

# CRIMINAL JUSTICE

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## DEPARTMENT OF CORRECTIONS AND REHABILITATION

The California Department of Corrections and Rehabilitation (CDCR) incarcerates people convicted of the most violent felonies, supervises those released to parole, and provides rehabilitation programs to help them reintegrate into the community with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, and rehabilitative and restorative justice programs. The Budget proposes total funding of \$13.1 billion (\$12.7 billion General Fund and \$345 million other funds) for the Department in 2021-22.

The COVID-19 Pandemic has impacted every aspect of prison operations and the state has taken swift action to mitigate the spread of the virus. These actions have significantly impacted current population projections. The 2020 Budget Act projected an overall adult inmate average daily population of 122,536 in 2020-21. The average daily adult inmate population for 2020-21 is now projected to be 97,950, a decrease of 20 percent from spring projections.

Some of this decrease is attributable to suspending county intake in response to the COVID-19 Pandemic, which when resumed, will increase the population. Current projections show the adult inmate population is trending downward and is expected to decrease by another 2,626 offenders between 2020-21 and 2021-22.

In addition, beginning July 1, 2020, CDCR implemented a community supervision program to enable CDCR to increase physical distancing as well as limit the introduction and spread of COVID-19 within its facilities. Inmates are eligible if they are within 180 days of release; are not serving a current term for domestic violence, a violent crime, or are required to register as a sex offender; and do not have a risk assessment score that indicates a high risk for violence. About two-thirds of these offenders were released to Post Release Community Supervision (county probation) and one-third were released to state parole. CDCR continues to release eligible inmates within 180 days of their natural release. CDCR also previously reviewed and released offenders deemed at high risk for COVID-19 as part of case-by-case offender reviews. Similar reviews are ongoing with a focus on determinately sentenced offenders within 12 months of release. Additionally, on July 9, 2020, CDCR applied a one-time 12-week positive programming credit to all eligible inmates to recognize the impact the COVID-19 Pandemic has had on inmates' access to programs and credit earnings.

Proposition 57, the Public Safety and Rehabilitation Act of 2016, established a durable solution to end federal court oversight and create more incentives for inmates to participate in rehabilitative programs. Proposition 57 is currently estimated to reduce the average daily adult inmate population by approximately 7,300 in 2021-22 (about 3,500 less than projected in the 2020 Budget Act), and by approximately 13,000 in 2023-24 (about 500 more than projected in the 2020 Budget Act).

The 2020 Budget Act projected an overall parolee average daily population of 47,929 in 2020-21. The average daily parolee population is now projected to be 45,924 in 2021-22, a decrease of approximately four percent from spring projections.

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### **COVID-19 UPDATE**

COVID-19 continues to spread among CDCR inmates and staff statewide. In December 2020, for the first time, active inmate cases rose to over 9,000 and active staff cases rose above 2,600. All 35 institutions have had active cases at some point. As of mid-December, 103 inmates had died from COVID-19 at 17 different institutions.

As of mid-December, Division of Juvenile Justice (DJJ) facilities had 6 active ward cases (down from a peak of 56 in late July and early August) and 47 active staff cases. No wards have died from COVID-19.

CDCR has taken proactive measures to reduce the presence and spread of COVID-19 in its institutions. Among other things, CDCR has restricted inmate movement; activated gyms, dayrooms, and temporary tent facilities to create physical distancing; modified

the parole suitability hearing process to take place by video and telephone conference; restricted family visitation and provided inmates with free telephone calls and video visitation opportunities; initiated a staff screening process upon entering facilities; suspended large-scale construction projects within the secure perimeter of CDCR facilities; and suspended in-person rehabilitative programs and education classes. CDCR also delayed the Basic Correctional Officer Academy, modified the Academy's training to provide for physical distancing, and employed the California Prison Industry Authority to produce cloth face masks and hand sanitizer for inmates and staff. In November 2020, the Department also started requiring all staff, contractors and vendors to wear disposable procedure masks while on prison grounds, rather than the previously required cloth masks. The Department is providing these masks on a daily basis upon entry to the prison.

