

California Department of Corrections and Rehabilitation:
Growth in Bureaucracy
Background Briefing Paper

Background

The California Department of Corrections and Rehabilitation (CDCR) is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates eight juvenile correctional facilities, including three reception centers. In addition, CDCR manages 13 Community Correctional Facilities, 49 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and 188 adult and juvenile parole offices, as well as houses inmates in 5 out-of-state correctional facilities.

Governor Arnold Schwarzenegger appointed Matthew Cate on May 16, 2008, as Secretary of the California Department of Corrections and Rehabilitation. Cate is the fourth department head to serve in the position during Governor Schwarzenegger's five years in office.

Issue: CDCR Bureaucracy

Governor Schwarzenegger reorganized the state's prison system in 2005, saying that the new California Department of Corrections and Rehabilitation would remove "duplicative functions and consolidate management authority," and reduce the cost of operations.¹ The Legislature approved the reorganization through SB 737, authored by Sen. Gloria Romero, D-East Los Angeles.

Four years later, however, the cost of corrections has nearly doubled, from about \$6 billion annually to more than \$11 billion, during a period in which the number of inmates grew by only 2.1 percent.² In addition, an analysis of the number of administrative positions in the department shows a 32 percent growth between Fiscal Year 2005/06 – the first fiscal year of the new, reorganized department - and Fiscal Year 2008/09, an increase in salary costs of more than \$135 million.³

The Assembly Accountability and Administrative Review Committee compared the number of positions listed in the Salaries and Wages Supplement under the category "Central and Field Administration" between the two fiscal years. The committee analyzed the number of authorized positions, which includes both the number of positions that are filled and vacant positions that the department is authorized to hire. Comparing the number of jobs authorized in 05/06 to the current fiscal year, the growth is 1,438 positions, or 32 percent.

This hearing will focus on this growth in the Central and Field Administration category, which includes:

1. Administration, such as the secretary of the department and other executives;
2. The department's Sacramento-based bureaucracy, such as attorneys, accountants and information technology specialists.

CDCR has 17 different office locations in the Sacramento area to support these operations.⁴

It should be noted that there are some positions in this category, such as internal affairs investigators and a unit of correctional officers who transport inmates to medical and court appointments that are not Sacramento-based. They are included in the analysis because the department lists them in the Central and Field Administration category.

Not included in the Central and Field Administration category are administrative positions at each prison, such as the warden. Despite Governor Schwarzenegger's argument that the reorganized department would streamline and consolidate management in Sacramento, the number of administrative positions at individual prisons has also grown during the past three years, by 11 percent.⁵

Largest Areas of Growth

Offices within the CDCR administration that grew the most during this four-year period include the Division of Community Partnerships, Human Resources, Facilities Management, Information Technology, Legal Affairs Division and the Adult Institutions Division. It may of interest to the committee that CDCR's Office of Research now has more positions than the federal Bureau of Justice Statistics, with 91.6 positions at CDCR versus 59 at the federal level.⁶ Attached to this paper is a spreadsheet depicting each office within the CDCR's Central and Field administration category and growth within each category during the three year period examined by the AAR Committee.

In addition, during this period, CDCR has created at least four new offices: the Office of Court Compliance, the Office of Project Management, the Division of Reentry/Recidivism Reduction, and the Office of Policy Analysis and Planning. Two of those offices, the Office of Project Management and the Office of Policy Analysis and Planning, have recently been folded into other offices.

Other areas of interest include:

- **Growth in positions for the Division of Juvenile Justice (DJJ).** The number of administrators in the Division of Juvenile Justice is positions in the Central and Field Administration category attributed to juvenile and youth issues – which are spread out in various offices within the category - grew from 48.7 in 05/06 to 73.1 authorized positions in 08/09, a 50 percent increase. This was during a period in which the number of wards in the system fell by 41 percent.⁷

According to the Governor's Proposed 2009-10 Budget, there will be nearly twice as many total DJJ employees as wards - 3,323.4 employees for 1,690 wards - in the 2009-10 fiscal year.

- **Growth in attorneys/court compliance positions.** The Legal Affairs Division grew by 56 percent during this period and now includes 187 authorized positions. In addition, the department created the Office of Court Compliance, which is authorized for 67 positions, includes some lawyers and other staff, and is designed to ensure that various prisons respond to court orders.

