

California Department of Corrections and Rehabilitation:

Inmates Sentenced Under the Three Strikes Law
and a Small Number of Inmates Receiving Specialty
Health Care Represent Significant Costs

May 2010 Report 2009-107.2



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May 18, 2010

2009-107.2

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor presents this audit report concerning the effect of California Department of Corrections and Rehabilitation's (Corrections) operations on the state budget.

This report concludes that inmates sentenced under the three strikes law, and a small number of inmates receiving specialty health care, represent significant costs. Specifically, about 25 percent of the inmate population was incarcerated under the three strikes law, which requires longer terms for individuals convicted of any felony if they were previously convicted of a serious or violent crime as defined in state law. On average, we estimate that these individuals' sentences are nine years longer because of the requirements of the three strikes law and that these additional years of incarceration represent a cost to the State of \$19.2 billion. Furthermore, the current conviction for which many of these individuals are incarcerated is not for a serious or violent crime, as defined in state law, and many were convicted of multiple serious or violent crimes that occurred on the same day.

Our review also found that of the \$529 million that California Prison Health Care Services incurred for contracted specialty health care providers in fiscal year 2007–08, \$469 million could be associated with individual inmates. Among the inmates with specialty health care costs, 70 percent averaged slightly more than \$1,000 per inmate and cost \$42 million in total, while the remaining 30 percent of inmates amassed specialty health care costs totaling more than \$427 million. Furthermore, specialty health care costs for 1,175 inmates, or just one-half of 1 percent of the inmates incarcerated during the year, totaled \$185 million. In addition, specialty health care costs totaled \$8.8 million for the 72 inmates who died during the last quarter of the year, exceeding \$1 million in the case of one inmate.

Finally, a significant amount of custody staff overtime is the result of a medical guarding and transportation workload that does not have associated authorized positions. Overtime is also necessary when custody staff positions are vacant, but is decreased by staff who do not use the full amount of leave they earn. However, the unused leave of custody staff—increased by the additional leave provided through the furlough program—represents a liability to the State that we estimate is at least \$546 million and could be more than \$1 billion.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Contents

Summary	1
Introduction	7
Chapter 1	
Longer Sentences Due to Three Strikes Represent a Significant Cost	21
Recommendations	34
Chapter 2	
A Small Portion of the Inmate Population Accounts for Most Contracted Specialty Health Care Costs	35
Recommendations	46
Chapter 3	
Vacant Positions, Medical Guarding, and Leave Accruals Influence Overtime Costs	49
Recommendations	63
Appendix	
Serious or Violent Felonies as Defined by California State Law	65
Responses to the Audit	
California Department of Corrections and Rehabilitation	69
California State Auditor's Comments on the Response From the California Department of Corrections and Rehabilitation	71
California Prison Health Care Services	73
California State Auditor's Comment on the Response From California Prison Health Care Services	75

Summary

Results in Brief

The mission of the California Department of Corrections and Rehabilitation (Corrections) is to ensure public safety through the safe and secure incarceration of offenders, effective supervision of parolees, and rehabilitation strategies to successfully reintegrate offenders into communities. In a report we published in September 2009 titled 2009-107.1: *California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations* (prior report), we described how Corrections' expenditures of \$10 billion comprised 10 percent of the State's General Fund budget for fiscal year 2007–08. Although Corrections tracks costs at the institutional level, it does not track costs in a manner that would allow us to stratify them by specific inmate characteristic. As a result, despite rising costs, Corrections does not have sufficient information to identify how much specific inmate or institution characteristics contribute to these costs and how changes in its operations would influence expenditures. In this report, we expand on certain issues presented in our prior report and present additional information related to the inmates incarcerated under the three strikes law (striker inmates). We provide a breakdown of some health care costs by type of service, the health care delivery method, and whether the inmates receiving specialty health care were striker inmates. We also describe the impact of vacancies on overtime, and we discuss California Prison Health Care Services' (Health Care Services) plans for containing health care costs.

As of April 2009, 25 percent of the inmate population was incarcerated under the three strikes law, which requires longer sentences for individuals who are convicted of any felony and have been convicted previously of crimes defined in state law as serious or violent felonies, also known as strikes. As discussed in our prior report, we estimated that on average, these individuals' sentences are nine years longer because of the requirements of the three strikes law. In further analyzing the nature of the crimes for which striker inmates are incarcerated, we found that the current conviction for which many are imprisoned is not a strike. However, the longer sentences that striker inmates are receiving are based on their previous strikes. We also found that significant portions of the striker inmate population were convicted of committing multiple serious or violent offenses on the same day, and that some committed one or more serious or violent offenses as a juvenile.

Audit Highlights . . .

Our review of California's increasing prison cost as a proportion of the state budget and California Department of Corrections and Rehabilitation's (Corrections) operations revealed the following:

- » *Inmates incarcerated under the three strikes law (striker inmates):*
 - *Make up 25 percent of the inmate population as of April 2009.*
 - *Receive sentences that are, on average, nine years longer—resulting in about \$19.2 billion in additional costs over the duration of their incarceration.*
 - *Include many individuals currently convicted for an offense that is not a strike, were convicted of committing multiple serious or violent offenses on the same day, and some that committed strikeable offenses as a juvenile.*
- » *Inmate health care costs are significant to the cost of housing inmates. In fiscal year 2007–08, \$529 million was incurred for contracted services by specialty health care providers. Additionally:*
 - *30 percent of the inmates receiving such care cost more than \$427 million.*
 - *The costs for the remaining 70 percent averaged just over \$1,000 per inmate.*
 - *The costs for those inmates who died during the last quarter ranged from \$150 for one inmate to more than \$1 million for another.*

continued on next page . . .

» *A significant portion of the increased workload due to medical guarding and transportation is covered through overtime.*

» *The large leave balances of custody staff, to which the furlough program has contributed a significant amount, will eventually cost the State from \$546 million to more than \$1 billion.*

As we described in our prior report, the cost of housing striker inmates for the additional years they were sentenced to under the three strikes law represents a substantial liability to the State. We estimated that the additional years imposed by the three strikes law represent \$19.2 billion in additional costs over the duration of the incarceration of striker inmates identified as of April 2009. Of this amount, \$7.5 billion is associated with striker inmates whose current convictions are for crimes that are not strikes. Although we identified specific populations of striker inmates and the additional years these inmates are sentenced to, there are some limitations in Corrections' data that limited our analysis.

A significant part of the overall cost to house inmates in Corrections' 33 institutions is inmate health care costs. Health care provided to inmates can generally be classified as one of two types: primary health care, which is provided by medical staff within the institutions, and contracted specialty health care, which is provided by contracted providers. We obtained the costs and nature of contracted specialty health care provided to inmates from the Contract Medical Database (the CMD), most of which we were able to associate with individual inmates.

Of the \$734 million in the CMD costs in fiscal year 2007–08, \$529 million was for contracted services by specialty health care providers. The remaining \$205 million was for contractors that provide temporary staff to fill vacant health care positions to provide medical care at the institutions, referred to as registry costs. Of the \$529 million in contracted specialty health care costs, we were able to associate 89 percent, or \$469 million, with valid inmate identification numbers. We could not associate the remaining \$60 million with specific inmates. Our analysis of the specialty health care costs associated with specific inmates revealed that the majority of these costs for fiscal year 2007–08 were associated with a relatively small population of inmates. Specifically, among the inmates with specialty health care costs recorded in the CMD, 30 percent of the population cost more than \$427 million, while the costs for the remaining 70 percent averaged slightly more than \$1,000 per inmate. Further, just one-half of 1 percent of the inmates incarcerated during the year, or 1,175 inmates, incurred 39 percent of such costs in fiscal year 2007–08. We also found that of the nearly 15,800 inmates who incurred more than \$5,000 in specialty care costs during fiscal year 2007–08, 63 percent were age 40 and older. In comparison, inmates age 40 or over represent only 41 percent of all inmates. We also found that the 72 inmates who died during the last quarter of fiscal year 2007–08 incurred, on average, \$122,300 for specialty health care services for that fiscal year. Ranging from \$150 for one inmate to more than \$1 million for another, these 72 inmates accounted for \$8.8 million in specialty health care costs during fiscal year 2007–08.

