>	<b>10/11</b>	<b>11/12</b>
<b>Projected Population</b>	168,583	172,019	174,994	177,747	179,789	181,474	182,990

<b>Fiscal Year (cont.)</b>	<b>12/13</b>	<b>13/14</b>	<b>14/ 15</b>	<b>15/16</b>	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>2020</b>
<b>Projected Population</b>	185,248	187,414	189,451	191,264	193,478	195,019	197,073	199,282

In a September 2005 report, the California State Auditor criticized the long-term inmate population projections produced by CDCR. The Auditor specifically found that the department's population projections have "limited usefulness for longer-range planning, such as the need to build new prisons." Report findings include:

- Although "the projections are reasonably accurate for the first two-and-a-half years of a projection period, they become increasingly less accurate beyond that point, quickly rising to average error rates that render them useless for their intended purpose."
- ". . . (T)he average error rate increases rapidly beginning in the third year, reaching almost 30 percent by the end of the sixth year. Therefore, the department's reliance on its projections in assessing the sufficiency of its facilities and planning future prison construction appears misplaced."

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- "(T)he projections tend to overestimate future populations, which could result in the department building facilities that are not needed if it relies solely on the projections."
- "The deputy director of the facilities division told us that it is department policy to request new or expanded prisons to house populations based on these projections. He further stated that the department requested funding for constructing new prisons in 1995 and again in 1996, but the Legislature did not approve these requests. Had the department actually built the prisons needed to house the number of inmates shown in its fall 1995 projection, it would have vastly overbuilt for its actual needs."

Members may wish to ask the Administration to address these recent findings, especially with respect to the anticipated inmate bed space requirements which form the basis of this proposal.

HOW DID THE ADMINISTRATION DEVELOP THE INMATE POPULATION PROJECTIONS THAT ARE THE BASIS OF THIS PROPOSAL?

ARE THE CURRENT INMATE POPULATION PROJECTIONS BASED ON A PROCESS AND METHODOLOGY THAT HAS BEEN CORRECTED PURSUANT TO THE RECOMMENDATIONS MADE BY THE AUDITOR? WHAT SPECIFIC CHANGES WERE MADE IN DEVELOPING THE ADMINISTRATION'S PROJECTIONS, AND WHAT CHANGES HAVE NOT YET BEEN MADE?

HAS THE DEPARTMENT ANALYZED WHAT TYPES OF BEDS ARE BEING USED IN DIFFERENT FACILITIES, AND WHAT TYPES OF BEDS ARE NEEDED? FOR EXAMPLE, HOW MANY ADDITIONAL SUBSTANCE ABUSE TREATMENT, MENTAL HEALTH, GERIATRIC, SEX OFFENDER TREATMENT, AND SIMILARLY SPECIFIED PRISON BEDS ARE NEEDED, AND HOW WILL THIS PROPOSAL MEET THESE NEEDS?

HOW DOES THIS PROPOSAL FIT INTO THE DEPARTMENT'S "RIGHT PRISON RIGHT MISSION" AGENDA?

#### 6. Incarceration Trends: California and National Data

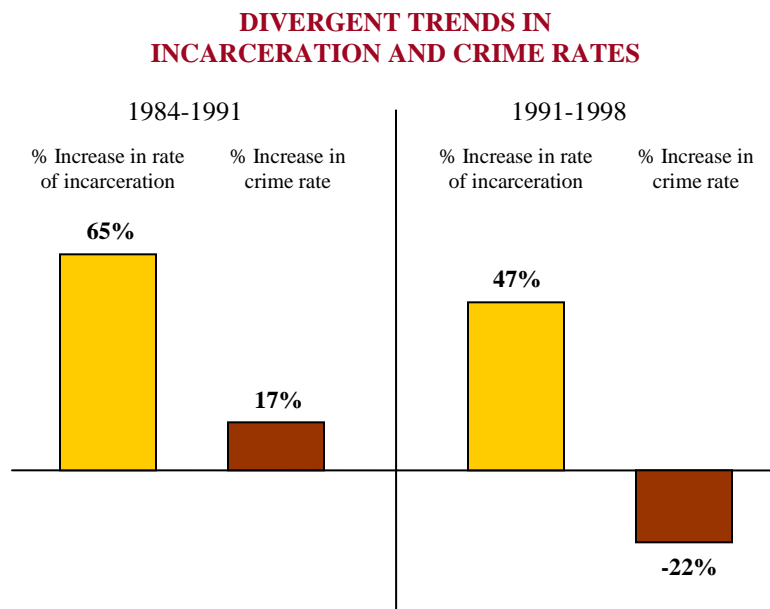
According to the U.S. Bureau of Justice Statistics, by the end of 2004 there were more than 2.1 million inmates in the nation's prisons and jails. "The new figures represent a record 32-year continuous rise in the number of inmates in the U.S. The current incarceration rate of 724 per 100,000 residents places the United States first in the world in this regard. Russia had previously rivaled the U.S., but substantial prisoner amnesties in recent years have led to a decline of the prison population, resulting in a current rate of incarceration of 564 per 100,000. Rates of incarceration per 100,000 for other industrialized nations include Australia - 120, Canada - 116, England/Wales - 145, France - 88, and Japan - 60."<sup>1</sup>