In addition to these positions, the state Attorney General's Office has 21 attorneys working on more than 20 class-action lawsuits involving CDCR, and CDCR has hired three private law firms, which also work on the court cases.⁸ The Accountability and Administrative Review committee has asked the department for an accounting of the amount of money the department pays to the private law firms and why the firms were hired.

- **The Office of the Secretary.** The spreadsheet shows a decrease in the number of positions in the Office of Secretary, but this is misleading, as numerous positions were placed within the secretary's office when the department was initially reorganized that are now dispersed into other program areas. Between FY 2006/07 and 2008/09, the number of authorized positions in the Office of Secretary grew from 22.9 to 35.9, a 57 percent increase. According to CDCR's organizational chart, there are now 12 people working under Secretary Matthew Cate but who are above the three undersecretaries. This organization chart is different than the one presented to the Legislature during the CDCR reorganization, which showed the undersecretaries working directly under the secretary. An organizational chart is included in this package.

This organizational structure has been questioned recently by the Legislature. In a July 11, 2007 letter to the governor, then-Senate President Pro Tem Don Perata wrote, "The structure of the department prohibits effective lines of communication and confuses clear lines of decision-making authority. Currently, the organizational chart includes a Chief Deputy Secretary of Adult Programs and a Chief Deputy Secretary of Adult Operations. Even after exhaustive conversations in both the Rules and Budget Committees, it is unclear how these two positions interact. For example, who is responsible for replicating successful programs from one prison to another, deciding which inmates should participate in specific programs and balancing custody demands with programs?"⁹

- **Duplication within CDCR offices.** Some of the growth in positions suggests duplication. For example, three different offices within the CDCR administration have positions designed to work with local communities. The Division of Community Partnerships, which has grown considerably, is charged with interacting with communities around prisons to help encourage and facilitate in-prison volunteer programs. In addition, the Office of Public and Employee Communications has positions designed to interact with local officials over various issues, and the new Division of Reentry/Recidivism Reduction is adding positions designed to work with community leaders to build local support for proposed new reentry facilities.¹⁰

Reasons for Growth, Department Accomplishments

In a February 11 letter to the Legislature, CDCR acknowledged the large growth in bureaucracy. In the letter, and in discussions with the committee, the department suggests the following reasons for the growth:

- **Court cases.** Court-ordered changes have led to some increases. For example, a judge ordered the department to create compliance officers to respond to a class-action lawsuit regarding disabled inmates' access to facilities and parole hearings and a class-action lawsuit involving the rights of parolees has led to more positions to respond to the due process rights of parolees facing revocation. Positions in Adult Health Care also have grown due to orders from the court-appointed Health Care Receiver.
- **AB 900.** Approved by the Legislature in 2007, AB 900 authorized the construction of as many as 53,000 new prison beds and required the department to improve and increase rehabilitative programming for inmates and parolees. The legislation has led to 250 new administrative positions, according to the department, which range from construction management jobs to substance abuse and educational programming positions. AB 900 also required the department to fill some upper-level management vacancies. So far, construction on new prison beds has not begun.
- **Efforts to improve management and other services.** The department is expanding management capacity to improve information technology and business services, which have been repeatedly criticized during the past decade or more by

the Bureau of State Audits and the Inspector General. For many years, "the Department struggled with diminished resources, outdated technology, insufficient supervisor and management training, and increasingly complicated legal and labor expectations," Secretary Cate wrote in his letter to the Legislature.

It should be noted that the department has sought approval from the Legislature through the budget process for all of the position increases, and the Legislature has agreed to the proposals based upon justifications provided by CDCR.

In addition, CDCR argues that the increase in positions has shown some results.

In the February 11 letter, the department notes that it has increased positions in Human Resources by about 400 to address a large number of correctional officer vacancies in the department. The vacancy rate for correctional officers is now close to zero.

The department also says that is close to ending two long-standing class action lawsuits, Madrid v. Gomez, which regards internal affairs investigations, and Lancaster v. Enomoto, which regards Death Row conditions, due in some part to better management.

CDCR produced a January 2008 "Management Plan," as part of its AB 900 requirements, which detailed several strategies it is developing to improve decision-making and management training. CDCR hired a management consultant to identify decisions made in the bureaucracy, who makes them, and who should make them. The result was a "Decision Matrix," which is intended to ensure that management decisions are made at the correct level of the bureaucracy and that there are clearer lines of accountability.