According to Health Care Services—the organization overseen by the federal receiver responsible for administering health care provided to inmates—it is taking steps to contain health care costs. These cost containment measures include implementing utilization management, contracting with a third-party administrator to process medical invoices, and expanding telemedicine. Although Health Care Services has continued expanding its use of telemedicine as part of its cost containment strategy, it has not fully estimated the potential savings of using additional telemedicine. Health Care Services did provide an estimate of the medical guarding and transportation costs that are avoided with each telemedicine consultation, which indicates that the telemedicine consultations completed in fiscal year 2008–09 resulted in savings of \$4.6 million to \$9.2 million in guarding and transportation costs. Estimates of the costs associated with projects that will facilitate expanding telemedicine are significant. They include \$41 million for the Telemedicine Services Project, a broadly defined project intended to provide technology and resources to improve and expand telemedicine services by 400 percent to 80,000 consultations by fiscal year 2013–14. Using Health Care Services' most recent cost avoidance estimates, the \$41 million in costs would be offset by \$46 million to \$93 million in costs avoided over the five-year period. Savings vary significantly by institution, however, suggesting that some telemedicine consultations may not be cost-effective.

Finally, using payroll-related information from the State Controller's Office, we reviewed the relationship between Corrections' vacant custody staff positions and overtime. We determined that a significant workload related to medical guarding and transportation does not have associated authorized positions and is covered through overtime. Additionally, we found that the formula Corrections uses to determine how many custody staff should be hired to adequately staff its institutions did not accurately account for the factors in the documentation that supports Corrections' calculation of custody staff that are unavailable to work, such as vacation or sick leave. As a result, custody staff opportunities to take the leave that they earn were decreased. These errors are offset in some institutions by the way Corrections applies the formula to the number of guarding assignments.

Whether due to fewer opportunities to use leave or other factors, custody staff have accumulated significant leave balances. Although the work provided when staff choose not to take the full amount of leave they earn during the course of a year reduces the current staffing costs of running the correctional system, the growing leave balances represent a deferred liability. However, if custody staff used the leave to which they are entitled, Corrections would incur higher overtime costs. The furlough program has exacerbated this situation

because of the need to maintain staffing levels in the institutions, causing further increases in total leave balances. We estimate these total leave balances will result in an eventual cost to the State of at least \$546 million and could be more than \$1 billion, depending on whether staff are paid for the leave when they quit or retire, or are able to use the leave while they are employed.

Recommendations

Health Care Services should continue to explore methods of reducing the costs of medical care to the State, including those of inmates with high medical costs. These efforts could include proposing a review of the program that allows for the early release of terminally ill or medically incapacitated inmates, and other possible means of altering the ways in which inmates are housed without unduly increasing the risk to the public.

To determine whether the additional expansion of telemedicine is cost-effective within the California correctional system, Health Care Services should further analyze the cost-effectiveness of telemedicine through a more robust estimate of savings, including consideration of factors such as the percentage of telemedicine consultations that required subsequent in-person visits because the issue could not be addressed through telemedicine.

To ensure that the level of custody staffing meets institutional needs, and to provide staff the opportunity to use the amount of leave they earn in the future, Corrections should update its staffing formulas to accurately represent each of the factors for which custody staff are unavailable to work, such as vacation or sick leave. In addition, Corrections should create a policy for regularly scheduled reviews of the data used in the staffing formulas and update the formulas as necessary.

To better communicate to policy makers the annual cost of incarceration, and to provide a more accurate estimate of expenditures associated with changes in the large leave balances of custody staff—many of whom require relief coverage when they are absent—Corrections should provide the following as supplemental information to the relevant legislative policy and fiscal committees:

- A calculation of the annual increase or decrease in its liability for the leave balances of custody staff to better explain the cause of changes in expenditures.
- An estimate of the annual cost of leave balances likely to be paid for retiring custody staff.

Agency Comments

Corrections did not disagree with our findings or recommendations, but did not specifically address them in its response.

Health Care Services states that it concurs with the audit findings and recommendations, but also chose not to address them specifically.

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Introduction

Background

Established in 1944, the California Department of Corrections and Rehabilitation (Corrections) operates California's prisons, oversees community correctional facilities, supervises parolees, and operates the juvenile justice system. Corrections' mission is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into communities. In a July 2005 reorganization, Corrections added "Rehabilitation" to its name to encompass its objective of addressing the rehabilitative and reentry needs of incarcerated juvenile wards and adult inmates. As of June 30, 2009, it was responsible for nearly 168,000 inmates, 111,000 parolees, and more than 1,600 juvenile wards of the State.

Corrections' Annual Expenditures

In a report we published in September 2009 titled 2009-107.1: *California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations* (prior report), we stated that Corrections' expenditures comprised 10 percent of the State's General Fund budget in fiscal year 2007-08, having increased by 32 percent over the previous three years, to \$10 billion. During the same period, Corrections' population of adult inmates decreased by 1 percent while its population of adult parolees increased by 7 percent, juveniles in facilities decreased by 37 percent, and juvenile parolees decreased by 29 percent. In fiscal year 2008-09 Corrections reported overall expenditures of \$10.2 billion and the percentages spent in the general areas of operation were similar to those in fiscal year 2007-08. As shown in Table 1 on the following page, most of Corrections' expenditures are attributable to two programs, Adult Corrections and Rehabilitation (adult corrections) and Adult Health Care Services (adult health care). For fiscal year 2007-08, expenditures on adult corrections totaled \$5.4 billion, or more than half of Corrections' expenditures for that year. This amount includes expenditures for the 33 adult correctional institutions, the conservation camps, and costs of inmates sent to community correctional facilities and to out-of-state correctional facilities.

Adult health care, the second most expensive cost area of Corrections' operations, cost \$2.1 billion in fiscal year 2007-08, or 22 percent of Corrections' total expenditures. Some inmate health care is offered internally at all adult institutions, but

significant amounts of the adult health care expenditures are related to specialty health care services from contracted providers. Specialty health care includes care provided in areas such as surgery, cardiology, and dermatology. These costs totaled \$529 million in fiscal year 2007–08, or 25 percent of all health care related costs. According to the 2009–10 Governor’s Budget, the objective of adult health care is to provide medical, dental, and mental health care to the inmate population statewide, consistent with adopted standards for the quality and scope of services within a custodial environment. The adult health care program also operates three licensed hospitals and a skilled nursing facility for female inmates, 16 correctional treatment centers, a hospice care wing at California Medical Facility, and eight HIV units at various institutions.

Table 1
California Department of Corrections and Rehabilitation’s Program Expenditures for Fiscal Year 2007–08

