

## PUBLIC SAFETY

California's state and local corrections system is markedly different in 2014 than in 2011 when Governor Brown took office. With the implementation of 2011 Public Safety Realignment, it remains clear that the two ends of the public safety continuum must work together to achieve a balance of custody, supervision, treatment, and programming needs for offenders.

The need for fundamental change in the state correctional system had been building for years as the state confronted the difficulty of complying with federal court orders regarding the provision of a constitutional level of medical and mental health services with an ever-increasing number of prisoners and a recidivism rate of 70 percent. Perhaps even more important, correctional policy was evolving and developing better ways to rehabilitate offenders. One of the core principles of evidence-based programming is that lower-level offenders have the best chance of successfully reintegrating into society when they remain linked to community-based support systems that provide services geared to help them rebuild their lives.

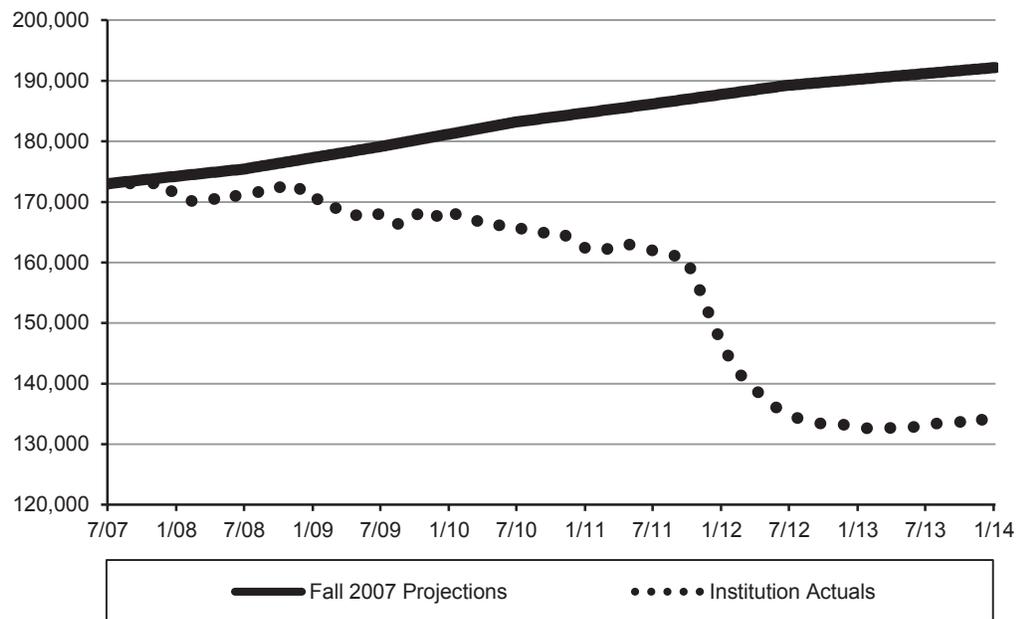
Over the past few years, the Administration has spent significant resources addressing many issues in the public safety arena. Specifically, there have been measures implemented to address prison population pressures, and state and local collaboration on public safety. A Blueprint was developed for managing state correctional resources, inmate health and mental health services, and prison construction. Many of these efforts have changed the composition of the state's prison population and made strides toward meeting the federal court-ordered population cap while avoiding early release.

The Administration continues to support local governments and community-based rehabilitation programs as key to successfully maintaining public safety and justice.

## DECLINING PRISON POPULATION

In the fall of 2007, the prison population was skyrocketing and projected to be over 190,000 by 2013. Through a number of reforms enacted since, the state has been able to reverse this trend, resulting in a dramatic decline of the prison population to an estimated 134,000 inmates at the end of 2013. Figure SAF-01 displays the population change over time. Based on federal Bureau of Justice statistics, in 2012 California ranked 29<sup>th</sup> among states in incarceration rates per 100,000 population.

Figure SAF-01  
Adult Inmate Population



In 2009, two statutes were enacted that were instrumental in the initial reduction of the prison population.

Chapter 28, Statutes of 2009 (SBX3 18), changed the dollar threshold for determining whether specified property crimes are punishable as felonies from \$400 to \$950,

to account for inflation since 1982, and expanded milestone and day-for-day credits for eligible inmates. This legislation also authorized non-revocable parole which prohibited the California Department of Corrections and Rehabilitation from returning parolees to prison who were classified as non-serious, non-violent, and non-sex offenders, with no prior or serious violent convictions and who were low- and moderate-risk as determined by a validated risk assessment tool. Under non-revocable parole, reentry court programs were established for parolees who violated parole and had a history of substance abuse or mental illness.

Chapter 608, Statutes of 2009 (SB 678), the California Community Corrections Performance Incentives Act, was designed to achieve two purposes: alleviate state prison overcrowding and establish a system of performance-based funding that shared state General Fund savings with county probation departments that demonstrated success in reducing the number of adult felony probationers committed to state prison. Critical to the success of the SB 678 program is the requirement that county probation departments reinvest their share of the savings in further implementation of evidence-based probation programs and practices.

SB 678 grants have been very successful in decreasing probation failure rates. The county funding level grew from \$89.2 million in 2011-12 to \$138.9 million in 2012-13 due to improved performance in the prevention of probation failures in 2011 compared to 2010. Over these two years, it is estimated that SB 678 prevented over 15,000 prison admissions.

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## **2011 PUBLIC SAFETY REALIGNMENT**

At the beginning of 2011, lower-level offenders represented about half of the prison population. The number of these offenders had increased dramatically in part because of major reductions in county adult probation departments due to severe county budget constraints. The large number of short-term, lower-level offenders and parole violators in prison resulted in overloaded reception centers, inefficient prison operations, and diminished rehabilitation efforts. Parole violators returned to prison for short stays of six months or less. Reception centers processed between 250,000 and 300,000 individual offenders annually. The constant cycling of parole violators and short-term offenders contributed greatly to prison overcrowding and created a situation where many inmates were housed in gyms and day rooms which, coupled with unprecedented state budget shortfalls, made rehabilitation virtually impossible.