The AAR Committee has asked for all documents related to the consultant's work, including whether the consultant was asked to examine whether the department bureaucracy's size was appropriate. The department is preparing that information.

Finally, AB 900 created the California Rehabilitation Oversight Board (CROB), which is controlled by the Inspector General's Office and is charged with monitoring the department's progress toward implementing rehabilitation programs. In a report released this month, CROB stated that the department has made good progress in developing a pilot rehabilitation program at Solano State Prison, expansion in substance abuse treatment, and several other areas.¹¹

Concerns and Potential Questions for the Committee

In part due to the AAR Committee's inquiry into this topic, the department has created a 20-person task force that is studying headquarters positions this month and will provide a report to Secretary Cate analyzing whether the staffing levels are appropriate.

While CROB has praised the department in some areas, it also noted in its recent report that the department was late in providing data to the board to show that more inmates are receiving programming, and therefore could not conclude that various plans are resulting

in improvements. "CDCR needs to begin delivering programs to inmates and start them on a track to rehabilitation," CROB concluded.

In addition, CDCR's letter to the Legislature includes some misleading statements. The letter states that 300 new administrative positions were created to implement Jessica's Law, and 300 new administrative positions were created to respond to a court order regarding a class action lawsuit involving parolees' rights. However, CDCR acknowledged in a discussion with the AAR Committee that most of those positions were not administration positions and did not account for growth in this job category.

In addition, CDCR states in its letter "inmate participation in academic programs has increased from a statewide average of 50 percent to 69 percent and participation in vocational programs has increased from a statewide average of 42 percent to 63 percent." This statement seems to suggest that more than 60 percent of CDCR inmates are receiving programming. This is not true. Only about one-third of the state's inmates receive educational or vocational programming.¹² The department apparently has increased the percentage of inmates enrolled in programs that actually attend classes, and should have said that of the inmates who receive programming, 69 percent are now actually attending academic programs and 63 percent are actually attending vocational programs.

Finally, the department continues to face serious challenges.

Recidivism rates have not declined. According to prison census information, the percentage of the inmate population who were actually parolees returned to prison was the same in December 2005 and December 2008 – 36 percent.¹³

AB 900 compliance. In part because the department changed its construction plans after the passage of AB 900, construction on new prison beds has not begun, nearly two years after the legislation was signed by Gov. Schwarzenegger.

Decision-making remains a problem. Don Specter, executive director of the Prison Law Office, is expected to testify to the AAR Committee that he believes the size of the bureaucracy at CDCR hinders its abilities to make decisions and implement changes. For example, his office was involved in a more than two-year effort to get the Division of Juvenile Justice to adopt rules regarding wards' abilities to have contact with attorneys or other advocates. According to a recent letter to the department, the office is so frustrated with the division's inability to respond to attorney's concerns, despite countless meetings with numerous DJJ representatives, that it is considering raising the issue with the federal judge overseeing the class-action lawsuit involving general conditions at DJJ.¹⁴

Potential questions for CDCR include:

- Has the department made efforts to reassign positions, instead of adding new ones, when faced with new mandates?

- Why have recidivism rates remained the same, and can the department state that the growth in positions will lead to lower recidivism? When can the Legislature expect results?
- Why has the reorganization, which was in part intended to consolidate management authority, led to increases in management at both the prison level and in Sacramento?
- Why has the department needed to hire private attorneys to supplement the Attorney General and department attorneys in the work regarding class-action lawsuits? Which lawsuits are the private attorneys working on, and what positive actions have resulted from their work?
- What is the rationale behind the increases in the Office of Secretary, particularly in the top positions above the undersecretaries?
- Because CDCR attributes much of the growth in administrative positions to the implementation of new laws and court orders, will it lower the number of positions once these changes have been implemented?
- Is CDCR currently hiring administrative positions? Can current staff perform all needed tasks?