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<sup>1</sup> Mauer, "New Incarceration Figures: Growth In Population Continues," Nov. 2005  
<http://www.sentencingproject.org/pdfs/1044.pdf>

California has followed the nationwide trend of increased incarceration, both in overall numbers and as a percentage of the population. According to the California Department of Justice, in 1980 California had a total of 27,916 inmates in state prison, or 176.9 per 100,000 of its citizens. In 1990 the state prison inmate population was 99,145, or 495 per 100,000. By 2000, the state prison inmate population had risen to 161,000 or 725.3 per 100,000. In 2004, there were 164,169 state prison inmates, which amounted to 686.7 per 100,000.<sup>2</sup>

While incarceration rates have gone up, crime rates have generally gone down. However, research indicates that the relationship between crime rates and incarceration is not a simple one and that, at a certain point, incarceration reaches a point of diminishing returns in terms of reducing crime. The following chart illustrates how, "[b]etween 1991 and 1998, those states that increased incarceration at rates that were less than the national average experienced a *larger* decline in crime rates than those states that increased incarceration at rates higher than the national average."<sup>3</sup>



<sup>2</sup> "Crime in California 2004," California Department of Justice.  
<http://caag.state.ca.us/cjsc/publications/candd/cd04/Data%20Tables.pdf>

<sup>3</sup> Mauer, King, Young, "Incarceration and Crime: A Complex Relationship," The Sentencing Project, 2005.  
<http://www.sentencingproject.org/pdfs/incarceration-crime.pdf>

Members may wish to ask proponents to address the significant increase in California's rate of incarceration over the last several decades and explain how this proposal might impact the rate of incarceration in the future. In addition, members may wish to discuss the extent to which incarcerating a greater percentage of the population has contributed to the decrease in crime, and whether at this point some of the alternatives to incarceration recommended by the IRP might be more effective in reducing the crime rate.

DOES CALIFORNIA INCARCERATE MORE PEOPLE THAN IS NECESSARY TO REDUCE CRIME?

WILL THE INCREASED JAIL AND PRISON BEDS PROVIDED BY THIS PROPOSAL INCREASE THE RATE OF INCARCERATION IN CALIFORNIA EVEN MORE?

IS INCREASING THE RATE OF INCARCERATION AN EFFECTIVE AND SENSIBLE POLICY FOR REDUCING CRIME RATES?

WHAT EVIDENCE-BASED STRATEGIES AND RESEARCH SUPPORT INCREASING JAIL AND PRISON BED SPACE IN CALIFORNIA?

ARE THERE CORRECTIONAL STRATEGIES OTHER THAN INCREASING THE RATE OF INCARCERATION THAT HAVE BEEN PROVEN TO REDUCE THE CRIME RATE?

BASED ON OBJECTIVE DATA AND ANALYSIS FROM CALIFORNIA AND OTHER JURISDICTIONS, IS THIS PROPOSAL THE MOST COST-EFFECTIVE STRATEGY FOR ADDRESSING PRISON OVERCROWDING?

## 7. Prison Bed Capacity Growth Over the Last 20 Years

California has authorized 22 prisons since 1984. The following chart indicates those new prisons, their locations, when they opened and their design capacity:

<b>Prison</b>	<b>Location</b>	<b>Date Opened</b>	<b>Design capacity</b>
CSP Solano	Vacaville	1984	2100
CSP Sacramento	Folsom	1986	1700
Avenal State Prison	Avenal	1987	2300
Mule Creek State Prison	Ione	1987	1700
Richard J Donovan	San Diego	1987	2200
No Cal Women's Facility	Stockton (now closed)	1987	400
Chuckawalla Valley SP	Blythe	1988	1700
CSP Corcoran	Corcoran	1988	2900
Pelican Bay SP	Crescent City	1989	2300
Central Ca Women's Facility	Chowchilla	1990	2000
Wasco SP	Wasco	1991	3100
CSP-Calipatria	Calipatria	1992	2200
North Kern SP	Delano	1993	2500
CSP Centinela	Imperial	1993	2200
Los Angeles County SP	Lancaster	1993	1200
Ironwood SP	Blythe	1994	2200
Pleasant Valley SP	Coalinga	1994	2200
Valley State Prison Women	Chowchilla	1995	2000
High Desert SP	Susanville	1995	2200
Salinas Valley SP	Soledad	1996	2200
Substance Abuse Treatment Facility	Corcoran	1997	3300
Delano II	Delano	2005	2500
			47100

Members may wish to ask the administration to provide an analysis of the impact of prison expansion in California over the last 20 years with respect to addressing and controlling overcrowding, and what if any measures in addition to capacity building have been taken during this same period to reduce the incidence of overcrowding in state institutions.