As part of his first budget, Governor Brown proposed 2011 Public Safety Realignment which encompassed a number of law enforcement and health and human services programs that are interrelated in the community. Programs and funding were transferred to counties where locally elected officials could tailor programs to meet community needs. The biggest reform component of 2011 Realignment was contained in Chapter 15, Statutes of 2011 (AB 109)—the transfer of jurisdiction for lower-level, non-violent, non-serious, non-sex offenders to the counties; the realignment of most of parole to the counties as Post Release Community Supervision; and the requirement that virtually all parole violators serve any parole violation term in county jail. Critical support services such as substance use disorder programs, drug courts, and mental health treatment were also realigned to the counties. The majority of funding for 2011 Public Safety Realignment comes from a portion of the state sales tax (1.0625 cents) which is directed to all 2011 realigned programs and is constitutionally protected. Counties receive almost \$1 billion each year for the Community Corrections Program associated with AB 109 and their local correctional system.

AB 109 has reduced the state’s prison population by an estimated 25,000 inmates.

Realignment was a logical way of responding to a court-ordered population cap, plus research shows that services along with programs delivered at the local level result in more effective supervision, reduced recidivism and incarceration, and better utilization of limited resources. In addition, county probation had proven its ability to supervise this population and keep a large number of offenders out of state prison through the implementation of SB 678. Realignment has strengthened the state and local criminal justice partnership and creates a strong incentive for rehabilitation and evidence-based programs to reduce recidivism.

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### **THE BLUEPRINT**

A year after 2011 Realignment, the Administration released a report entitled “The Future of California Corrections” —essentially a Blueprint for reducing the cost of the state’s prison system by over a billion dollars while improving operations through an overhaul of the inmate classification system and implementing uniform staffing standards for each prison. The Blueprint also significantly expanded rehabilitation in prisons through programs and housing improvements to better suit the prison population that remained after 2011 Realignment.

The Department provides academic and vocational education, substance use disorder treatment, cognitive behavioral therapy programs, transitional services, and employment programs aimed at reducing recidivism and promoting positive behavior within the institutional setting.

Through the Blueprint, the Department is increasing the percentage of inmates served in rehabilitative programs to 70 percent of the Department's target population prior to their release. According to a report by the Office of Inspector General in October 2013, while continuing to ramp-up the programming plan authorized by the Blueprint, the Department served 42 percent of the target population in 2012-13. An inmate is included in the target population if an assessment indicates a high or moderate risk to reoffend and a higher or medium need for rehabilitative services. The Department remains committed to training effective managers and developing a workforce that understands both public safety and the rehabilitation needs of inmates.

A major component of the Blueprint is the establishment of 13 reentry hubs in designated prisons. Reentry hubs provide relevant services to inmates who are within four years of release and who demonstrate a willingness to maintain appropriate behavior to take advantage of this programming. Four hubs are currently in operation and the remainder will be activated in 2014. Reentry hubs provide the following array of programs:

- Career technical education programs focusing on inmates with 13 to 48 months left to serve.
- Cognitive behavioral therapy programs to address inmates' needs as identified through an assessment tool. These programs are a priority for inmates serving their last year of incarceration.
- Substance use disorder treatment programs for inmates with 6 to 12 months left to serve. Research shows that in-custody treatment during the last six months of incarceration, combined with services in the community after release, results in a significant reduction in recidivism.
- Employment training that includes job-readiness skills prior to release, as well as linkages to one-stop career centers and other social service agencies in the offender's county of residence. Lack of employment is one of the greatest barriers to successful reintegration into society.

- The Cal ID project assists eligible inmates in obtaining state-issued identification cards to satisfy federal requirements for employment documentation and to allow them to be eligible for public assistance programs, such as Medi-Cal and CalFresh. The first Cal ID cards arrived at institutions in December 2013.

The Blueprint also added 159 academic teachers and 98 vocational instructors in the Department over a two-year period. Academic programming focuses on increasing an inmate’s reading ability to at least a ninth grade level. For inmates reading at ninth grade level or higher, the focus is on helping the inmate obtain a GED. College programs continue to be offered through the voluntary education program. The vocational programs target inmates with a need for employment services who are closer to release.

Chapter 699, Statutes of 2013 (AB 218), requires that state and local agencies determine a job applicant’s minimum qualifications before obtaining and considering information regarding an applicant’s conviction history on an employment application. This will have a positive impact for offenders seeking employment after being released from jail or prison.

## INMATE HEALTH CARE AND MENTAL HEALTH SERVICES

The state has demonstrated a significant financial commitment to improving the Department’s delivery of health care services to inmates. The cost per inmate has increased from approximately \$7,500 annually in 2005-06 to slightly above \$16,000 annually in 2012-13 as displayed in Figure SAF-02. Funding has been used to provide

Figure SAF-02

### Historical Health Care Costs Per Inmate (Dollars in millions except cost per inmate)

	Actual Expenditures			Estimated Expenditures	
	2005-06	2006-07 <sup>2</sup>	2012-13	2013-14	2014-15
Medical Services <sup>1</sup>	\$943	\$1,196	\$1,518	\$1,663	\$1,671
<b>Medical Care Cost per Inmate</b>	<b>\$5,803</b>	<b>\$7,183</b>	<b>\$12,280</b>	<b>\$13,585</b>	<b>\$13,845</b>
Mental Health Services <sup>1</sup>	\$238	\$329	\$321	\$393	\$399
<b>Mental Health Care Cost per Inmate</b>	<b>\$1,463</b>	<b>\$1,976</b>	<b>\$2,596</b>	<b>\$3,214</b>	<b>\$3,304</b>
Dental Services <sup>1</sup>	\$51	\$66	\$144	\$153	\$153
<b>Dental Care Cost per Inmate</b>	<b>\$313</b>	<b>\$398</b>	<b>\$1,163</b>	<b>\$1,248</b>	<b>\$1,266</b>
Total Health Care Cost	\$1,231	\$1,591	\$1,982	\$2,209	\$2,222
<b>Total Health Care Cost per Inmate</b>	<b>\$7,580</b>	<b>\$9,558</b>	<b>\$16,039</b>	<b>\$18,048</b>	<b>\$18,415</b>

<sup>1</sup> Dollars reflect administration and ancillary services

<sup>2</sup> First year of Receivership

the federal Receiver, appointed to oversee inmate medical care, with resources to operate a constitutionally adequate medical services program. In addition, resources have been devoted to implementing the mental health care staffing plan. Since 2008, the Department has completed over \$1 billion in health care-related projects. Moreover, there are still many health care projects under development and once completed will bring the state's total investment in prison health care-related improvements to more than \$2 billion. The funds dedicated to health care services programs result in inmates having continued access to mental health, medical, and dental care that is consistent with the standards and scope of services appropriate within a custodial environment.