In addition to these questions, there are other issues the committee could question CDCR officials about, depending on their testimony explaining the growth in these positions. For example:

While the department has slightly increased the number of inmates attending academic and vocational classes, other information indicates the quality of education programming at CDCR is weak. Prison teachers complain that CDCR has increased use of the "Alternative Education Delivery Model," which relies on inmates working on pre-packaged material in their cells, not in a classroom. In a report compiled by SEIU Local 1000, which represents prison educators, teachers complained that CDCR is increasing the use of this model to "push its numbers up," but they question whether inmates are benefiting from the program.¹⁵

In addition, the CROB, which serves as an independent evaluator of CDCR's programs, cannot conclude in its latest report that CDCR has actually increased programming for inmates because CDCR was late in turning over data to CROB.¹⁶

The department may note that AB 900 has required it to boost the number of facilities management positions to prepare for a major new construction program. According to the Budget Change Proposal regarding AB 900, the department expects to add 111 new positions in facilities management. The department already had more than 265 positions in this area in 2005/06, however, and the committee could question whether those employees could have been re-deployed to AB 900, thus reducing the need for a major expansion of positions.

The department also may note as one of its major accomplishments the implementation of a new risk assessment tool designed to assess individual inmate and parolee needs and risk for recidivism. Countless experts have urged CDCR to develop such a tool to help

place inmates and parolees in appropriate programs and to ensure they receive the proper level of supervision. The department has implemented a risk assessment tool called Correctional Offender Management and Profiling Alternative Sanctions, or COMPAS. An independent evaluation of COMPAS completed in December 2007 indicates that the tool does not adequately assess offenders' needs or predict recidivism.¹⁷ In other words, it does not work. A professor involved in the evaluation told the AAR Committee this week that she did not believe CDCR has made any improvements in the tool.

Enclosed:

Spreadsheet comparing authorized positions in Fiscal Year 2005/06 and authorized positions in 2008/09.

Letter from CDCR to the Legislature.

CDCR organizational chart.

Potential recommendations for the committee.

Agenda.

¹ Governor Arnold Schwarzenegger. January 6, 2005. Letter to Little Hoover Commission. Page 2. In addition, Governor Arnold Schwarzenegger. January 6, 2005. "Governor's Reorganization Plan 2: Reforming California's Youth and Adult Correctional System." Page 2.

² Legislative Analyst's Office. January 30, 2009. "2009-10 Budget Analysis Series. Judicial and Criminal Justice" Page 5-6.

³ California Department of Finance. Salaries and Wages Supplement, 2006-07, 2007-08 and 2009-10. "Department of Corrections and Rehabilitation, Central and Field Administration (5226)."

⁴ California Department of Corrections and Rehabilitation. January 15, 2008. "Management Plan." Page 22.

⁵ California Department of Finance. Salaries and Wages Supplement, 2006-07 and 2008-09. "Department of Corrections and Rehabilitation." Administration numbers gathered from each prison's budget.

⁶ Bureau of Justice Statistics. March 3, 2009. Email correspondence with the committee. In addition, California Department of Finance. Salaries and Wages Supplement 2009-10. "Department of Corrections and Rehabilitation, Central and Field Administration (5226)."

⁷ California Department of Corrections and Rehabilitation, Division of Juvenile Justice. Population Overview, December 31, 2005, and January 2009.

⁸ David Chaney, Chief Assistant Attorney General, California Department of Justice. Telephone interview with committee. February 27, 2009.

⁹ Senate President Pro Tem Don Perata. July 11, 2007. Letter to Governor Arnold Schwarzenegger. Page 1.

¹⁰ California Department of Corrections and Rehabilitation. March 3, 2009. Written response to committee's questions.

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¹² Information gathered for the Senate Office of Research shows that 53,821 inmates were enrolled in academic or vocational classes as of December 2008. That is about 32 percent of the inmate population.

¹³ California Department of Corrections and Rehabilitation. Prison Census Data, December 31, 2005 and December 31, 2008.

¹⁴ Sara Norman, staff attorney, Prison Law Office. February 27, 2009. Letter to Bernard Warner, Chief Deputy Secretary, Division of Juvenile Justice.

¹⁵ Service Employees International Union Local 1000. March 10, 2009. Report presented to the Senate Public Safety Committee.

¹⁶ California Rehabilitation Oversight Board. March 15, 2009. "Biannual Report." Executive Summary.

¹⁷ Jennifer L. Skeem and Jennifer Eno Louden. University of California, Irvine. December 26, 2007.

"Assessment of Evidence on the Quality of the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)." Pages 26-29.