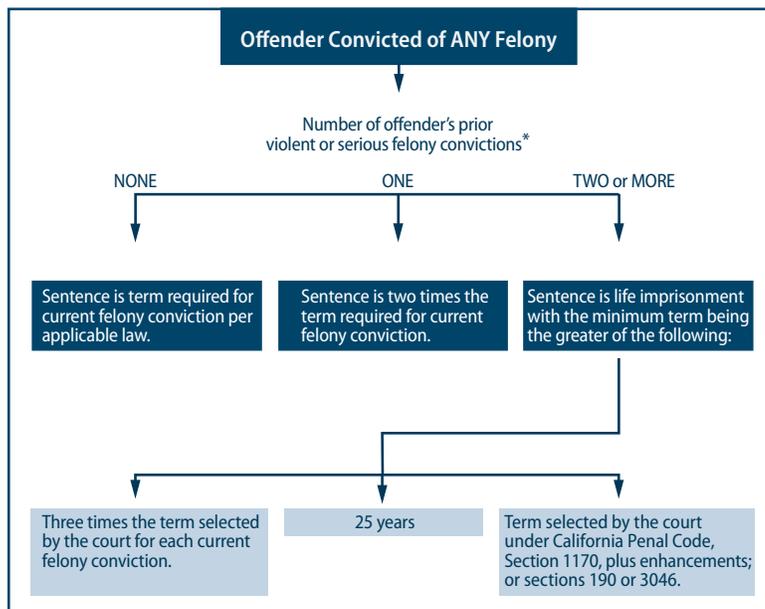
PROGRAM	TOTALS	PERCENT
Adults		
Adult corrections and rehabilitation	\$5,407,735,654	54%
Correctional inmate health care	2,144,083,416	22
Education, vocational, and other rehabilitation	428,347,373	4
Community partnerships	8,999,779	0
Subtotals	\$7,989,166,222	80%
Parole		
Adult parole operations	\$733,818,494	7%
Board of parole hearings	85,202,618	1
Subtotals	\$819,021,112	8%
Juveniles		
Facilities operations	\$213,396,454	2%
Programs	162,545,866	2
Health care services	93,871,269	1
Parole operations	30,124,029	0
Subtotals	\$499,937,618	5%
Other		
Administration	\$291,410,083	3%
Corrections standards authority	220,823,787	2
Capital outlay	149,649,936	2
Subtotal	\$661,883,806	7%
Total	\$9,970,008,758	

Source: Bureau of State Audits’ analysis of California Department of Corrections and Rehabilitation’s accounting records for fiscal year 2007–08.

The Three Strikes Law

California enacted the three strikes law in 1994,¹ with the intent of ensuring longer prison sentences and greater punishment for those who commit a felony and were convicted previously of a serious or violent felony. As Figure 1 shows, when a person is convicted of a felony and has one prior conviction for a serious or violent felony, the three strikes law provides a minimum sentence that is double the sentence a court would have imposed on an individual with no prior serious or violent felony convictions; this type of offender is often referred to as a second striker. The three strikes law also generally provides a minimum sentence of 25 years to life imprisonment for someone who is convicted of a felony and who has two or more prior convictions for a serious or violent felony; this type of offender is often referred to as a third striker.

Figure 1
General Application of the Three Strikes Law



Source: California Penal Code, sections 667 (b)–(i) and 1170.12.

* Per California Penal Code, sections 667 (f)(2) and 1170.12 (d)(2), upon recommendation by the district attorney, the court may dismiss or strike a defendant's prior felony conviction allegation(s). Moreover, per *People v. Superior Court (Romero)*, a judge may also dismiss a prior felony conviction.

¹ The Legislature enacted the three strikes law in March 1994, and in November 1994 voters approved Proposition 184 to enact a virtually identical version of the law.

The three strikes law specifies the offenses for which a prior felony conviction counts as a strike. A prior conviction for an offense that California law defines as a violent felony or a serious felony counts as a strike. In addition, the three strikes law specifies that a prior conviction for an offense committed in another jurisdiction counts as a strike if the offense would have been punishable by imprisonment in state prison in California and if the offense has all the elements of a serious or violent felony as defined by California law. The three strikes law further specifies that offenses committed by juveniles may count as strikes in certain circumstances. Although these juvenile offenses are not expressly defined as serious or violent felonies, we use the term “serious or violent felony” to describe any offense that could count as a strike. The Appendix provides a list of all serious or violent felonies.

Under the three strikes law, only a defendant’s prior convictions for serious or violent felonies constitute strikes. A defendant subsequently convicted of any felony, even a felony that is not a serious or violent felony, may be sentenced under the three strikes law. For example, courts have sentenced defendants who were convicted of felony petty theft for shoplifting to 25 years to life imprisonment under the three strikes law because they had at least two prior convictions for serious or violent felonies. In *People v. Romero*,² the defendant had prior convictions dating to the 1980s for burglary, hit and run, battery on a peace officer, and lewd conduct with a child under age 14. After Romero was convicted of felony petty theft for stealing a magazine in 1999, he was sentenced to 25 years to life imprisonment under the three strikes law because of his prior convictions.

Although the three strikes law may result in circumstances like *Romero*, the law allows prior strikes to be dismissed in certain circumstances. Even if a prior felony conviction otherwise would count as a strike, a prosecutor may ask a court not to count it as a strike in the furtherance of justice or if insufficient evidence exists to prove the prior felony conviction. Additionally, in 1996 the California Supreme Court held that a court may also decide, without a request from a prosecutor, not to count a prior felony conviction as a strike in the furtherance of justice.

In addition to the minimum prison sentences required, the three strikes law has other provisions that may affect the size of California’s inmate population. For example, a second or third striker may not be granted probation and may not be committed to any facility other than a state prison. The law also limits the amount of credit that inmates incarcerated under the three strikes

² *People v. Romero* (2002) 99 Cal. App. 4th 1418.

law (striker inmates) can earn against their prison sentence for participation in work training or education programs while in prison. Generally, striker inmates may earn a maximum of 20 percent credit against their sentences, while other inmates may be paroled after serving less than 40 percent of their sentences. Moreover, a striker defendant convicted of multiple current offenses generally must serve consecutive sentences rather than concurrent sentences.

Many other states have strike laws; however, differences exist among states regarding what constitutes a strike and the lengths of sentences for second- and third-strike offenses. For instance, the three strikes law in California includes the sale of certain drugs to minors as a strike offense, while New Jersey and Arkansas do not include drug-related crimes as strike offenses. Additionally, an individual who commits any felony can be sentenced under the three strikes law in California if prior felony convictions were strike offenses. In contrast, Arkansas, New Jersey, and Washington require that, for an inmate to be sentenced as a striker, the current conviction must be a strike. Further, some states' striker laws provide a mandatory sentence of life in prison without the possibility of parole for inmates with multiple strikes, while the three strikes law in California sentences such individuals to a term of 25 years to life. Finally, Washington provides a sentence of life without parole for a second conviction for certain sex offenses.

The Federal Court-Appointed Receiver's Role

In 2006 a federal court-appointed a receiver (receiver) to provide leadership and executive management over the California prison medical health care system. In 2006 the receiver established the California Prison Health Care Receivership Corporation to assist with his responsibilities for developing, implementing, and sustaining a health care system that provides constitutionally adequate medical care to all inmates. In June 2008 the court approved the receiver's *Turnaround Plan of Action*, which was designed to address the constitutional deficiencies in California's prison health care system. The plan focuses on six goals, as described in the text box. The receiver uses the name California Prison Health Care Services (Health Care Services) to describe the organization he oversees.

Federal Court-Appointed Receiver's Goals

1. Ensure timely access to health care services.
2. Establish a prison medical program that addresses a full continuum of health care services.
3. Recruit, train, and retain a professional-quality medical care workforce.
4. Implement a quality assurance and continuous improvement program.
5. Establish a medical support infrastructure.
6. Provide for necessary clinical, administrative and housing facilities.

Source: Federal court-appointed receiver's *Turnaround Plan of Action*, June 6, 2008.

As we discussed in our prior report, one way in which Health Care Services plans to improve the provision of specialty care is through the expanded use of telemedicine. Basically, telemedicine involves the delivery of medical services through the use of multimedia technology such as voice, video, and data. This allows the inmate and a medical specialist or psychiatrist to meet through video conferencing. According to Health Care Services, it has expanded the specialty services offered through its telemedicine program from 14 medical specialties in April 2009 to 22 medical specialties as of March 2010.

The Federal Court-Ordered Plan to Reduce the Prison Population

To address the constitutionally inadequate mental and medical health care available to inmates in the California prison system and the threat to the health and safety of inmates posed by overcrowding, in August 2009 a three-judge federal court ordered Corrections to provide the court with a plan that would reduce the population of Corrections' adult institutions over the next two years. According to Corrections, this court order would require a reduction of more than 40,000 inmates. In response to the court order, the secretary of Corrections stated that Corrections believes the federal courts are exceeding their authority under the Prison Litigation Reform Act, and Corrections will continue to fight against a population cap or court-ordered early release. In January 2010 the three-judge panel stayed its order pending Corrections' appeal of the matter to the U.S. Supreme Court.