**CAN CALIFORNIA BUILD ITS WAY OUT OF PRISON OVERCROWDING?**

(More)



## 8. The Elements of Overcrowding: What Drives Inmate Populations

A combination of factors contributes to prison and jail population increases. Many of the causes for California's escalating inmate population today are not new. In its January 1990 Final Report, the Blue Ribbon Commission on Inmate Population Management explained:

The tangible contributing factors (to prison and jail population increases) include increases in drug arrests, mandatory prison sentencing practices, increased sentences for certain offenses, and increased numbers of parole violators returning to prison. Similarly, there has been increased public demand for judicial accountability which has resulted in changes in the increased use of prison and jail sentences. . . . The fact that legislators and other public officials continue to be willing to allocate increased funds for operations of law enforcement, prosecution and corrections is a factor in increasing the incarcerated population in the state. The same is true of construction funding in the form of bonds that have passed with increasing voter majorities over the last decade. . . .

The intangible contributing factors include the fact that the public, legislators, judges, law enforcement and others have individually and collectively exhibited a much tougher attitude toward crime and its perpetrators. This attitude and its resulting actions have contributed to many of the tangible factors such as tougher laws, approval of funds for operation and construction of prisons and jails, increased numbers of parole violators going to prison and increased sentencing to jail and prison. . . .

Finally, prison and jail population increases are also a likely result of a lack of intermediate sanctions or punishment options for judges, custody and parole authorities in making punishment decisions.<sup>4</sup>

Fourteen years later, in the face of a prison population that had expanded from 99,145 inmates in 1990 to 164,169 in 2004, many of these same factors were identified by the Corrections Independent Review Panel ("IRP") assembled by Governor Schwarzenegger. Chaired by former Governor George Deukmejian, the IRP was tasked with conducting a comprehensive review of California's corrections system and make recommendations for reform. The IRP identified the three major factors that influence inmate population as: (1) the average length of time served in prison; (2) the number of new admissions; and (3) the number of parole violators returning to the prison system.

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<sup>4</sup> The California Blue Ribbon Commission on Inmate Population Management was established by SB 279 (Presley) (Ch. 1255, Stats. 1987). "The Commission was established to examine prison and jail population projections, study options for criminal punishment, and make recommendations to the Governor and Legislature on the problems of prison overcrowding and escalating costs." (Commission Report at p. 1.)

***Length of Prison Terms.*** Since the early 1980's, California has enacted a series of sentencing laws which have substantially increased the length of prison terms. The most significant is the 1994 "three strikes" law. Under the "three-strikes" law, if the defendant has one conviction that qualifies as a "strike," after a second conviction for any felony, an offender's sentence is doubled. If the defendant has two prior convictions that qualify as "strikes," after a third conviction for any felony the penalty is 25 years to life. The Legislative Analyst's Office ("LAO") reported in 2005 that "[a]s of December 31, 2004, there were almost 43,000 inmates serving time in prison under the Three Strikes law, making up about 26 percent of the total prison population. Of the striker population, more than 35,000 are second strikers, and about 7,500 are third strikers."<sup>5</sup>

Because the law increases the length of sentences, it has raised the average length of stay for the prison population. The average time served by all felons before their first release to parole was 21 months in 1994, prior to the implementation of the Three Strikes law. By 2004, this average had increased by 19 percent to 25 months. In part, this increase has occurred because second strikers serve longer sentences than the average for all prison inmates. Second strikers released to parole in 2004 served 43 months on average. The additional time in prison for second strikers costs the state approximately \$60,000 per striker.

In addition, inmates serving life sentences for a third strike conviction are in prison for longer than would have been the case in the absence of the Three Strikes law, particularly those whose current offense is nonserious or nonviolent.<sup>6</sup>

The same 2005 LAO report found that sentencing policy also has a significant effect on county jail populations.

***Aging Inmate Population.*** The LAO also found that, due in large part to sentencing laws such as "three-strikes," the California prison population is getting older and that this trend will continue, with significant fiscal implications.