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## **PRISON CONSTRUCTION**

As the state faced lawsuits regarding the provision of health and mental health care in prison, additional housing and treatment space was necessary. Chapter 7, Statutes of 2007 (AB 900), provided the initial authority for this expansion. However, AB 900 was later amended by Chapter 42, Statutes of 2012 (SB 1022), to repeal approximately \$4.1 billion of lease revenue bond financing authority originally appropriated for the construction of various state prison facilities that were no longer needed because of the implementation of realignment and the adoption of the Blueprint. SB 1022 maintained total AB 900 lease revenue bond financing authority of approximately \$2.1 billion for design and construction of state prison facilities that include the California Health Care Facility (CHCF) and the adjacent DeWitt Nelson Correctional Annex, located in Stockton, and several other medical and mental health projects throughout the state, including the projects in the Health Care Facility Improvement Program. A number of projects authorized with the remaining AB 900 lease revenue bond financing authority have already been completed and occupied, and several other projects are in construction and will be completed in 2014 and 2015. The CHCF began occupancy in July 2013, the DeWitt Nelson Correctional Annex is scheduled to begin occupancy in March 2014, and the Central California Women's Facility Enhanced Outpatient Program Treatment and Office Space project is scheduled to begin occupancy in June 2015. In addition, approximately 20 projects in the Health Care Facility Improvement Program are in the design phase, and it is anticipated the remaining projects will be initiated during 2014.

The 2012 Budget Act included an additional \$810 million of lease revenue bond financing authority for the design and construction of three new level II dormitory housing facilities at existing prisons. Two of these new dormitory housing facilities will be located adjacent to Mule Creek State Prison in Lone, and the third is to be located at Richard J.

Donovan Correctional Facility in San Diego. Solicitation of design-build proposals is currently underway. It is anticipated the design-build contracts will be awarded in early 2014 and construction will be completed in spring 2016.

## WHO IS IN STATE PRISON?

As the Department changes its operations and programming in prison, it is important to understand who is currently housed in the state system. With the responsibility for lower-level offenders transferred to the counties, the state prison system houses a significantly different mix of offenders than prior to 2011 Realignment.

The population distribution by age and gender has remained fairly consistent over the past two years. Inmates over the age of 50 increased from a total of 18 percent of the population on June 30, 2011 to 20 percent on June 30, 2013. The female population has declined from 6 percent of the total population on June 30, 2011, to 4 percent of the total population on June 30, 2013.

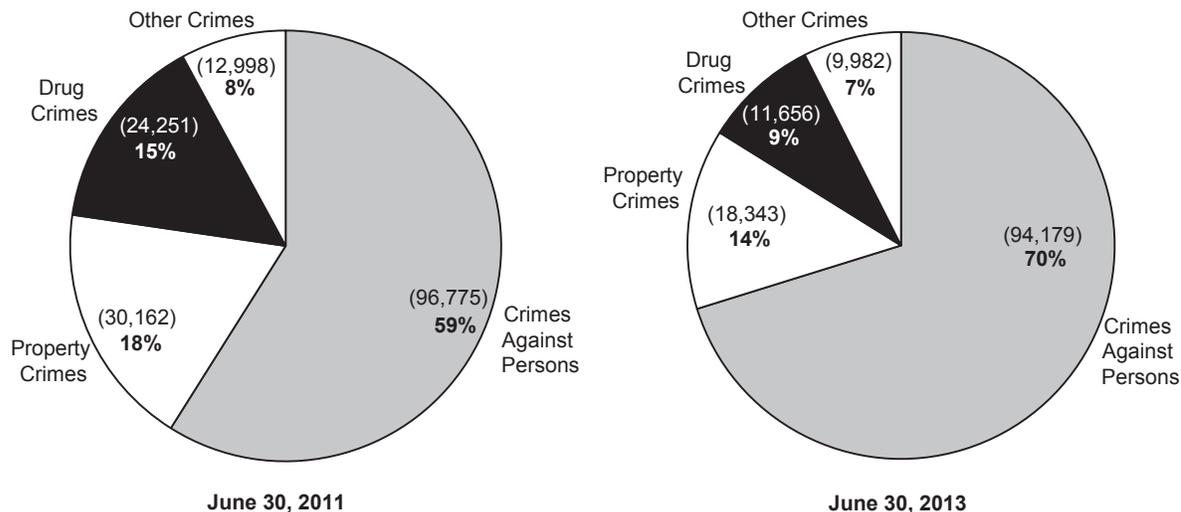
The charts below provide comparisons of the more significant changes in the prison population since 2011 Realignment.