Scope and Methodology

The Joint Legislative Audit Committee requested that the Bureau of State Audits evaluate the effect of California's rapidly increasing prison population on the state budget. We were asked to focus on specific areas of Corrections' operations to provide the Legislature and the public with information necessary to make informed decisions. Specifically, we were asked to do the following:

- Review the current cost to house inmates; stratify the costs by their security level, age, gender, or any other relevant category tracked by Corrections; and determine the reasons for any significant cost variations among such levels and categories.
- Determine the number of inmates Corrections has sent to other states and calculate the State's cost and impact on Corrections' budget.

- Analyze Corrections' budget to determine the amounts allocated to vocational training, rehabilitation, and education programs.
- For a sample of institutions offering vocational training, rehabilitation, and education programs, review Corrections' system for determining the number of instructors and custody staff needed for inmates to participate in these programs. If such staffing is inadequate, determine if any inmates have been denied access to these programs.
- To the extent possible, determine the costs for incarceration under the three strikes law. At a minimum, determine the incarceration cost for each of the following three scenarios:
 - The third strike was not a serious and violent felony.
 - One or more of the strikes was committed as a juvenile.
 - Multiple strikes were committed during one criminal offense.
- Calculate annual overtime pay since 2002 for Corrections' employees, including correctional officers and custody staff, and investigate the reasons for significant fluctuations.
- Review the number of vacant positions during the last five years and determine whether they affect the annual overtime costs and whether filling vacancies would save Corrections money.
- Determine the extent to which Corrections currently uses and plans to use telemedicine. Further, determine if by using telemedicine Corrections is reducing inmate medical and custody costs and the cost to transport and guard inmates outside the prison environment.

We addressed many of these objectives in our prior report. Specifically, we reviewed the current cost to house inmates, summarized the information available by program and cost area, and ultimately determined the average cost per inmate. We also analyzed the cost variances among institutions and institution missions and identified potential causes of these variances based on information obtained from interviews with Corrections' staff. Additionally, we determined the number of inmates Corrections has sent to other states and the cost of transporting and housing those inmates out of state. We also compiled the amounts allocated to vocational training, rehabilitation, and education programs and reviewed Corrections' process for determining the number of instructors and custody staff necessary for inmates to participate in these types of programs. We estimated the cost of incarcerating striker inmates and stratified the striker and non-striker inmate

population by age. We also calculated the annual overtime pay since fiscal year 2003–04 for Corrections' adult operations employees, including correctional officers and other custody staff. In addition, we identified and investigated significant fluctuations in annual overtime pay, including an examination of the effect of vacant positions on overtime levels. Finally, we reviewed Health Care Services' use of telemedicine and its plans for expanding telemedicine, and identified limitations in Health Care Services' data regarding its estimate of potential cost savings related to the use of telemedicine.

For this report, we determined the number of striker inmates whose current offense was not a serious and violent felony, striker inmates who committed one or more serious or violent offenses as a juvenile, and striker inmates who committed multiple serious or violent offenses on the same day. We also estimated the potential cost of the additional years of incarceration imposed by the three strikes law for each of these groups. Further, we reviewed additional information regarding vacant positions and leave usage and examined state laws, policies, and procedures relevant to these subjects. In addition, to expand on the information presented in our prior report regarding the stratification of incarceration costs by inmate characteristics, we analyzed cost data for contracted specialty health care and reviewed certain characteristics of inmates receiving specialty care. We also reviewed Health Care Services' plans for containing health care costs, including its plan and associated costs for increasing the use of telemedicine.

To expand on the information we reported previously on the cost to house inmates stratified by relevant categories, we examined the cost of adult health care, which is the second most expensive area of Corrections' operations. Using Health Care Services' Contract Medical Database (the CMD) for fiscal year 2007–08, we identified and analyzed the costs of contracted specialty health care services for inmates receiving such care. We reviewed the type of service, the health care delivery method, and whether the inmates receiving specialty health care were striker inmates. We also reviewed the inmate characteristics and type of service provided to inmates who received more than \$5,000 in specialty health care in fiscal year 2007–08. Finally, we identified inmates who died during the last quarter of fiscal year 2007–08 and the amount of contracted specialty health care costs associated with those inmates during the entire fiscal year. As part of this work, we also reviewed Health Care Services' plans for containing the costs of specialty health care in the future. To do so, we interviewed Health Care Services' staff to gain an understanding of the various cost containment measures that Health Care Services is implementing.

To complete our work regarding the audit objectives related to the incarceration costs for specific portions of the striker inmate population, we used data obtained from Corrections' Offender Based Information System as of April 2009. To identify striker inmates incarcerated for a current offense that is a nonserious and nonviolent felony, we identified the population of striker inmates housed by Corrections and then excluded strikers who are incarcerated for a crime that is violent or serious. Corrections' data identify offenses that are classified as violent, enabling us to identify and exclude striker inmates who are incarcerated for such crimes. To identify striker inmates who are incarcerated for a serious felony, our legal counsel reviewed the elements of the remaining crimes committed by striker inmates as of the date the crime was committed to determine which crimes were serious as defined by the relevant state law.

To identify striker inmates who committed multiple strikes during one criminal offense, we identified all offenses in the data that were committed by individuals incarcerated as strikers. We then identified all convictions for offenses committed on the same date, using information in Corrections' database to identify offenses classified as violent, and our legal counsel's review of the elements of the remaining offenses to determine which ones were serious as defined by the relevant state law. In calculating this figure, we were attempting to identify instances in which a person was convicted of more than one crime stemming from the same criminal offense, or set of circumstances. For example, an individual could be charged with robbery, intimidating a witness, and assault with a deadly weapon due to actions they took in the course of a single event. However, this method could include crimes occurring on the same day but related to different offenses or sets of circumstances. If a person is guilty of a criminal act or omission that is punishable in different ways under different laws, state law prohibits punishing the person under more than one law, requires that punishment be imposed under the law that provides the longest potential prison sentence, and requires a court to stay the sentence for the law that provides the shorter sentence. For this reason, we also identified the number of striker inmates who would not have had convictions for multiple serious or violent offenses on the same day if the convictions for offenses whose sentences were stayed had been excluded. This was intended to provide another estimate of the number of striker inmates who have multiple strikes on record stemming from a single set of circumstances.

To identify individuals with one or more strikes committed as juveniles, we obtained the Offender Based Information Tracking System data from Corrections' Division of Juvenile Justice. We then identified the primary offense for each juvenile referral that could be linked to a currently incarcerated striker. Our legal counsel

reviewed the elements of each crime as of the date the crime was committed to determine if it met the definition of a serious or violent crime as established in state law, or a juvenile offense counting as a strike, as defined in state law. Corrections' juvenile data contained all juvenile records since January 1988 and some records from as far back as 1972. Because these data do not contain all juvenile records prior to January 1988, the juvenile history of some older inmates currently incarcerated under the three strikes law may have been excluded, and as a result, our analysis likely understates the number of striker inmates who received one or more strikes as a juvenile.

Although the Offender Based Information System data that we obtained does not indicate which prior crimes were considered when sentencing a criminal as a striker, we attempted to make reasonable inferences from the information available to us. However, we identified certain limitations in the data that may affect the results of our analysis of the striker inmate population. For example, the three strikes law specifies that a prior conviction for an offense committed in another jurisdiction counts as a strike if the offense would have been punishable by imprisonment in state prison in California and if the offense has all the elements of a serious or violent felony as defined in California law. However, Corrections' data does not include convictions from other jurisdictions, so we were not able to incorporate them into our analysis. Without an electronic record of convictions occurring outside of California, it is difficult to determine whether previous crimes committed within California or convictions from another jurisdiction were the underlying cause of an inmate being sentenced as a striker.