The average age of the inmate population has risen from 32 to 36 since 1994. Moreover, the number of inmates 50 years of age and older has increased from about 5,500 to 16,300 between 1994 and 2004. This aging prison population is likely due to two factors. The first and probably more significant factor is the enactment of sentencing laws (such as the Three Strikes law) to provide longer terms, and in some cases life terms. Such laws, designed to incarcerate offenders for longer periods, result in a larger and older prison population in the long run. Thus, as the third striker population grows and ages (probably at least until 2014) the overall

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<sup>5</sup> "A Primer: Three Strikes – The Impact After More Than A Decade," Legislative Analyst's Office, October 2005. [http://www.lao.ca.gov/2005/3\\_Strikes/3\\_strikes\\_102005.htm](http://www.lao.ca.gov/2005/3_Strikes/3_strikes_102005.htm)

<sup>6</sup> Ibid.

prison population will likely grow older, as well. The second factor is that the aging of the prison population simply reflects the aging of the citizenry as a whole. The so-called "baby boom" generation is getting older, and so are the criminals of the baby boom generation.

The aging of the prison population over the past decade has the potential for significant fiscal consequences. As inmates age, the cost of housing them increases due to age-related illness and the associated health care costs, as well as the security and transportation costs of moving these inmates between prisons and local hospitals. Estimates are that housing and caring for elderly inmates costs between two and three times more than the \$35,000 it costs in 2005-06 to incarcerate the average inmate. Therefore, as the prisoner population continues to grow and age in prison, the state costs to incarcerate them will also continue to escalate.<sup>7</sup>

***Parole Revocations:*** According to the IRP, "The vast numbers of parolees returning to prison help drive both the size of the prison population and the cost of the system. In 2001 more than 74,000 (47 percent) of the average daily prison inmate population of 157,000 was made up of parole violators." Citing Department of Corrections figures, the IRP reported that 56% of California inmates released on parole are returned to prison within two years and that many of those returned to prison are parolees who are sent back for violating the conditions of parole, rather than for committing new crimes. In 2003, the Little Hoover Commission conducted a comprehensive study of California's parole system and declared it a "billion dollar failure."<sup>8</sup> The Commission found that, between 1980 and 2000, the number of parolees returned to prison has nearly tripled and that California inmate's failure rate on parole is twice the national average.

HOW DOES THIS MEASURE ADDRESS THE FACTORS THAT CONTRIBUTE TO ESCALATING INMATE POPULATIONS, OTHER THAN TO INCREASE THE NUMBER OF PRISON AND JAIL BEDS?

IS INCREASING THE NUMBER OF PRISON AND JAIL BEDS THE MOST COST-EFFECTIVE AND OUTCOME-DIRECTED POLICY FOR ADDRESSING THE CAUSES OF OVERCROWDING?

WOULD INCREASING PRISON AND JAIL BEDS BE THE MOST EFFECTIVE WAY TO MANAGE AN AGING INMATE POPULATION, BOTH IN TERMS OF COST AND PUBLIC SAFETY?

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<sup>7</sup> Id.

<sup>8</sup> "Back to the Community: Safe and Sound Parole Policies," Little Hoover Commission, November 2003 <http://www.lhc.ca.gov/lhcdir/172/report172.pdf>

OR, WOULD A RANGE OF OPTIONS FOR THE GROWING GERIATRIC INMATE POPULATION, INCLUDING THOSE WHICH COULD MAXIMIZE THE USE OF FEDERAL DOLLARS FOR FRAIL AND ILL AGED INMATES WHO REQUIRE A SECURITY LEVEL LESS THAN A TRADITIONAL PRISON, REDUCE THE PRISON POPULATION WITHOUT COMPROMISING PUBLIC SAFETY?

WOULD INCREASING PRISON AND JAIL BEDS BE THE MOST EFFECTIVE WAY TO ADDRESS PAROLE REVOCATIONS?

OR, ARE THERE OTHER STRATEGIES FOR IMPROVING PAROLEE SUCCESS WHICH COULD REDUCE PRISON AND JAIL POPULATION WITHOUT COMPROMISING PUBLIC SAFETY? WHICH OF THESE STRATEGIES IF ANY HAVE BEEN EXPLORED, ADOPTED OR REJECTED BY THE ADMINISTRATION?

ARE TRADITIONAL JAIL BEDS AN EFFECTIVE TRANSITIONAL SITE FOR INMATES ABOUT TO BE PAROLED? OR, WOULD ALTERNATIVE TRANSITIONAL HOUSING BE MORE LIKELY TO IMPROVE PAROLEE SUCCESS ONCE RELEASED INTO THE COMMUNITY?