### COMMITMENT CRIME

In the past two years, the most significant change in the population by commitment crime has occurred in the Crimes Against Persons category. On June 30, 2011, as shown in Figure SAF-03, 59 percent of the prison population was serving a sentence

Figure SAF-03

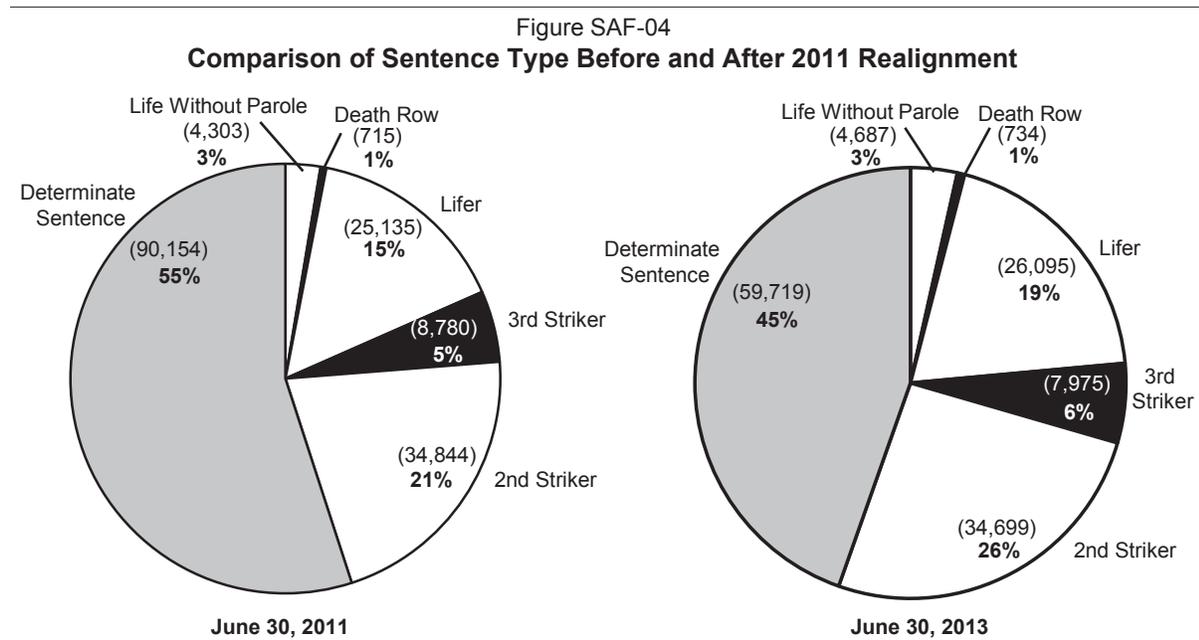
#### Comparison of Commitment Crime Before and After 2011 Realignment



categorized as Crimes Against Persons; whereas on June 30, 2013, this population subset was 70 percent. This indicates that the state is now housing a higher proportion of violent offenders.

**SENTENCE TYPE**

In the past two years, there has been a significant decrease in the percentage of inmates serving a determinate sentence. On June 30, 2011, 55 percent of the population had a determinate sentence and as of June 30, 2013, the number had declined to 45 percent. Conversely, there has been an increase in the percentage of inmates sentenced to life in prison (lifers) and second-strike offenders over the same period of time. The percentages have increased by 4 percent and 5 percent, respectively. See Figure SAF-04 for all sentence categories.



Recent admissions data provide an indication of a change at the local level, specifically in the significant increase in admissions for second-strike convictions for non-violent, non-serious felonies. This uptick in second-strike admissions for non-violent and non-serious crimes has reversed a nearly 20-year decline in admissions for these offenders. This has a significant impact on the state prison population because offenders serving a second-strike receive sentences that are double the normal length for the commitment offense and they are limited to 20 percent credit earnings while incarcerated (the average inmate receives 50 percent credit).

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## **MEETING THE COURT-ORDERED POPULATION CAP**

For over two decades, California's prison system has faced many challenges with overcrowding, the need for General Fund resources, and lawsuits related to the provision of health and mental health services in prison. The population increased from approximately 60,000 inmates in 1986 to an all-time high of 173,479 in 2006. In 2011, notwithstanding the significant progress made in providing medical and mental health services and reducing the prison population, the United States Supreme Court upheld a lower court ruling that the Department reduce population in its institutions to 137.5 percent of the system's design capacity by June 30, 2013. This deadline was subsequently extended to December 31, 2013.

To comply with the federal court order and avoid the early release of offenders, the Administration proposed legislation in September 2013 for an increased capacity solution to meet the 137.5 percent target by the end of December 2013. At the same time, the Administration petitioned the court for an extension of time to meet the court-imposed cap.

Chapter 310, Statutes of 2013 (SB 105), provided the statutory changes and funding necessary for the Department to comply with the court mandate by December 2013. SB 105 appropriated \$315 million that could be used in different ways, depending on whether or for how long the federal court extended the deadline for meeting the population cap.

If no extension were granted, the funding would be used for in-state contracts for community correctional facility or jail beds, a contract with the private California City correctional facility, and additional out-of-state capacity. All of these actions would be in addition to those assumed in the Blueprint.

If a sufficient time extension were granted and all funding not used for capacity, the first \$75 million of any savings would be transferred into the Recidivism Reduction Fund created by SB 105. Savings beyond the \$75 million would be split, with half going to the Recidivism Reduction Fund and half going to the General Fund.

In late September, the federal court ordered a meet-and-confer process, provided an extension to January 27, 2014 for the state to comply, and also blocked the state from sending additional inmates to out-of-state correctional facilities beyond the currently contracted 8,988 beds. Subsequently, the federal court granted the state an extension until April 18, 2014 to meet the population cap.

In building the Budget, the Administration has assumed the court will grant a two-year extension to meet the cap. Based on this assumption, SB 105 expenditures are anticipated to be \$228 million in 2013-14 for a savings of \$87 million. This funding allows the Department to house additional inmates in contract facilities—5,633 in California and maintain its current population in out-of-state facilities (6,292 additional out-of-state beds above the Blueprint by June 30, 2014). The Recidivism Reduction Fund is expected to have \$81.1 million available for expenditure in 2014-15. If no extension beyond April 2014 is granted, it is estimated that the \$315 million appropriated in SB 105 will be used to meet the population cap through contracting for bed space. The expenditures proposed from the Recidivism Reduction Fund would also need to be reconsidered if the extension is not granted.

Additionally, SB 105 suspended the planned closure of the California Rehabilitation Center (CRC) pending the Administration's review of the need for the facility to comply with the court-imposed population cap. The Blueprint proposed closure of this facility upon completion of three authorized infill projects which are expected to be activated in 2016. The Blueprint estimated the ongoing cost of CRC to be \$160 million annually, not including facility repairs and maintenance.