Beginning in June, CDCR began expanded employee testing for COVID-19 at its skilled nursing facilities consistent with guidance from the California Department of Public Health. This guidance includes baseline testing of all employees and separate protocols for continued testing, the frequency of which is dependent on whether an institution has an active outbreak. CDCR has also implemented expanded employee testing protocols at institutions without skilled nursing facilities. On average, on a monthly basis, CDCR conducts approximately 128,000 tests on employees and 70,000 tests on inmates. Given the significant increase in COVID-19 cases among staff and inmates, CDCR implemented weekly testing of all staff at all institutions in late November 2020. CDCR expects to continue weekly testing through the end of January 2021, or until such time that there is a significant decrease in positive cases.

CDCR began distributing vaccines to staff and inmates in its skilled nursing facilities in mid-December. CDCR and the Receiver's Office will follow state public health guidance for further distributions.

By mid-December, CDCR had spent approximately \$408.3 million during 2019-20 and 2020-21 on COVID-19 activities including staff and inmate testing, cleaning, tents, and personal protective equipment purchases. By the end of 2020-21, CDCR expects to spend up to \$723.8 million more. The Budget includes \$281.3 million one-time General Fund in 2021-22, for these COVID-19 activities and purchases. For more information, please refer to the COVID-19 Pandemic Response Chapter.

In addition, the Budget provides limited-term resources of \$51 million General Fund in 2021-22, growing to \$77.6 million through 2024-25, for increased workers' compensation costs associated with Chapter 85, Statutes of 2020 (SB 1159), which creates a rebuttable presumption that an employee's illness related to COVID-19 is an occupational injury.

## **PROJECT HOPE**

Project Hope provides non-congregate quarantine and isolation sheltering to individuals returning to the community from California state prisons. Through Project Hope, individuals who tested positive for COVID-19 or were exposed to COVID-19 while incarcerated are able to safely finish their medically directed quarantine or isolation to help prevent disease transmission into their communities. CDCR, the California Governor's Office of Emergency Services, and the Department of General Services collaboratively provide safe transportation, non-congregate hotel accommodations, and meal services to all participants. Project Hope is a voluntary program available to both parolees and individuals releasing to Post Release Community Supervision. Project Hope does not replace existing post-incarceration transition programs managed by the state, counties, and local service providers, and participants of Project Hope remain under the jurisdiction and supervision of either state parole or county probation departments. As of December 17, 2020, Project Hope has served approximately 934 returning individuals since its inception in April 2020.

## **SUSPENSION OF INTAKE TO STATE PRISONS**

As mentioned earlier, in late March the state halted intake and/or transfer of inmates from county jails into state prisons to reduce the risk of COVID-19 entering the state prison system. CDCR resumed intake on a limited basis in late August, although public health conditions subsequently halted intake again in late November. As public health conditions allow, CDCR plans to resume intake with continued precautions including offering testing to all inmates upon intake and instituting a mandatory 14-day quarantine period in its reception centers.

The suspension of intake has resulted in greater numbers of inmates being held in county jails. In circumstances where CDCR cannot accept the intake and/or transfer of an inmate from a county jail, the state is required to reimburse counties for holding inmates. As of December 1, 2020, the state has provided \$38.8 million General Fund, with an additional payment of \$40.4 million pending, to county sheriffs and county corrections departments for housing inmates due to the temporary stoppage of prison intake. This reflects payments for inmates held in county jails from March through November, and reimbursements will continue until such time that all inmates are transferred to state prison. Current projections suggest a total of \$163.4 million in additional reimbursement through June 30, 2021.

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## **PRISON CAPACITY AND CLOSURES**

The adult prison population has steadily declined over many years, presenting opportunities for CDCR to eliminate its reliance on contract prison capacity. CDCR terminated its final remaining contract to house inmates out of state in June 2019. In addition, CDCR terminated six of seven in-state contracts by October 2020, and the Budget reflects closing the final in-state contract correctional facility by May 2021. Due to the significant continued decline in the population, and consistent with the 2020 Budget Act, the Department plans to close Deuel Vocational Institution by September 2021, achieving savings of \$113.5 million General Fund in 2021-22, and \$150.6 million General Fund beginning in 2022-23. The Administration plans to close a second state-operated prison in 2022-23.