#### 9. Strategies for Addressing Overcrowding: Recommendations from Prior Studies

As noted above, the causes of prison and jail overcrowding in California have been examined by a number of commissions and panels over the past several years. The Blue Ribbon Commission on Inmate Population Management in 1990, the Little Hoover Commission in 2005 as well as earlier reports, and the IRP in 2004 all performed extensive reviews of California's corrections system, especially with respect to the issues of population management and overcrowding. Each made several specific recommendations on how to reduce inmate populations. Importantly, none of these groups recommended new jail or prison construction as the answer to the problem of overcrowding.

The 2004 IRP report made a total of 58 recommendations for reducing inmate and ward populations. Although it did not recommend closing any adult prisons until the current population is reduced to the point that overcrowding is eliminated, none of the panel's recommendations involved new jail or prison construction. The panel focused on enhancing the performance, rather than the size, of California's correctional system:

The department saves money with each inmate and parolee it safely removes from the prison and parole population. The present average cost of housing an inmate is \$28,439 per year, and the average cost of supervising a parolee is \$2,930 per year. Some of the recommendations presented here require an initial investment, but can be expected to save money in the future by improving the chances for inmates and parolees to succeed, thereby reducing the numbers who return to prison and shrinking the overall prison population.

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The IRP's recommendations include, for example:

- "The panel concluded that California can reduce the growing cost of managing its adult prison population by addressing three key factors that influence the size of that population – the length of time inmates serve in prison; the training and treatment they receive during incarceration to decrease the likelihood that they will return; and the services they receive during parole to help them remain crime-free and successfully integrate into society."
- "To address the length of time inmates spend in prison, the panel recommends eliminating the current time-credit system for non life-term offenses and adopting instead a 'presumptive' sentencing structure that more effectively encourages inmates to achieve identified goals during incarceration."
- "As an immediate measure to shorten prison terms, the panel recommends enhancing time credits inmates can earn in return for accomplishing specified goals."
- "As a further means of reducing the prison population, the panel recommends identifying older inmates who could safely be released early, consistent with similar programs operating in several other states."
- "To better prepare inmates for release, the panel recommends providing inmates with much greater access to in-prison education, vocational classes, life-skills training, re-entry services, and drug treatment."
- "The changes should include a risk-assessment of each parolee."
- "Parolees identified through risk assessment as very low risk should be discharged from parole after three months."
- "The panel recommends increasing the number of substance abuse treatment beds in the community and continuing implementation of the Department of Corrections 'new parole model,' which includes prerelease planning, electronic monitoring, and residential treatment as an alternative sanction for technical parole violations."

The Little Hoover Commission's review of the Governor's proposed reorganization of the Youth and Adult Correctional Agency in 2005 similarly focused on strategies to reduce the prison population by improving the performance of California correctional system:

"The success of efforts to better prepare inmates for release hinges in large part on the success of parole reforms in reducing the size of the prison population so that educational, vocational and treatment programs can be more effectively managed and delivered. The implementation of parole reforms to reduce the size of the prison population and improve efforts to prepare inmates for release to the community should be a high priority."

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"In 2003, the Commission reported that California has the second highest parole failure rate in the country. Sixty-seven percent of California prison commitments are parolees returned to custody compared to a national average of 35 percent. The Commission recommended that the State cut costs and improve outcomes by using alternatives to prison for the large percentage of parole violators returned to prison for drug use and possession. The Legislature, in the 2003-04 Budget Act directed the department to implement a series of reforms, including alternatives to prison, to reduce the prison population.

"Despite Secretary Hickman's assertion that technical violation and parole discharge reforms are progressing, the prison population has grown. Given overcrowding, reducing the prison population is critical to effectively implementing programs to prepare inmates for release. The Commission and the Independent Review Panel recommended that the State shift the responsibility for parolees to communities for certain nonviolent offenders. Neither the reorganization plan nor the strategic plan address the parole reforms required by the Legislature or the recommendations for shifting parole to counties. In the strategic plan, expansions of evidence-based reentry and parole supervision strategies are not slated not to occur until 2007, but should be accelerated."

In 1990, the Blue Ribbon Commission on Inmate Population Management similarly focused on alternatives to increased capacity to address inmate population overcrowding. For example, the Commission's observations and recommendations included:

- "Prisons and jails continue to be overcrowded and will be overcrowded in the future despite California's massive construction effort."
- Adoption of a Community Corrections Act to provide state funds to localities "to significantly expand public or community based intermediate sanctions or punishment options such as electronic surveillance, house arrest, intensive probation supervision, work furlough, mother-child programs, community service, victim restitution centers and programs, community detention, and substance abuse residential and non-residential treatment programs. . . .";
- Significant expansion of intermediate sanctions or punishment options for parole violators; and
- The creation of a Sentencing Law Review Commission to review and make recommendations regarding certain adult and juvenile sentencing issues.