Lastly, SB 105 made changes to the SB 678 funding formula thereby increasing payments to local probation departments by \$86 million in 2014-15. SB 105 changed the calculation for the payments to counties so that it is now based on the amount the state saves by avoiding incarcerations in contracted facilities, which is estimated to be \$29,491 per bed in 2013-14. As a result of SB 105, it is estimated that payments to county probation departments will be approximately \$128 million General Fund in 2014-15 as opposed to the \$42 million that was anticipated based on prior law. These additional payments are anticipated to greatly assist county probation departments in continuing to reduce recidivism among felony probationers, therefore reducing the prison population.

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### **COMPLYING WITH THE COURT-IMPOSED CAP TO AVOID EARLY RELEASE**

Notwithstanding the efforts identified above, the state's prison population is projected to be above the court-imposed cap. Consequently, additional efforts are necessary to meet the cap so that any early release will be avoided.

### **EFFORTS CURRENTLY UNDERWAY**

The following two policies are currently being implemented and will reduce the state's prison population.

- Three Strikes Reform—Proposition 36, the Three Strikes Reform Act of 2012, was approved by California voters in 2012. It restructures sentencing for third-strike offenders whose current conviction is for a non-serious, non-violent offense from an indeterminate (life) term to a determinate (non-life) term. Repeat offenders convicted and sentenced prior to the passage of Proposition 36 who are currently serving a life term pursuant to the “Three Strikes” law may petition the court for resentencing in accordance with the amended provisions of the statutes. The law requires that the court review the petitioners’ criminal conviction history, including the types of crimes committed, the extent of injury to the victim, the length of prior prison commitments, and the time that was passed since the crime was committed.

There are approximately 8,000 offenders currently serving a life term in prison pursuant to the “Three Strikes” law and of these, approximately 2,800 are eligible for resentencing under Proposition 36. To date, nearly 1,300 of those eligible have been resentenced and released from prison. It is anticipated that there will be an additional 1,000 to 1,500 releases pursuant to Proposition 36.

- Youth Offender Parole Hearings—Chapter 312, Statutes of 2013 (SB 260), requires the Board of Parole Hearings to conduct youth offender parole hearings to consider release for specified offenders who were convicted of a crime prior to their 18<sup>th</sup> birthday and sentenced to state prison. An inmate is eligible for a youth offender parole hearing during the 15<sup>th</sup> year of their sentence if the person received a determinate sentence; 20<sup>th</sup> year if the person received a sentence that was less than 25 years-to-life; and during the 25<sup>th</sup> year if the person received a sentence of 25 years-to-life. Those immediately eligible for a youthful offender parole hearing on January 1, 2014 are required to have their hearing completed by July 1, 2015. The Department estimates that approximately 200 inmates could be released as a result of SB 260. Prior to this legislation, the judicial system did not provide a review mechanism for cases in which a youth was charged as an adult.

In addition to implementing SB 260, the Board of Parole Hearings will reduce their suitability hearing timeline for inmates sentenced to life in prison from 180 days to 120 days by streamlining the hearing preparation process, which is intended to further reduce the state’s prison population to comply with the court-imposed cap.

### **COURT-ORDERED EFFORTS**

In June 2013, the federal court ordered certain measures be implemented to reduce the prison population and waived all restrictive statutes and regulations that would

inhibit compliance. The Administration will immediately begin implementation of the following measures ordered by the court:

- **Medical Parole**—Chapter 405, Statutes of 2010 (SB 1399), authorized the state’s existing Medical Parole Program. Since January 2011, the Board has heard 63 requests for medical parole and issued 56 grants. The Court has ordered an expansion of the Medical Parole Program to cover more inmates with severe physical or cognitive conditions.
- **Elderly Parole**—A process will be established whereby inmates who are 60 years of age or older and have served a minimum of twenty-five years of their sentence will be referred to the Board of Parole Hearings to determine suitability for parole. Certain categories of inmates will be excluded. An eligible inmate would only be granted parole if the Board finds he or she does not pose an unreasonable risk to public safety.
- **Credit Enhancements**—Under current law, non-violent second-strike inmates have a credit earning limitation of 20 percent. These non-violent second-strike inmates will now be eligible to earn good-time credits at 33.3 percent, and will be eligible to earn milestone credits for completing rehabilitative programs. Credit enhancements will be awarded on a prospective basis only. Offenders released under these provisions will be on state parole until such time as they would otherwise have been released to county jurisdiction under Post Release Community Supervision. Any parole revocations would be served in state prison.

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## **RECIDIVISM REDUCTION**

The Administration continues to recognize that reentry programs and other rehabilitative services are a valuable means for transitioning offenders back into the community and preventing recidivism. Therefore, the Budget proposes the following program expansions to be funded through the Recidivism Reduction Fund:

- **Additional Substance Use Disorder Treatment in State Prison**—\$11.8 million to expand substance use disorder treatment to 10 non-reentry hub institutions, with expansion to the remaining 11 institutions planned for 2015-16. Another \$9.7 million to provide substance use disorder treatment and other cognitive behavioral therapy programs at in-state contracted facilities.

- Integrated Services for Mentally Ill Parolees—\$11.3 million is proposed to allow the Department to expand the number of program slots from 600 to 900 in 2014-15. This is a comprehensive treatment model which provides varied levels of care, supportive and transitional housing, and an array of mental health rehabilitative services to assist with the development of independent living.

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**REENTRY**

The Budget proposes the activation of the Northern California Reentry Facility, as well as an appropriation to support reentry facilities in the community. It is critical to partner with local communities so there is an easier and more successful transition to the community when the inmate is released.