Finally, our analysis uses the versions of the laws defining serious and violent crimes that currently apply under the three strikes law.³ By using the currently applicable definitions of serious and violent felonies when determining the number of striker inmates with one or more strikes committed as a juvenile, we may have counted strikers whose prior juvenile offense was not considered serious or violent at the time they were sentenced for their current conviction because voters and the Legislature have amended the laws defining which offenses are considered serious and violent to include additional felonies. Further, by using the currently applicable definitions of serious and violent crimes when identifying striker inmates who committed multiple strikes during one criminal offense, we may have included strikers with one or more prior convictions that were not considered serious or violent when they

³ State law specifies that the statutes referenced in the three strikes law, including the statutes defining serious and violent felonies, are the versions of those statutes that existed on September 20, 2006.

were sentenced for their current conviction. However, given the size of the striker inmate population, the number of crimes committed, and the nature of the data available to us, we determined that this was the most efficient method of accomplishing our audit objective.

To determine the extent to which Health Care Services currently uses or plans to use telemedicine, we interviewed key management at Health Care Services. We reviewed Health Care Services' documentation of its planning and budgeting for the expansion of the telemedicine program. Also, we asked Health Care Services to estimate the number of visits that they expect the expanded telemedicine program to replace. To determine whether Health Care Services' expansion of telemedicine is reducing costs, we obtained the budgets of the projects that Health Care Services indicated are being implemented to facilitate the expansion of telemedicine and attempted to compare the expected costs of the telemedicine expansion project with the expected savings of increased telemedicine usage.

To determine the number of vacant positions for the past five years at Corrections, we obtained the State Controller's Office position roster file for fiscal years 2004-05 through 2008-09. By comparing the total number of authorized positions and the number of those positions that were paid, we calculated the number of vacancies for custody staff positions, including correctional officers, sergeants, and lieutenants. We also interviewed staff at three of Corrections' institutions and key management at headquarters regarding vacant positions.

To determine whether the number of vacant positions affects annual overtime costs, we reviewed Corrections' policies and procedures on staffing and interviewed key management. We obtained information regarding Corrections' staffing formulas and interviewed staff at three institutions to obtain their perspective on how the formula is implemented. We also obtained records from the State Controller's Office payroll system regarding the number of hours of overtime worked by custody staff during fiscal years 2004-05 through 2008-09. We compared the number of actual hours of overtime worked with the number of hours positions were vacant during this period. Additionally, we asked Corrections to identify the key policy changes that affected overtime, leave, and vacancies during this period and analyzed the overtime, leave, and vacancy data in an attempt to determine the causes for overtime.

We relied upon various electronic data in performing this audit. The U.S. Government Accountability Office, whose standards we follow, requires us to assess the sufficiency and appropriateness of computer processed data. To identify the striker inmate populations

for the various scenarios described earlier and to determine the additional cost of inmates incarcerated under the three strikes law, we used information from the Offender Based Information System. We assessed the reliability of the Offender Based Information System by performing electronic testing of key data elements and by testing the accuracy of the data. To test the accuracy of the data, we selected a random sample of inmates and traced key data elements to source documents. During the testing, we identified errors in the inmate identification information that we used for associating striker inmates with crimes they committed in the past. Therefore, we concluded that these data were not sufficiently reliable for the purposes of this audit related to the analysis of prior crimes. Further, we did not conduct completeness testing because the source documents required for this testing are stored at the 33 institutions located throughout the State. Nevertheless, we present the results of our analysis of these data as they represent the best available source of information.

To identify the striker inmates who received a strike as a juvenile, we also used information from the Offender Based Information Tracking System. We assessed the reliability of the Offender Based Information Tracking System by performing electronic testing of key data elements and by testing the accuracy of the data. To test the data's accuracy, we selected a random sample of inmates and traced key data elements to source documents. During the testing we identified errors in the inmate identification information that we used for associating striker inmates with crimes they committed in the past. Therefore, we concluded that these data were not sufficiently reliable for the purposes of identifying striker inmates who received a strike as a juvenile. In addition, we did not conduct completeness testing because the source documents required for this testing are stored at multiple juvenile facilities throughout the State. Nevertheless, we present the results of our analysis of these data as they represent the best available source of information.

We determined that the data we obtained from the State Controller's Office payroll system were sufficiently reliable for the purposes of presenting data on overtime. We assessed the reliability of the payroll data by performing electronic testing of key data elements. In addition, we reviewed testing of the payroll system's major control features performed as a part of the State's financial audit.

We determined that the data we obtained from the State Controller's Office California Leave Accounting System were sufficiently reliable for the purposes of identifying the amount of leave used and accrued by custody staff. We assessed the reliability of the leave data by performing electronic testing of

key data elements. In addition, we reviewed testing of the leave system's major control features performed as a part of the State's financial audit.

We determined that the data we obtained from the State Controller's Office position roster file were sufficiently reliable for the purposes of identifying the number of custodial positions authorized by Corrections. We assessed the reliability of the roster file by performing electronic testing of key data elements and by testing the accuracy and completeness of the data. To test the accuracy of the data, we selected a random sample of custodial staff and traced key data elements to source documents. To test the completeness of the data, we pulled a haphazard sample of source documents and verified that corresponding entries existed in the data.

To identify the costs associated with adult health care we used information from the CMD. We assessed the reliability of the database by performing electronic testing of key data elements and by testing the accuracy and completeness of the data. To test the accuracy of the data, we selected a random sample of inmate health care costs and traced data elements to source documents. To test completeness we pulled a haphazard sample of source documents and verified that corresponding entries existed in the data. We concluded that these data were sufficiently reliable for the purpose of this audit.

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Chapter 1

LONGER SENTENCES DUE TO THREE STRIKES REPRESENT A SIGNIFICANT COST

Chapter Summary

The California Department of Corrections and Rehabilitation (Corrections) housed 171,500 inmates as of April 2009. At that time, inmates sentenced under the three strikes law totaled 43,500, or approximately 25 percent of the total inmate population in California institutions. As discussed in the Introduction, the three strikes law provides a minimum sentence that is double the sentence a court would have imposed on a person who is convicted of a felony and who also has one prior conviction for a serious or violent felony; this type of offender is often referred to as a second striker. The three strikes law also generally provides a minimum sentence of 25 years to life imprisonment for someone who is convicted of a felony and who has two or more prior convictions for a serious or violent felony; this type of offender is often referred to as a third striker. Courts commonly refer to a person's prior convictions for serious or violent felonies as strikes. In our prior report⁴ we found that inmates sentenced under the three strikes law, known as striker inmates, were sentenced on average to an additional nine years of incarceration due to the three strikes law. Further, we found that these additional years represent \$19.2 billion in additional costs over the duration of the sentences of current striker inmates.

In preparing this report, we determined that many striker inmates' current convictions are for felonies that are not defined as serious or violent, and thus are not strikes. We also estimated that \$7.5 billion of the \$19.2 billion in additional costs associated with striker inmates is attributable to strikers whose current convictions are for felonies that are not strikes. Although we identified specific populations of striker inmates and the additional years these inmates are sentenced to, some limitations exist in Corrections' data that limited our analysis and may affect various analyses performed by Corrections.