HAVE THE STRATEGIES FOR ADDRESSING OVERCROWDING WHICH DO NOT RELY ON CAPACITY BUILDING BEEN FULLY EXHAUSTED IN CALIFORNIA?

CAN CALIFORNIA'S TRUE NEED FOR INCREASING PRISON AND JAIL CAPACITY BE ACCURATELY ASSESSED UNTIL OTHER STRATEGIES FOR REDUCING INMATE POPULATIONS HAVE BEEN IMPLEMENTED?

#### 10. Jails in California

In its Jail Survey Annual Report for 2004, the California Board of Corrections (now, the Corrections Standards Authority) summarized the strains on jail capacities in California:

Today, California's jails on average cannot fully meet the needs of the justice system due to population pressures and capacity constraints. The statewide jail population on average exceeds Board Rated Capacity (BRC), which is the number of beds that meet state standards set forth in Title 24, California Code of Regulations. In addition, many jurisdictions are operating under court-ordered jail population caps and are also using various early release mechanisms. Some jurisdictions have inmates sleeping in hallways, dayrooms, or other spaces. Below is a capsule summary of some of the more important findings:

- The Average Daily Jail Population (ADP) has steadily increased since 2002. The ADP in 2004 was 76,940, which is the highest number since 1998. The current statewide BRC is 73,498. Therefore, on days when the statewide jail population is about average, it exceeds the number of beds by over 3,400 inmates.
- The ADP statistic is useful to discern population trends. However, it does not provide a complete picture of the jail capacity needs. On peak population days in 2004, the jail population exceeded the BRC by over 9,300 inmates.
- Each month in 2004, more than 15,300 individuals were not incarcerated due to lack of jail space, or were released early from their sentences due to lack of jail space. . . .
- The average number of bookings per month in 2004 was 106,644, which is a 4% increase from 2003 levels.
- The percentage of criminal/illegal aliens in California jails has continued to drop since 2000, and now stands at 11% of the total ADP (versus 14% in 2000).
- In 2004, 29.7% of jail inmates required maximum-security housing. Those classified as needing medium and minimum-security housing were 47.7% and 22.6% respectively.

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- The number of 2nd Strike inmates averaged 3,630 in 2004. The number of 3rd Strike inmates has fluctuated over the history of the JPS and averaged 1,453 in 2004.
- The number of jail beds dedicated for mental health needs has increased steadily from 1,331 in 1996 to 3,298 in 2004 (an over 250 percent increase filled by inmates comprising about 4% of the ADP). The number of jail medical beds used statewide has remained fairly stable over the last ten years (the average number was 945 in 2004, or 1.2% of the ADP). . . .
- The general population of California continues to rise at a steady rate each year. The State Department of Finance, Demographic Research Unit, projects that California's general population will increase at about 11% to 12% per decade over the next 20 years. If the percentage of offenders in the general population remains the same, the number of people who will require incarceration in the future will rise commensurately.
- The upturn in the jail ADP since 2002 may be significant. Although precise reasons for this upturn are not known, it may signify that reasonable efforts to keep jail populations within the limits of jail-system capacity over the past several years have been exhausted (e.g., population caps, early releases, etc.). If this turns out to be the case, jail populations may continue to rise at a steady pace in 2005 and beyond, and the need to add statewide jail bed space may increase.

The 2004 Survey additionally provided the following information about court-ordered caps on jails in California:

Another factor that affects jail capacity is court-ordered population caps. According to the JPS, of the current 62 jurisdictions, 24 have court-ordered population caps. Those 24 jurisdictions operate 67 facilities of which 58 have population caps. The 58 facilities with population caps house 66.5% of the state's ADP.

The 2004 Jail Survey offers the following perspective on the complexities of understanding trends in jail populations:

The collection and analysis of 10 years of data sheds light on several trends in jail detention, which we have highlighted in this report. The reader is cautioned about drawing definitive conclusions simply based on these data. Jail detention data are impacted by many external and unreported factors (i.e., year-to-year changes in fiscal climates at the local level which impact resource allocation decisions; availability, use and effectiveness of various alternatives to detention and crime prevention initiatives; changes in local judicial and detention philosophies; new state laws; crime and arrest rates,



among other factors). As such, the precise cause of changes in reported data elements is sometimes difficult to determine, especially when results for all local jurisdictions are aggregated and reported on a statewide basis.