- State Reentry Hub – Northern California Reentry Facility—The Department plans to use this 600 bed facility in Stockton for reentry though it will take more than two years to make the needed renovations to move inmates into this facility. Statutory changes are needed to reclassify the facility’s purpose and allow male inmates to be housed in the facility. \$8.3 million from the Recidivism Reduction Fund will be used for design of the facility.
- State Reentry In the Community—The Administration proposes that \$40 million from the Recidivism Reduction Fund be used for a variety of reentry programs for inmates within one year of release from prison. It is anticipated that there are many different and effective models that can be considered. Programs could be located in a county jail or in an appropriate state, local, or private community facility. These should be smaller facilities that offer appropriate services such as work training, education, practical living skills, as well as substance use disorder and mental health treatment. Having facilities in the community will also allow the state and county probation to partner in linking these inmates to services in the community upon release.

Existing statute authorizes inmates who are within 60 days of release to be housed in a county jail facility for transition purposes. In the 2013 Budget Act, funding was designated for contracting with four counties for a pilot jail reentry program. This pilot requires a risk and needs assessment for each inmate, individualized treatment plans, specified programming, such as GED classes, job readiness, and cognitive behavioral therapy. Currently, one county is in contract with the Department and a second county has expressed interest. To expand the use of the currently authorized jail reentry program,

the Budget proposes legislation to extend the time period for up to one year prior to release.

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## **COMMUNITY HEALTH CARE SERVICES**

The intersection of state offenders reintegrating into the community with lower-level offenders staying in the community on alternative sanctions, or some kind of supervision, demonstrates the importance of the support services necessary to stop the cycling of offenders through the jail and prison system. It was this intersection that led the Administration to support additional expansion of state-funded health care programs. These programs are an integral component of recidivism reduction.

### **HEALTH CARE SERVICES**

California has taken a very proactive role in implementing the federal Affordable Care Act. As part of the 2013 Budget Act, the state agreed to expand Medi-Cal benefits to childless adults. It is assumed that a significant number of the county indigent health population will now be covered by Medi-Cal. A large number of this expanded caseload intersects with those in the criminal justice system. While the federal government will not pay for medical care within a locked prison or jail, services provided in the community are allowable for reimbursement and access to these services will improve health outcomes and assist in recidivism reduction.

Chapter 646, Statutes of 2013 (AB 720), expands the state's ongoing efforts to promote increased access to health care for offenders released from jail by suspending rather than terminating benefits if incarcerated for a year or less and by encouraging counties to determine eligibility for health care prior to release from jail.

As part of the implementation of the federal Affordable Care Act, California has expanded both benefits and eligibility for mental health and substance use disorder services. Consumers with income up to 400 percent of the federal poverty level will be eligible for federal subsidies to support the expanded mental health and substance use disorder benefits.

### **MENTAL HEALTH SERVICES AND SUBSTANCE USE DISORDER TREATMENT**

Under the state expansion of Medi-Cal, managed care plans will now offer psychotherapy, psychological testing, outpatient services to monitor drug therapy, outpatient laboratory drugs and psychiatric consultation to non-specialty benefits. These services should allow clients to stabilize and avoid more costly services.

Counties continue to be responsible for specialty mental health services under 1991 and 2011 Realignment as well as the Mental Health Services Act (Proposition 63). Each county is required under the Mental Health Services Act to consider ways to provide services similar to those established pursuant to the Mentally Ill Offender Crime Reduction Grant Program for offenders who are in the community but not incarcerated.

Previously all eligible Medi-Cal beneficiaries could receive outpatient drug-free treatment and treatment for opioid addiction through the county-administered Drug Medi-Cal Program. Beginning January 1, 2014, the state has agreed to fund an expanded set of services for individuals enrolled in Medi-Cal. The additional services are annual Screening and Brief Intervention and Referral to Treatment, inpatient detoxification services and intensive outpatient treatment, and residentially based substance use disorder treatment.

The costs of expanded mental health and substance use disorder benefits are projected to be \$61.3 million General Fund in 2013-14 and \$197.9 million General Fund in 2014-15. This investment will improve mental health and substance use disorder service parity, increase access to preventative care for low-income populations, and decrease county costs for indigent care. These services also give counties another source of treatment services for persons on Probation or Post Release Community Supervision.

#### **MENTAL HEALTH WELLNESS**

The 2013 Budget Act also included \$206.2 million (\$142.5 million General Fund) for Mental Health Wellness to strengthen local mental health services. This investment includes funding for at least 25 mobile crisis teams, 600 additional triage personnel, additional peer support crisis training, and increasing crisis stabilization and crisis residential treatment capacity by 2,000 beds. One of the primary goals of this funding is to increase access to intervention and treatment services to reduce recidivism and mitigate future public safety costs. Applicants for funding must describe community linkages, including linkages with local law enforcement. Applications are due to the State Treasurer's Office January 22, 2014 and it is anticipated that the first grants will go out by May 2014.

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### **THE COMMUNITY CORRECTIONS SYSTEM**

The Department's primary public safety responsibility is the operation of a secure and safe prison system that provides rehabilitative programs aimed at reducing recidivism. The state must meet the court-ordered population cap of 137.5 percent of capacity and

the Administration is committed to meeting that target, as outlined previously, without early release.

The state must be cognizant of the issues local government faces in its community corrections system. History demonstrates that actions taken by the state—such as the property tax shift of the early 1990s that exacerbated budget reductions in counties—can contribute to the increase of offenders sent to state prison. On the other hand, investment in smart justice programs at the local level, like those implemented as a result of SB 678, can assist in decreasing the prison population.

AB 109 and the Community Corrections Program was a massive change for the local correctional system, and the state has allocated close to \$1 billion annually for its implementation. Other state resources have also been allocated for basic law enforcement services such as juvenile justice and the Citizens' Option for Public Safety program, and more recently for expanded mental health and substance use disorder programs. The Budget includes \$27.5 million in 2014-15 for cities for front line law enforcement activities.

It is incumbent upon each county, using these additional resources plus their own, to develop programs tailored to meet the needs of its community. Working through the Community Corrections Partnership (CCP), each county is collaborating across program jurisdictions and developing programs aimed at maintaining, and even increasing public safety and using its resources most effectively and efficiently to reduce recidivism. The CCPs are chaired by the Chief Probation Officer and membership is comprised of the presiding judge of the superior court, a county supervisor or the chief administrative officer, the district attorney, the public defender, the sheriff, the chief of police, the heads of the various county departments, and community representatives. The CCPs were first authorized to provide recommendations for the expenditure of SB 678 funds, and have since played an integral role in making recommendations to the county boards of supervisors on the implementation of 2011 Public Safety Realignment.