While CDCR's population is projected to decline over the next year, COVID-19 has presented a significant challenge for the Department. New consideration must be given to the long term use of dormitories, placements of older inmates, and the need for dedicated space to isolate inmates in the event of additional outbreaks of either COVID-19 or other airborne communicable diseases. The Department is considering long-term strategies for a safer and more resilient prison system into the future.

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## **FOCUS ON INMATE REHABILITATION AND REENTRY**

The Administration is committed to improving outcomes for incarcerated individuals and enhancing public safety by improving rehabilitation and reentry programs. The 2020 Budget Act made critical near-term investments to support this long-term goal, such as reduction of reception center processing times to allow inmates to begin participating in academic and rehabilitative programming sooner; changes to good conduct credits to provide greater incentives for inmates to engage in good conduct such as participating in work and program assignments; and establishment of a Youth Offender Rehabilitative Community at Valley State Prison to create an environment conducive to positive behavioral programming and targeted educational programs. The Budget builds upon those investments with adaptations necessary due to the COVID-19 Pandemic. In total, the Budget includes \$546.9 million General Fund for rehabilitative programs—nearly double the funding level in 2012-13.

## **TECHNOLOGY FOR INMATES PARTICIPATING IN ACADEMIC PROGRAMS**

Access to remote rehabilitative programming is critical to providing incarcerated individuals continued programming during the COVID-19 Pandemic. Remote

programming is also an important factor in providing rehabilitation access to those individuals who may not have access to in-person training, such as those with medical conditions. The Budget includes \$23.2 million General Fund in 2021-22, and \$18 million ongoing General Fund, for information technology to enhance access to rehabilitative programming. Specifically, the proposal includes the purchase of approximately 38,000 laptop computers for use by academic program participants (such as students in basic adult education, GED, or community college courses), as well as the expansion of virtualization infrastructure, network bandwidth, and the creation of a secure online academic portal that will allow students to complete educational curriculum outside of the classroom.

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### **STAFF DEVELOPMENT AND SUPPORT**

Creating a prison environment that is safe, secure, and conducive to rehabilitation, requires a professional, well-trained workforce. Correctional officers serve an especially important role in the rehabilitation efforts of the Department. The Budget includes \$21.2 million General Fund in 2021-22, decreasing to \$16.1 million ongoing General Fund in 2024-25, to enhance staff development through new training for correctional officers. These efforts will involve repurposing the former Northern California Women's Facility into a new hands-on training facility and will focus on effective and realistic training.

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### **INFRASTRUCTURE SUPPORT AND MODERNIZATION**

The state's prison infrastructure requires investments for the safety of staff and inmates. Although the state has made significant investments in upgrading health care facilities, some core infrastructure has significantly deteriorated and improvements must be made.

#### **ROOF REPLACEMENT**

Failing prison roofs have resulted in damage to electrical systems and housing units, interruptions in rehabilitation and education programs, and mental health treatment. The Budget includes \$33.6 million General Fund over two years for roof replacement projects at California State Prison, Los Angeles County. This is part of a multi-year plan to replace aging and deteriorating roofs across the state prison system. To date, 11 institutions have received one-time funding for major roof replacement and repair projects. In addition to California State Prison, Los Angeles County, 14 institutions remain scheduled for future roof replacement and repair projects over the next 7 years.

## HEALTH CARE FACILITY UPDATES AT THE CALIFORNIA REHABILITATION CENTER

Existing health care facilities at the California Rehabilitation Center are located in buildings approaching 75 years old that do not have adequate storage for medication and medical supplies, which restricts workflow and makes it difficult to maintain inmate-patient privacy. The Budget includes \$6.8 million one-time General Fund to replace damaged flooring, walls, wall-mounted air conditioning units, counters, and storage spaces in existing health care treatment areas. This project will also replace existing medication distribution windows with newer windows that are consistent with current standards and will allow for improved medication distribution. The California Rehabilitation Center is one of the older facilities in the state prison system. These upgrades are necessary to maintain this facility, which is better geographically situated to recruit staff, including health care staff.