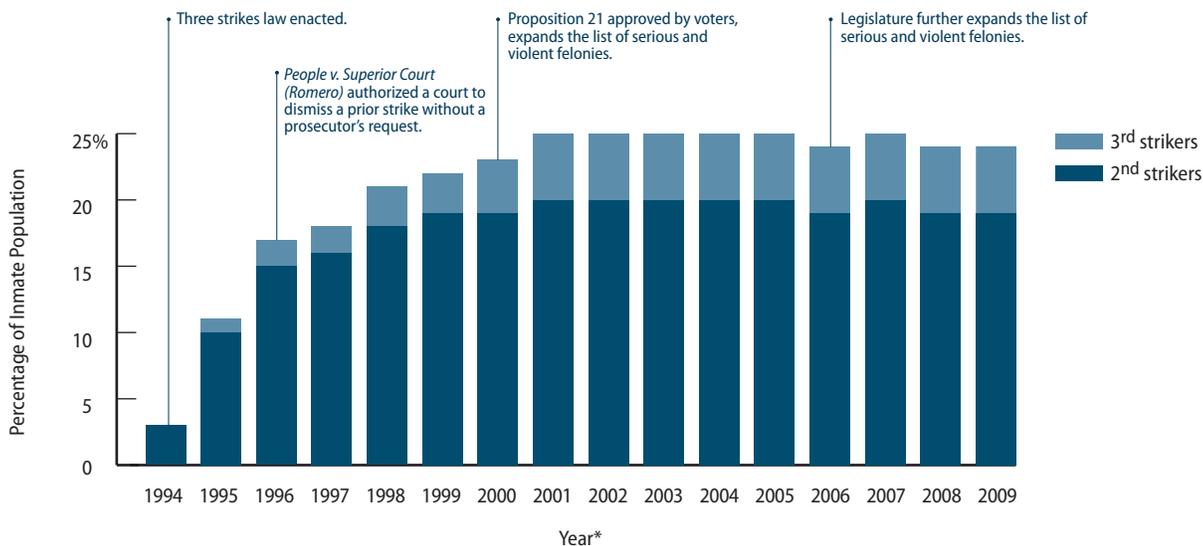
Inmates Sentenced Under the Three Strikes Law Are a Significant Portion of the Inmate Population

In April 2009 Corrections housed more than 43,500 inmates incarcerated under the three strikes law, representing 25 percent of the 171,500 inmates under Corrections' responsibility.

⁴ 2009-107.1: *California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations*, September 2009.

Figure 2 shows that strikers have made up approximately the same percentage of the population since 2001. As discussed in the Introduction, California enacted the three strikes law in 1994,⁵ with the intent of ensuring longer prison sentences and greater punishment for those who commit a felony and were convicted previously of a serious or violent felony. The list of offenses that are considered strikes has expanded since California enacted the three strikes law in 1994. As Figure 2 shows, in 2000 voters approved Proposition 21, which expanded the list of offenses that constitute strikes. In 2006 the Legislature again expanded this list of offenses.

Figure 2
Striker Inmates as a Percentage of the Inmate Population and Time Line of the Three Strikes Law



Sources: California Department of Corrections and Rehabilitation's *Quarterly Second and Third Strike Inmate Population* reports, *Historical Trends, 1987–2007* report, *Prison Census Data* reports 2008 and 2009, sections of the California Penal Code, and a court decision.

* Population as of December of each year.

Many Striker Inmates Received Longer Sentences for Felonies That Are Not Strikes

The three strikes law imposes longer sentences for inmates who commit any felony and have previously been convicted of a violent or serious felony. The felony for which the offender is currently convicted need not be serious or violent for an individual to be

⁵ The Legislature enacted the three strikes law in March 1994, and in November 1994 voters approved Proposition 184 to enact a virtually identical version of the law.

sentenced under the three strikes law. In fact, our review of the controlling offenses of Corrections' striker population found that the current convictions of more than half of the striker inmates are not strikes. As shown in Table 2, 23,099 striker inmates fit this description, representing 53 percent of all strikers as of April 2009. In addition, the audit request asked us to determine the number of striker inmates who received multiple strikes committed during one criminal offense or who committed one or more strikes as a juvenile. The table shows the number of inmates we identified in each category. We noted some overlap among the three categories. For example, of the 23,099 inmates whose current convictions are not strikes, 4,477 also committed more than one serious or violent offense on the same day, and 793 committed one or more serious or violent offenses as a juvenile. Further, as the table shows, 233 striker inmates meet all three of these criteria.

Table 2
Striker Inmates by Category
As of April 2009

	SERVING FOR A CURRENT OFFENSE THAT IS NONSERIOUS AND NONVIOLENT	CONVICTED OF COMMITTING MULTIPLE SERIOUS OR VIOLENT OFFENSES ON THE SAME DAY	WHO COMMITTED ONE OR MORE SERIOUS OR VIOLENT OFFENSES AS A JUVENILE	OTHER STRIKER INMATES*
Number of Striker Inmates	17,596	8,056	671	11,057
	793 [†]		793 [†]	
		631 [†]	631 [†]	
	4,477 [†]	4,477 [†]		
	233 [†]	233 [†]	233 [†]	
Total Individuals Meeting This Criteria	23,099	13,397	2,328	11,057
	53% [‡]	31% [‡]	5% [‡]	25%

Source: Bureau of State Audits' analysis of data obtained from the California Department of Corrections and Rehabilitation's Offender Based Information System and Juvenile Offender Based Information Tracking System.

* Included in the category of Other Striker Inmates are striker inmates who were excluded from the analysis of the three categories of striker inmates shown in this table. The convictions associated with these inmates were for crimes whose descriptions in law are sufficiently broad that some instances of the offenses identified could be considered a strike and others not.

[†] The total striker inmates as of April 2009 was 43,514. Because inmates with convictions that met the criteria of more than one of the three categories of striker inmates are included in each applicable column there is overlap and therefore the column amounts do not agree to the total number of striker inmates.

[‡] Percentage of total inmate strikers within category (includes overlap with other categories).

Many offenses for which striker inmates currently are serving sentences are not on the list of crimes defined as serious or violent and thus do not count as strikes, but they are not trivial

offenses. They include crimes such as certain types of battery, assault, and various sex crimes. According to the general categories in which Corrections' data classifies crimes, of the 23,099 strikers whose current offenses are nonserious and nonviolent, 4,180 were categorized as crimes against persons. An additional 7,213 were classified as property crimes, including burglary in the second degree, and 8,065 crimes were categorized as drug crimes, such as possession of certain controlled substances. Finally, 3,328 were classified as other, and 313 crimes in the data did not include a classification.

Corrections' Data Lack Details Necessary to Accurately Identify Certain Striker Inmate Characteristics

Although we present information in Table 2 on the number of striker inmates who met certain criteria, the data have several limitations, as we discussed in the Scope and Methodology. In addition, as we discuss later in this chapter, we found instances in which data on sentencing guidelines were outdated or incorrect, which complicated our analysis of striker inmates. However, according to a correctional case records administrator (correctional administrator), the Offender Based Information System is the only system that Corrections has available to identify all inmates sentenced under the three strikes law. Because of the limitations of the data, such as the fact that Corrections' data do not indicate which prior convictions were considered when sentencing inmates, we were not able to ensure that the convictions we identified were in fact the convictions leading to the striker sentence.

There are some limitations in Corrections' data. For example, although the three strikes law states that prior convictions for offenses committed in another jurisdiction may count as a strike, such information is not included in the data.

For example, although the three strikes law states that prior convictions for offenses committed in another jurisdiction count as a strike if the offense would have been punishable by imprisonment in state prison in California and if the offense has all the elements of a serious or violent felony as described by California law, the correctional administrator told us that Corrections' data do not include information on offenses committed in other states. Although knowledge of which of an inmate's prior convictions were considered in their sentencing is not crucial information for Corrections' day-to-day operations, it is important to realize that we cannot determine the extent to which the convictions we identified were the convictions that led to an inmate's current sentence. Some inmates may have been sentenced as strikers because of crimes other than those we identified or may have prior convictions for crimes that are strikes in addition to those we identified.

Additionally, although we attempted to identify all convictions related to each individual, it is possible that some convictions were not appropriately related. Corrections assigns inmates a new identification number if they have been discharged and then returned to prison for committing a new crime. Because of this practice, inmates who return to prison have multiple identification numbers, which results in multiple records for some individuals. Although Corrections performs a manual process to identify other identification numbers for an inmate, we have concerns regarding the accuracy of the data used in this process. We are unsure whether Corrections accurately identified all relevant records, but it would not be cost-effective for the purposes of this audit to review the paper records of all inmates. Therefore, we relied on Corrections' analysis to identify the relevant crimes associated with an individual. As a result, it is possible that some crimes we identified are not in fact related to currently incarcerated strikers, or that there are additional crimes related to currently incarcerated strikers that we did not review.