AB 109 gave local governments tools to more effectively manage their criminal justice populations, including split sentences and alternative sanctions, enhanced credit earnings, and the ability to contract with the state for fire camp beds. Since the implementation of AB 109, statutes have been enacted to authorize medical parole; provide enhanced credit earnings for participation in work and job training programs; allow milestone credits for education and vocational training, life skills, parenting and substance use disorder

treatment; and authorize County Boards of Parole to release someone on county parole for three rather than two years.

Counties began the implementation of AB 109 from very different places. Some counties had many community-based programs and were already diverting offenders from state prison or local jail. Others had resources sufficient only to operate the jail and probation supervision. With this county variation, it will take time and effort to change the system.

To assist in this effort, the state appropriated \$25 million in 2011-12 to support hiring, retention, training, and data improvements in the counties. In each year since 2011-12, \$7.9 million has been appropriated for the CCPs to support ongoing change efforts at the local level. In 2013-14 and 2014-15, this appropriation comes with a requirement to report to the Board of State and Community Corrections on the outcomes adopted in each county's CCP plan and progress in meeting those outcomes. Finally, \$1 million was appropriated in both 2011-12 and 2012-13 to be split between the California State Association of Counties (CSAC), the California State Sheriffs' Association (CSSA), and the Chief Probation Officers of California (CPOC) for statewide training efforts. These statewide organizations have sponsored three conferences to share information about the implementation of AB 109 and what works in the community.

Change is happening. CSAC has completed several "smart justice" videos showcasing effective new county programs. For example, in Merced County, an "All Dads Matter" program helps at-risk dads and kids maintain connections. In Glenn County, there is a collaboration of several county departments (the Community Re-Entry Work program) that teaches job skills, provides training, and helps offenders get back on their feet. Each year, CSAC also honors innovative programs and this year, Tehama County was recognized for its AB 109 Auto Shop—Changing Lives in which the county has developed its own auto shop where offenders are trained and provide auto repair for the county's fleet vehicles.

CPOC reports that of the 23,000 completions of terms through September 2013:

- 93 percent of those starting Post Release Community Supervision appeared as expected within three days of release from state prison;
- 60 percent completed Post Release Community Supervision with no return to custody and had their supervision terminated between 6 and 12 months; and,

- 90 percent of those currently on Post Release Community Supervision are actively supervised and not wanted on a warrant.

County Probation has told of many individual successes with offenders going to residential substance use disorder treatment programs, stepping down to a day reporting center and becoming gainfully employed. Many of these individual success stories have the same theme—the right treatment program, links to family and the community, and more stable housing and employment.

Sheriffs have continued and initiated many in-custody programs that begin the important link to services in the community before release. The Board of State and Community Corrections expects to release the results of a jail program survey in January 2014 so information on best practices can be available statewide.

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## **2014-15 BUDGET PROPOSALS**

Notwithstanding these success stories, counties continue to face challenges in operating their community corrections programs. The state has made both a sizable financial investment and enacted statutory changes that allow counties to be successful in the implementation of AB 109. While additional direct resources for AB 109 are not possible, there are additional changes that the state can make to facilitate success at the local level.

### **SPLIT SENTENCES**

Under Realignment, judges are authorized to impose a straight sentence of time in jail or a split sentence of incarceration followed by a mandatory term of supervision for offenders convicted of a non-serious, non-violent, non-sex offense. Through the first year of implementation, CPOC indicated that about 23 percent of the 21,500 felony offenders sentenced to local jail received a split sentence. Use of split sentences varies widely among counties from a high of almost 89 percent to a low of about 6 percent. The 10 largest counties had a usage of 20 percent. Research shows that when a person is released from incarceration, a reentry plan with structured supervision and programs provides the best opportunity to lower recidivism rates.

The Administration proposes legislation to require that any county jail felony sentence will be a split sentence unless the court finds it to be in the interests of justice based on facts in the particular case to impose a straight sentence. The use of split sentences is important for public safety and recidivism reduction so offenders have access to appropriate treatment services. Increased use of split sentences will also help relieve

jail overcrowding. The Administration is committed to working with criminal justice policy makers and practitioners to resolve any issues regarding the imposition of split sentences.

### **JAIL FACILITIES**

There are 123 county jail facilities with a rated capacity between 70,000 and 80,000 depending on how many jail units are staffed. Thirty-five jails operate under an imposed population cap. Twenty-five jails currently in operation were built before the 1980s, including one from the 1940s, and four from the 1950s. Forty-seven jails were constructed in the 1980s and 1990s and have not been upgraded since their initial construction. Twenty-six jails of this time period have been remodeled.

In 2007, as a part of AB 900 and in response to the critical need for increased jail capacity, the state authorized \$1.2 billion in state lease revenue bond financing primarily for increased capacity and to alleviate overcrowding. This funding was authorized in two phases and counties were required to provide a 25 percent match in phase 1 and a 10 percent match in phase 2. Funding has been allocated to 21 counties and when all construction is completed, over 9,000 jail beds will be added. Funding went primarily to those counties operating under a population cap.

Chapter 42, Statutes of 2012 (SB 1022), authorized the Adult Local Criminal Justice Facilities Construction Program. SB 1022 authorized an additional \$500 million in lease revenue bond financing for the acquisition, design, and construction of adult local criminal justice facilities. However, this funding is primarily available to build “better” beds and treatment and programming space versus increasing capacity. SB 1022 specified that counties seeking to replace or upgrade outdated facilities and provide alternatives to incarceration, including mental health and substance use disorder treatment, would be considered. The Board of State and Community Corrections anticipates making conditional awards in January 2014. The funding will provide space for GED and substance use disorder classes, day reporting centers, transitional housing and upgraded jail space.