## DEFERRED MAINTENANCE

The Budget includes \$50 million one-time General Fund in 2021-22, to address the Department's highest priority deferred maintenance projects. CDCR has numerous critical maintenance projects, which have resulted in essential infrastructure systems deteriorating to the point of failure. Although the Department has made significant strides in reducing its deferred maintenance backlog in recent years, total costs of identified deferred maintenance projects are estimated at approximately \$1 billion.

## CELLULAR INTERDICTION

The Department currently uses technology called the Managed Access System to block unauthorized cellular usage within its prisons. While the Department works to prevent the introduction of contraband cell phones onto prison grounds, cell phones are still located and confiscated. This system disables contraband cell phones by intercepting calls and stopping them from being completed. The Budget includes \$1.8 million ongoing General Fund to maintain the use of the current Managed Access System which would otherwise expire May 2021, with the Inmate/Ward Telephone System contract. Although the continuation of the Managed Access System results in increased costs to the state, it also results in reduced calling costs to inmates and their families when using the Inmate/Ward Telephone System.

## OTHER SIGNIFICANT ADJUSTMENTS

- *Armstrong* Court Compliance—In September 2020, the U.S. District Court for the Northern District of California ordered CDCR to develop a plan within 21 days, to be

implemented in the months thereafter, to address several mandated reforms at the Richard J. Donovan Correctional Facility (RJD). These reforms include: (1) installation of security cameras throughout the prison within 90 days; (2) use of body-worn cameras within 60 days; (3) modifications of the staff complaint and disciplinary processes; and (4) increases to supervisory staffing and training. While the state has appealed this order, the Budget includes \$13.5 million General Fund in 2020-21, \$10.1 million General Fund in 2021-22, and \$6.9 million General Fund beginning in 2022-23 for these purposes. This also includes funding for the installation of security cameras on two yards at the California State Prison, Los Angeles County.

- **Increased Healthy Menu Options**—To improve health and well-being of the inmates, CDCR is implementing healthier menus within its institutions. The updated menu addresses inmates' overall healthy eating patterns and is based on the U.S. Department of Agriculture's dietary guidelines. The Budget includes \$7.5 million ongoing General Fund to support this change.
- **Transgender, Nonbinary, and Intersex Inmate Housing and Search Preferences**—The Budget includes \$2.8 million General Fund in 2021-22, declining to \$1.2 million ongoing General Fund, to develop and implement policies related to Chapter 182, Statutes of 2020 (SB 132), the Transgender Respect, Agency, and Dignity Act. SB 132 requires CDCR to house, and conduct physical searches of, transgender, nonbinary, and intersex inmates according to their gender identity and preference. Funding will be used to update data repositories with gender identity markers; process transgender, nonbinary, and intersex housing change requests; and train correctional staff on safe housing practices.

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### **INMATE MEDICAL CARE AND MENTAL HEALTH SERVICES**

The Budget continues the state's commitment to improve the Department's delivery of health care services to inmates. The Budget dedicates \$3.4 billion ongoing General Fund for health care services programs, which provide access to mental health, medical, and dental care that is consistent with the standards and scope of services appropriate within a custodial environment.

#### **FEDERAL RECEIVERSHIP OVERSEEING PRISON MEDICAL CARE**

In 2005, a federal court established a receivership to oversee prison medical care. To date, the Receiver has transitioned oversight of 19 institutions back to the state. The Budget includes \$4 million General Fund in 2021-22, increasing to \$11.6 million ongoing General Fund in 2023-24, to enhance quality management and patient safety by

providing staff to evaluate risks and implement best practices to improve the health care delivery system.

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## **DIVISION OF JUVENILE JUSTICE REALIGNMENT**

Consistent with Chapter 337, Statutes of 2020 (SB 823), the Division of Juvenile Justice (DJJ) will stop the intake of wards on June 30, 2021, with limited exceptions. The 2021-22 estimated population is expected to be 729, a reduction of 126 compared to the spring projections, reducing costs by \$10.1 million General Fund in 2021-22. The DJJ is expected to close on June 30, 2023. For more information, please refer to the Health and Human Services Chapter.