Corrections' data show that many striker inmates committed multiple serious or violent offenses on the same day. However, as described in the Scope and Methodology section, some of these offenses may not have arisen from the same set of circumstances but may merely have occurred on the same day. As a result, the 13,397 striker inmates we identified who were convicted of multiple offenses committed on the same day could include some inmates whose multiple convictions were related to multiple sets of circumstances. For this reason, we performed additional analysis to identify inmates who would not have been counted had stayed sentences been excluded. When the court stays a sentence, it can be an indication that multiple convictions arose from the same set of circumstances. Specifically, if a person is guilty of a criminal act or omission that is punishable in different ways under different laws, state law prohibits punishing the person under more than one law, requires that punishment be imposed under the law that provides the longest potential prison sentence, and requires a court to stay the sentence for the law that provides the shorter sentence. Thus, the number of these inmates with stayed sentences may be a more accurate measure of inmates whose convictions arose from the same set of circumstances. However, it is possible that courts may have chosen to stay the sentences associated with some of these convictions for other reasons, or that some sentences were not stayed due to an exception to this requirement described in the following paragraph.

Of the 13,397 striker inmates convicted of committing multiple serious or violent offenses on the same day, 1,753 would not have been counted if stayed sentences had been excluded.

Because Corrections assigns inmates a new identification number if they have been discharged and then returned to prison for committing a new crime, some inmates have multiple records.

The ability to identify juvenile history of some older inmates incarcerated under the three strikes law is limited because Corrections' juvenile data does not contain all records prior to January 1988.

Sentences stayed for the reason described earlier must meet certain conditions. If a sentence is to be stayed due to this section of law, the circumstances must be indivisible; that is, the individual's actions are reviewed to determine whether they arose from a single underlying intent to take an action in violation of the law. However, if the actions are crimes of violence against different victims, there is an exception to the requirement to stay the sentence. Because the number of relevant inmates depends on the precise definition of the words *single offense*, we calculated both figures.

Compared with the number of striker inmates committing multiple offenses on the same day, the data indicated that relatively few striker inmates committed serious or violent offenses as a juvenile. However, as also described in the Scope and Methodology section, Corrections' juvenile data does not contain all juvenile records prior to January 1988, which limits our ability to identify the juvenile history of some older inmates incarcerated under the three strikes law as of April 2009. Because the three strikes law allows prosecutors and judges to take into account serious and violent crimes that were committed before the three strikes law came into existence, our analysis likely excludes some current striker inmates' serious or violent offenses committed prior to 1988 when they were juveniles.

Finally, it is important to note that we excluded the convictions of some striker inmates from our analysis because we were unable to determine whether or not their convictions constituted strikes. Specifically, we excluded convictions of 760 inmates from the strikers whose current offense was not serious or violent, 346 inmates from the strikers who committed multiple serious or violent offenses on the same day, and 235 inmates from the strikers who committed one or more serious or violent felonies as a juvenile. The convictions of these individuals were for crimes whose descriptions in law are sufficiently broad that in some instances the offenses could be considered serious, and thus a strike, and in other instances they would not be considered serious. For example, conspiracy to commit a serious felony is a strike. Therefore, if an inmate was convicted of conspiring to commit murder, that conspiracy would be considered a serious felony under state law. However, if an inmate was convicted of conspiring to commit a crime that is not a serious felony, the conspiracy offense would not be a strike. According to a correctional case records administrator, the only way to verify whether such offenses were considered serious would have been to review the legal documents associated with the inmates' individual cases, and we determined that such a review would not be cost-effective for the purposes of this audit.

The Additional Years of Incarceration Imposed Due to the Three Strikes Law Represent a Significant Cost

As we discussed in our prior report, we estimate that striker inmates received sentences that are, on average, nine years longer than if they had not been sentenced under the three strikes law. These additional years represent a significant cost to the State. In our previous report we calculated a total cost of \$19.2 billion for the additional years imposed on these inmates' sentences. To calculate this cost, we used the average cost of incarceration for fiscal year 2007-08—a figure that includes all costs associated with adult correctional operations, including administration and overhead. However, the actual number of additional years of incarceration due to three strikes could be even greater due to the fact that strikers cannot earn as much credit toward an early release.

As described in our prior report, we determined the additional cost of striker inmates by identifying the sentence for the controlling offense, if it was related to a three strikes case, or the longest sentence related to a three strikes case, for striker inmates currently housed in Corrections' adult institutions. We then compared the estimated lengths of these sentences with an estimate of the prison terms they might have received had they not been sentenced under the three strikes law. To estimate the term an inmate would have received in the absence of the three strikes law, we identified the midterm of the possible prison terms prescribed by state law for the crime for which the striker inmate was incarcerated. If there were no midterm, we used the maximum prison term specified in state law. We then added any applicable enhancements—additional prison terms prescribed by state law under certain circumstances. For example, an inmate currently convicted of petty theft who had two prior convictions for serious or violent felonies receives a minimum sentence of 25 years to life under the three strikes law. Had he been sentenced to the midterm of the normally applicable sentence, he would have received two years. In this case, we estimated that the inmate would be in prison for 23 years longer under the three strikes law. Additionally, as discussed in the Introduction, a striker defendant convicted of multiple current offenses generally must serve consecutive sentences rather than concurrent sentences. Finally, we excluded inmates whose sentences were likely not to have been increased by the three strikes law.

Our analysis does not take into account certain factors that could affect this additional cost calculation. For instance, the law limits the amount of credit that striker inmates can earn against their prison sentences to a maximum of 20 percent for participating in work, training, or education programs, while other inmates can reduce their prison sentences by more than 50 percent. However,

The actual number of additional years of incarceration due to three strikes may be greater since striker inmates cannot earn as much credit toward an early release.

The number of second-striker inmates with nonserious or nonviolent convictions is more than four times the number of third-striker inmates—yet, the third strikers were sentenced to nearly twice the number of additional years.

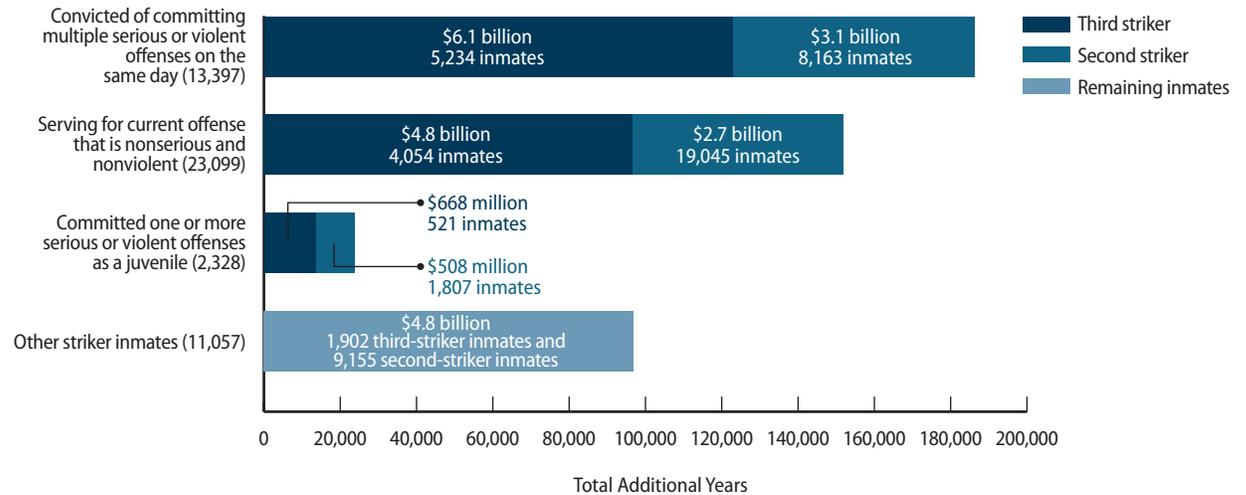
we did not take this factor into consideration because poor behavior can reduce inmates' credits and alter their credit-earning status. Additionally, to provide a more realistic estimate, we considered inmates' ages when calculating the estimated additional years of incarceration they actually would serve if they reached the full life expectancy for Americans, estimated at 77.7 years by the Centers for Disease Control and Prevention.⁶ Finally, according to Corrections, on average 54 percent of all paroled felons released from prison for the first time in 2005 returned to prison within two years of being released. This statistic—known as the recidivism rate—would affect the results, but we did not consider it in our analysis because it too is dependent upon inmate behavior.