As members consider the Governor's proposal, they may wish to explore some of the underlying factors noted above, such as:

- Local resource allocation decisions;
- Availability, use and effectiveness of various alternatives to detention and crime prevention initiatives;
- Changes in local judicial and detention philosophies; and
- New state laws.

The bill does not specify what kind of beds would be constructed in each county or what type of programs and services, if any, will be provided to inmates in these jails. Policy considerations such as what services the state intends to provide to its locally housed inmates, are critical in deciding what type of facilities should be built.

The purpose of placing state inmates closer to their communities in their last 90 days prior to release presumably would be to provide the inmates with more re-entry services to facilitate a more successful reintegration into the community. However, this measure does not address what programs or re-entry services, if any, would be provided to these inmates. It appears this proposal contemplates these policy matters to be resolved in the contract negotiations between the CDCR and the individual counties. Thus, the availability of services such as re-entry programs could vary significantly from one county to the next and, despite being obligated to pay for any such programs, any control the state may retain over the delivery of these programs is left to be determined in contract negotiations between CDCR and the individual counties. It is also unclear whether the contracts could permit some counties to accept only certain classifications of inmates, thus frustrating the goals of providing re-entry services to all inmates in their pre-release period.

Finally, members may wish to discuss how staffing for the proposed county jail beds would be assured. Over the weekend of February 4<sup>th</sup> prior to this hearing, severe inmate unrest occurred at the North County Correctional Facility in Los Angeles. In a *Los Angeles Times* article about the incidents, Los Angeles Sheriff Lee Baca was quoted as citing staffing shortages as a partial reason for the unrest. The article noted:

The continued violence has underscored chronic understaffing: the department has about 8,300 sworn deputies – fewer than the 9,400 Baca said Monday he had the money to employ.

The shortfall has been hard to overcome as veteran deputies continue to leave the department at record rates. Last year the department hired 582 deputies but lost 486 to attrition, according to department records.

"There is no question it's understaffed," said county Supervisor Yvonne Brathwaite Burke. But the thing is, even though we provided the money, he can't get the people trained and he keeps losing people."

Baca, who attributes his staffing problems to past budget cuts by the supervisors, insisted Monday that his department was having a strong recruitment year but warned that it would take time.

"You cannot go out and recruit 1,100 people overnight," Baca said.

Members may wish to discuss how the staffing challenges currently faced by sheriffs might impact their ability to staff the county jail beds contemplated by this proposal.

WHAT PROGRAMMING IS AVAILABLE IN JAILS NOW, HOW IS IT FUNDED, AND HOW WOULD PROGRAMMING BE ASSURED UNDER THIS PROPOSAL?

SHOULD THE LEGISLATURE APPROVE STATE FINANCING OF ADDITIONAL JAIL CONSTRUCTION WITHOUT ANY REQUIREMENT THAT APPROPRIATE PROGRAMMING AND SERVICES WILL BE PROVIDED TO INMATES TO INCREASE THEIR CHANCES OF SUCCESS UPON RELEASE, AND WITHOUT ANY CONTROL OVER THE FORM AND DELIVERY OF THESE SERVICES?

HOW DO THE INTANGIBLE FACTORS NOTED ABOVE AFFECT INCREASING JAIL POPULATIONS?

WHAT ANALYSIS HAS BEEN DONE TO IDENTIFY THE SPECIFIC KINDS OF ADDITIONAL BEDS NEEDED FOR COUNTY INMATES, AND HOW WOULD THIS PROPOSAL MEET THIS NEED? SHOULD THIS PROPOSAL BE MORE SPECIFIC TO ENSURE ADDITIONAL BEDS ARE TARGETED TO KNOWN NEEDS?

WHAT KIND OF JAIL BEDS FOR COUNTY INMATES DOES THIS PROPOSAL CONTEMPLATE?

WHAT ARE THE ESTIMATED COSTS TO STAFF THE COUNTY BEDS PROPOSED BY THIS MEASURE, BOTH FOR COUNTY INMATES AND PRISON INMATES?

TO WHAT EXTENT ARE PRIVATE BEDS BEING USED TO MEET THE EXISTING NEED, AND COULD THIS RESOURCE BE EXPANDED?

HOW WOULD STAFFING FOR THESE ADDITIONAL JAIL BEDS BE ASSURED?

## 11. Juvenile Justice

As currently drafted, this bill would provide that \$170 million from the 2005 bond be available to CDCR from the 2006 bond for acquisition, construction, renovation or remodeling of state adult and youth facilities. In addition, it would provide that \$1.1 billion from the 2010 bond be "available for appropriation by the Legislature for the acquisition, construction, renovation, or remodeling of state adult and youth correctional facilities" in 2010. This is the bond's only reference to youth correctional facilities.