Pursuant to SB 823, and to facilitate the transition of youth offenders from state to county care, the Board of State and Community Corrections will distribute one-time funds of \$9.6 million General Fund in 2020-21, for the Regional Youth Programs and Facilities Grant Program. SB 823 also included ongoing funding for the Juvenile Justice Realignment Block Grant as follows: \$46.5 million General Fund in 2021-22, \$122.9 million in 2022-23, \$195.9 million in 2023-24, and \$212.7 million ongoing beginning in 2024-25, for county probation departments to take over responsibility for youth who will no longer go to the DJJ. County probation departments are integral to the success of the realignment of juvenile offenders from the state to counties.

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## **LOCAL PUBLIC SAFETY AND REHABILITATION**

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### **COUNTY PROBATION DEPARTMENTS**

Probation has broad responsibilities that include crime prevention, rehabilitation through community supervision, overseeing the local juvenile justice system and promoting healthy families and communities. When probation departments are successful they reduce recidivism and state prison costs, and contribute to improving outcomes for offenders.

Probation has been at the forefront of criminal justice reform and, even in the face of budget downturns, has continued to innovate and improve its approach to community safety. In recent years, probation has been tasked with increased responsibilities through juvenile and adult realignments. Probation has continually accepted and embraced these responsibilities, leading to reduced incarceration rates and improved

outcomes, as evidenced in reforms such as the California Community Corrections Performance Incentive Act of 2009 (SB 678), discussed below.

Chapter 328, Statutes of 2020 (AB 1950), provides a significant opportunity for county probation to refocus efforts and provide enhanced services earlier in the probation term to increase success and reduce recidivism. County probation departments will also now support the entire juvenile justice continuum with the implementation of SB 823.

The Budget makes an additional investment of \$50 million one-time General Fund in 2020-21 for county probation departments to support these transitions. The Administration proposes that the Legislature take action on this funding early in 2021.

These funds may be used for a broad range of services with an emphasis on keeping juveniles and adults out of the criminal justice system, moving them quickly and successfully through the system, and keeping them from reentering the system. Enhancing services in the community will enable probation to better meet the treatment and programming needs of adult and juvenile offenders, while also providing the courts confidence in probation as an alternative to incarceration.

### **ADULT PROBATION**

In 2009, the state recognized the importance of investing in probation to reduce state prison costs with the passage of the California Community Corrections Performance Incentive Act of 2009 (SB 678). SB 678 provides performance-based funding to share General Fund savings with county probation departments that reduce or maintain low revocation rates to prison from the probation population. Based on county-reported data from calendar year 2019, the 2020 Budget Act allocated \$112.6 million General Fund to counties.

The COVID-19 Pandemic and its impacts to law enforcement and court processing resulted in significantly fewer revocations. In addition, AB 1950, which caps probation terms at one or two years will also impact revocation rates.

Since these two factors impact the current calculations in a way that has little relation to probation department performance, the Budget provides \$122.9 million ongoing General Fund to county probation departments, based on the highest payment to individual counties over the prior three fiscal years. These funds will continue to support county probation departments' efforts to reduce or maintain low revocation rates while recognizing the unprecedented impacts of the COVID-19 Pandemic and changes to

statewide probation policy. The Administration intends to revisit the performance-based formulas after trends in the probation population stabilize.

### **JUVENILE PROBATION**

County probation departments are supporting the implementation of SB 823, which closes state facilities to juvenile offenders on June 30, 2021. In order to successfully implement this change counties and probation departments must work toward the development of appropriate placements and rehabilitative programs. The realignment of youthful offenders to the counties allows for enhanced collaboration between juvenile delinquency and dependency, but more specialized placements must be developed to rehabilitate youthful offenders and avoid adult commitments. As mentioned previously in this Chapter, the Board of State and Community Corrections is distributing \$9.6 million General Fund in 2020-21, to support facility upgrades and specialized program development and the Budget includes \$46.5 million General Fund in 2021-22, for counties to support implementation of SB 823.

### **POST-RELEASE COMMUNITY SUPERVISION**

The Budget includes \$19.5 million one-time General Fund in 2021-22, for county probation departments to supervise the temporary increase in the average daily population of offenders on Post-Release Community Supervision as a result of the implementation of Proposition 57.

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## **PROPOSITION 47 SAVINGS**

In November 2014, voters passed Proposition 47, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing. Proposition 47 requires the Department of Finance to annually estimate savings to the state resulting from the measure in the preceding fiscal year and that an equivalent amount from the General Fund be deposited into a special fund for specified purposes.