Notwithstanding the state’s investment of \$1.7 billion for jail construction, there remains a significant need for better space in which to house local offenders. Old jails do not lend themselves to the kinds of treatment and programming space needed to run effective in-custody programs that lead to success once an offender is released.

The Administration proposes that another \$500 million be authorized for SB 1022-type facilities. There will be a 10-percent county match requirement.

Though progress has been made in adding capacity where it is most critical, county jails remain crowded and it is important that they be used most effectively. While circumstances vary significantly among the counties, careful consideration must be given to who occupies each jail bed. The pre-trial population in California's jails varies widely by county. Based on the Board of State and Community Correction's Jail Profile Survey from the 2<sup>nd</sup> Quarter of 2013, the percentage of pre-trial inmates varies from a high of 83 percent to a low of around 50 percent for larger counties. The statewide average is 63 percent, down from a high of 71 percent in 2010.

Any application for additional construction funding for jails should include, as a priority, documentation that the county uses a risk assessment instrument to determine who to release pending trial. This can increase public safety and help relieve overcrowding in jails.

### **LONG TERM OFFENDERS IN COUNTY JAIL**

AB 109 was implemented based on state or county jurisdiction due to crime, not time. This has resulted in offenders serving longer terms in county jails.

A jail survey done by CSSA in February 2013, indicates that a significant number of inmates received sentences over five years, with the longest sentence being 43 years in Los Angeles County. The most common crime for long-term sentences was drug trafficking though there were some convicted of multiple thefts with priors, driving under the influence with priors, or multiple counts of felony child abuse. As part of the 2013-14 May Revision, the Administration proposed a population neutral offender swap to deal with the long-term offender issue, but it was not enacted.

The Administration agrees that overly-long sentences are not appropriate for county facilities. However, any significant change in time served in county jail would have a dramatic impact on the state prison population which is not tenable given the federal court order for the state to meet a 137.5 percent population cap. It would also significantly alter the assumptions used in developing the funding model for the Community Corrections Program grant.

Given the need to strike a balance between who is in jail and who is in prison, the Administration proposes that sentences over 10 years be served in state prison. Based on pre-Realignment information, this population would be approximately 300 offenders on an annual basis. This change can be implemented only if the Administration is successful in its efforts to meet its court-ordered population cap as outlined previously in this Chapter. It will also be important to have ongoing discussions to understand

how charging practices may influence the number of offenders sentenced to more than 10 years.

**FIRE CAMPS—ANOTHER ALTERNATIVE FOR LONG-TERM OFFENDERS**

After AB 109 was enacted, the state developed a proposal whereby counties could contract with the Department to send longer-term offenders to state fire camps at the rate of \$46.19 per day. Offenders had to meet all of the criteria regarding who is appropriate to be in a fire camp and pass all the same training requirements. Historically, local offenders had not been eligible to be housed in a state fire camp. Contracts for fire camp beds have been executed with three counties totaling up to 780 beds; however, the Department currently has fewer than 100 local inmates in fire camps.

Because of the ongoing concerns regarding longer-term offenders, the Department has agreed to reduce the daily rate to \$10 per day in a camp and \$81 per day while offenders are being trained. There is no cost to the General Fund and this should offer a better incentive for counties to participate in the fire camp program.

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**COMMUNITY CORRECTIONS GRANT ALLOCATION FOR 2014-15**

As part of the implementation of AB 109, the Department of Finance developed a model to determine the level of total state funding for this program. The model was based on average daily population totals as well as jail, supervision, programming, and treatment costs.

The Administration strongly believes that those who have to make this program work at the local level should determine the allocation of resources among counties. CSAC took on this responsibility along with a representative group of County Administrative Officers.

The allocation for 2011-12 was based primarily on population because that was the only factor for which data were available. A two-year formula was developed for 2012-13 and 2013-14. For these two years, each county receives at least double what it received in 2011-12. With the exception of Los Angeles County, which maintained the same share of funds as it received the prior year, each county receives the best result from among the following three categories: county population 18 to 64, an adjusted average daily population or a formula weighted by caseload, population and SB 678 success rate. A formula was also developed for the distribution of 2012-13 growth funds in September 2013.

When AB 109 was first implemented, the Administration proposed that a permanent base of funding for each county be established in 2014-15. By then, most of the offenders going onto Post Release Community Supervision would be out of state prison and the program “fully implemented.” However, it is premature to make such a final decision at this point and more information is needed regarding the implementation of evidence-based practices. Therefore, it is proposed that the allocation continue to be flexible for the next several years.

CSAC is working toward development of a formula that is driven by reliable and consistent data and statistically relevant factors. The formula should encourage the use of incentives and evidence-based practices, reward efforts to improve outcomes such as recidivism reduction, and allow for maximum local control and flexibility. The ongoing allocation of resources requires a thoughtful and balanced approach given the critical impact on public safety.

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### **STAKEHOLDER MEETINGS — SB 105**

SB 105 charged the Administration to immediately begin discussions with stakeholders “to assess the state prison system, including capacity needs, prison population levels, recidivism rates and factors affecting crime levels, and to develop recommendations on balanced solutions that are cost effective and protect public safety.” An interim report is due to the Legislature by April 1, 2014.

The Governor tasked the Chair of the Board of State and Community Corrections with leading this effort and several meetings have already been held with more scheduled. The Administration is interested in the ideas of a broad spectrum of individuals and groups interested in the criminal justice system.

The stakeholders have stressed the need for more mental health services and substance use disorder treatment in the community. The expansion of the federal Affordable Care Act will accomplish this.

The expanded use of split sentences has been frequently mentioned with an emphasis on having appropriate services available. Stakeholder discussions identify a clear interrelationship of programs available in the community that lead to success when an offender is no longer in custody. Access to employment opportunities, supportive housing and services are consistent themes of the discussions.

## PUBLIC SAFETY

In the past three years, there has been dramatic progress in meeting a number of interrelated public safety goals—responsibly reducing the overall prison population, better managing offenders at the local level, and continued measurable improvements in public safety and in the lives of individuals. The Administration remains committed to a continuing strong partnership with local government to strengthen and improve California’s public safety system.