For the past several years, the Division of Juvenile Justice ("DJJ"; formerly the California Youth Authority) has been under intense scrutiny and criticism because of violence in its institutions, ward suicides, and its wholesale failure to provide mandated education and treatment to wards, most of whom have significant mental health problems. The DJJ currently is under a court-ordered consent decree to improve its conditions pursuant to a class action lawsuit brought by the Prison Law Office (*Farrell v. Warner*).

In the mid-1990's, the DJJ population exceeded 10,000; now, fewer than 3500 wards populate its facilities, and another 4,100 are on CYA parole. The significant decline in the DJJ population is due largely to the following circumstances:

- Decline in Juvenile Crime. California has experienced a remarkable decline in serious juvenile crime. For example, between 1991 and 2000 juvenile arrests for homicide fell from 969 to 160. Between 1990 and 2001, the rate of juveniles committing felony offenses dropped 47 percent (far outpacing the 25 percent decline for adults during the same period).
- Transfer of "M" Cases. In June of 1994, the law was changed to prohibit convicted young adults – those under 21 – from being committed to CYA; as a result, 824 young inmates were transferred from CYA to the Department of Corrections ("CDC").
- Introduction of "Sliding Scale". Prior to 1995, counties paid only \$25 per month for wards committed to CYA. The Legislative Analyst's Office and others found that this low rate allowed some counties to send very low-level offenders to CYA, even though CYA was (and remains) an extremely expensive placement option. In 1995, legislation was enacted to establish a new fee structure that charged counties an increasing share of CYA's actual costs depending upon the nature of the committing offense. This has provided a fiscal incentive to keep youthful offenders in local placements when appropriate.
- Development of Local Prevention Programs and Detention Alternatives. Beginning in the mid-1990's, as the state was tightening commitments to CYA through fiscal incentives, it simultaneously was increasing state funding for local juvenile justice programs, which handle the great majority of California's delinquency population.

As noted above, this proposal would authorize but not assure any bond funds for state juvenile facilities. In addition, this proposal contains no provisions for strengthening the system of local residential programs (including camps and ranches) available for juvenile offenders. Currently, only a fraction of all juvenile offenders are committed to the state Division of Juvenile Justice; the overwhelming majority of juvenile offenders receive local correctional services, including out-of-home placement. The Corrections Standards Authority reports that, for the third quarter of 2005 (the most recent available data), the average daily population for county juvenile halls, camps and other placements exceeded 13,000.

Through the planning process required by the Juvenile Justice Crime Prevention Act, which in 2000 created a funding source for local juvenile justice programs, each participating county is required to develop a comprehensive plan that includes an assessment of existing resources targeting at-risk youth, juvenile offenders and their families as well as a local action strategy for addressing identified gaps in the continuum of responses to juvenile crime and delinquency. Each year, counties must review and, if necessary, modify their plans. This program has assisted counties in providing correctional programming which otherwise may not have existed.

For example, in Los Angeles the JJCPA provides supplemental funding, \$2500 per month per bed, to establish the Community Treatment Facility ("CTF") category of care for seriously emotionally disturbed children. The youth in this program may be referred from the delinquency, dependency, or mental health systems. Prior to the implementation of the CTF program, there were no secure residential treatment facilities available for minors who were difficult to place. JJCPA funding has allowed the establishment of two CTF facilities, resulting in the placement of 105 minors with mental health problems.

The need for mental health placements for juvenile offenders was noted by the Juvenile Justice Working Group convened by the Governor in 2004. As explained in the Commonwealth Juvenile Justice Program Policy Bulletin (4/02/04):

Some of the needs of this population, discussed in the Working Group, include: the need for smaller, treatment-based facilities for serious and violent youth with mental disorders; the need for county-level and regional mental health treatment facilities (or out-patient programs) for less serious juvenile offenders; the low pay scale for mental health professionals serving the offender population; the need to widen access to MediCal, mental health, foster care and other funding streams for juvenile offenders with mental health problems; the need to replicate innovative models like the Youth Mental Health Courts; and the broad need for improved coordination between juvenile justice agencies and service providers in the mental health and social service communities.

Members may wish to discuss how this proposal addresses resources for juvenile offenders, both at the DJJ and at the counties, and whether it should be redesigned to address this population.

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SHOULD THIS PROPOSAL SPECIFY FUNDING THAT WOULD BE AVAILABLE FOR JUVENILE FACILITIES?

SHOULD THIS PROPOSAL BE LIMITED TO STATE YOUTH CORRECTIONAL FACILITIES?

SHOULD LOCAL RESOURCES FOR JUVENILE OFFENDERS BE INCLUDED IN THIS PROPOSAL?

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