The Department of Finance currently estimates net General Fund savings of \$114.8 million, an increase of \$11.9 million over the estimated savings in 2020-21. This is attributable primarily to increased savings resulting from the end of the state's reliance on contract facilities to house prison inmates. These funds will be allocated according to the formula outlined in the initiative, which requires 65 percent be allocated for grants to public agencies to support various recidivism reduction programs (such as

mental health and substance use services), 25 percent for grants to support truancy and dropout prevention programs, and 10 percent for grants for victims' services.

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### **COUNTY JAIL RELINQUISHMENTS**

The Board of State and Community Corrections administers five financing programs for adult jail facilities in counties statewide. Since these programs commenced, several county recipients have relinquished their awards and some counties realized minor project savings that remain unspent. Approximately \$202 million is currently available for allocation. The Administration supports reallocating these bonds to purchase or modify community mental health facilities. For more information, please refer to the Housing and Homelessness and Health and Human Services Chapters.

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### **PENAL CODE REVIEW**

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#### **COMMITTEE ON REVISION TO THE PENAL CODE**

The Budget includes \$494,000 ongoing General Fund for additional staffing for the Committee on Revision of the Penal Code. The Committee was established on January 1, 2020, to study and recommend changes to simplify and rationalize California's criminal laws and will produce its first set of recommendations in January 2021. The Committee's first year of work has confirmed the need for additional legal staff to address the complexity and scope of California's criminal justice system.

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### **DEPARTMENT OF JUSTICE**

As chief law officer of the state, the Attorney General has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice (DOJ). The Department provides legal services on behalf of the people of California; serves as legal counsel to state agencies; provides oversight, enforcement, education, and regulation of California's firearms laws; provides evaluation and analysis of physical evidence; and supports data needs of California's criminal justice community. The Budget includes total funding of approximately \$1.1 billion, including \$358 million General Fund, to support DOJ.

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## POLICE USE OF FORCE INVESTIGATIONS

Chapter 326, Statutes of 2020 (AB 1506), requires a state prosecutor to investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian, and makes the Attorney General the state prosecutor unless otherwise specified or named. The Budget includes \$13 million General Fund in 2021-22, increasing to \$13.5 million ongoing, to establish three teams, one in each of the northern, central, and southern regions of California, to conduct these investigations across the state. AB 1506 also requires DOJ, commencing July 1, 2023, to operate a Police Practices Division to review and make recommendations on the use of deadly force policies of law enforcement agencies. The Administration is committed to working with DOJ on the implementation of this Division in the future.

## SIGNIFICANT ADJUSTMENTS

- Bureau of Forensic Services—\$16 million (\$6 million General Fund and \$10 million Fingerprint Fees Account) in 2021-22, increasing to \$28.3 million ongoing (\$18.3 million General Fund and \$10 million Fingerprint Fees Account), to backfill the continued decline in fine and fee revenues in the DNA Identification Fund. This funding will enable DOJ to continue processing forensic evidence for client counties.
- Consolidated Science Forensic Laboratory—\$6.5 million one-time General Fund for DOJ to build a new facility to expand forensic capacity and capability, and to allow California to remain on the cutting edge of forensic science and technology.
- Healthcare Rights and Access Workload—\$2.1 million ongoing Public Rights Law Enforcement Special Fund to address workload concerns in the recently established Healthcare Rights and Access Unit within the Division of Legal Services.
- Chapter 337, Statutes of 2020 (SB 823)—\$1.9 million General Fund in 2021-22, and \$1 million in 2022-23, to convene a working group to submit a plan for the replacement of the Juvenile Court and Probation Statistical System with a modern database, as part of the realignment of the Division of Juvenile Justice to the counties.
- Chapter 319, Statutes of 2020 (AB 3121)—\$1.1 million General Fund in 2021-22 and 2022-23, to support the Task Force to Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans Who are Descendants of Persons Enslaved in the United States.

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- Chapter 292, Statutes of 2020 (AB 2847)—\$674,000 Dealers Record of Sale Special Account in 2021-22, and \$1.3 million in 2022-23, for information technology resources to update systems to track microstamp information as required by the bill.