For this report we performed additional analyses of the striker inmate population. Specifically, in an analysis of the additional years imposed by the three strikes law for inmates who meet one or more of the three criteria specified in the audit request, we found that the number of second-striker inmates who met one or more of these criteria was significantly higher than the number of third-striker inmates. For example, as shown in Figure 3, the number of second-striker inmates whose current conviction is for an offense that is not serious or violent was 19,045, or more than four times the number of third-striker inmates meeting the same criterion. Despite this fact, these third strikers were sentenced to 96,589 additional years, or nearly twice the 55,327 additional years to which the second strikers were sentenced. This is because under the three strikes law, third strikers generally receive a minimum sentence of 25 years to life, but second strikers receive double the normally imposed sentence. Because there is a significant difference in the number of additional years to which second and third strikers are sentenced, of the striker inmates who met one or more of the criteria we reviewed, the cost of the longer sentences for third strikers represents the majority of the additional cost of the three strikes law.

In addition, we found that inmates who were convicted of multiple serious or violent offenses occurring on the same day were responsible for the largest portion of the estimated cost of the additional years resulting from sentencing under the three strikes law. The additional years imposed by the three strikes law for these inmates represent \$9.2 billion over the duration of their incarceration, using the average cost of incarceration of \$49,300 per year. Further, as shown in Figure 3, we estimate that the costs of the additional years for striker inmates currently incarcerated for a crime that is not serious or violent represents \$7.5 billion over the duration of their incarceration.

⁶ Subsequent to our analysis, the Centers for Disease Control and Prevention reported that life expectancy in the United States has risen to 77.9 years of age.

Figure 3
Additional Years and Estimated Cost of Striker Inmates' Sentences



Sources: Bureau of State Audits' estimate of costs based on data from California Department of Corrections and Rehabilitation's Offender Based Information System and juvenile Offender Based Information Tracking System.

Note: Due to the fact that some striker inmates fall into more than one category, as illustrated in Table 2 on page 23, the number of strikers represented in the figure above add up to more than the total number incarcerated. Because strikers whose characteristics meet the requirements of more than one of the categories, the total years and dollars would need to be reduced by 68,180 years, or \$3.4 billion, to correctly represent the total additional years and cost.

To estimate the cost of the additional years of incarceration for individuals sentenced under the three strikes law, we used the average cost of incarceration for fiscal year 2007–08 as calculated in our prior report. Although Corrections calculates a marginal cost figure—an estimate of the cost to house one additional inmate in a Corrections' institution under overcrowded conditions, also known as the overcrowding rate—we chose not to use this figure for several reasons. Corrections provided a summary showing that, as of March 2010, it is housing roughly 10,300 inmates in overcrowded conditions, meaning that inmates are housed in nontraditional beds in dayrooms or gymnasiums. However, as of April 2009, more than 43,500 inmates were incarcerated under the requirements of the three strikes law, many for serious or violent crimes, which would reduce the likelihood that Corrections could place them in a nontraditional housing area.

Further, as described in the Introduction, in August 2009 a federal three-judge panel ordered Corrections to provide the court with a plan that would reduce the population of Corrections' adult institutions over the next two years. The court order states that

Corrections' plan should reduce the population of its institutions to 137.5 percent of their combined design capacity. According to Corrections, the court order would require a reduction of more than 40,000 inmates. Reducing the number of striker inmates would be difficult, however, due to the requirements of the three strikes law. Specifically, the additional years of incarceration imposed by the three strikes law requires Corrections to house these inmates for a longer period of time. In addition, striker inmates cannot earn as much credit to reduce their sentences as non-striker inmates, meaning Corrections cannot reduce the overcrowding by paroling these inmates more rapidly.

Further, even if Corrections were to address this issue through a reduction in the inmate population, the reduction would not necessarily result in a proportional decrease in costs. Although the custody costs associated with overcrowding would be reduced, institutions operating at 137.5 percent of design capacity would still be incarcerating more inmates than they were designed to house, suggesting that administrative and overhead costs may be similar. Because of the longer sentences and the reduced credit earning opportunities imposed by the three strikes law, striker inmates will likely continue to represent a significant portion of the inmate population. Therefore, the average cost of incarceration appears to be a more appropriate figure for determining the additional cost of the three strikes law.

In our prior report we estimated that striker inmates were sentenced to an additional 389,000 years of incarceration due to the requirements of the three strikes law. However, the actual difference in time served between strikers and non-strikers may be even greater than the difference in sentences. According to Corrections' *Spring 2009 Adult Population Projections* report for fiscal year 2007–08, newly admitted inmates and parole violators who were returned with new terms were sentenced to an average of 4.1 years. In its 2007 and 2008 demographic reports on prisoners and parolees, Corrections reported that, on average, inmates were first paroled after serving two years in 2007 and 2.1 years in 2008.⁷ This is because inmates may earn credit toward an early release by participating in certain programs. However, strikers must serve at least 80 percent of their sentence before they are eligible for release. In contrast, due to a change in state law that occurred in January 2010, non-striker inmates can earn credit that allows them to be paroled after serving less than 40 percent of their sentences. Although the amount of credit earned also depends on inmate behavior, the number of additional years of incarceration due to

Strikers must serve at least 80 percent of their sentence before they are eligible for release while non-striker inmates can be paroled after serving less than 40 percent of their sentences.

⁷ The amount does not include the time served by some parole violators, because these individuals returned to prison for a parole violation and were not sentenced to a new term.

three strikes could be even greater than indicated in Figure 3 on page 29 because strikers cannot earn as much credit toward an early release. Because the credit earned by individuals depends on their behavior, we did not attempt to more precisely calculate the additional years served by striker inmates.

Outdated and Erroneous Information Reduces the Usefulness of Corrections' Data

During our analysis of data related to striker inmates, we identified some concerns with the Offender Based Information System data we obtained from Corrections. We found some inmate convictions that were associated with outdated sentencing data and some sentencing information that indicated specific versions of crimes were active for one day, indicating errors in the data. Although Corrections indicated that it intends to prepare its new data system with accurate information, its plan to correct existing data before they are put into the new system does not appear to address all the areas with which we have concerns. These errors may require Corrections' staff to perform additional analysis to determine if an individual's sentence is accurate and may reduce the accuracy in projecting the terms of inmate incarceration when estimating the inmate population for future years.

In our analysis of Corrections' data related to inmates, we identified some convictions that had been assigned outdated sentencing information—such as the possible term lengths and requirements for notifying local law enforcement upon the inmate's release. This not only complicated our analysis, but also may reduce the accuracy of some analyses performed by Corrections, such as evaluating the accuracy of sentences imposed by the judicial system, or estimating the average daily population in future years for the purpose of estimating budgetary costs or savings. Specifically, when comparing inmates' offense dates to the sentencing information associated with the offense, we identified approximately 85,000 convictions that appeared to be associated with outdated information. When we discussed our concerns with Corrections, a correctional case records administrator (administrator) stated that case records updates its sentencing information to reflect changes in the law once a year and sometimes only once every two years. However, the administrator told us that after the new laws go into effect, case records' staff do not subsequently review convictions associated with the sentencing information that has been updated. Further, the administrator told us that there are situations when case records' staff will correct sentencing information, but some inmate convictions associated with the incorrect sentencing information may go undetected.

We identified approximately 85,000 convictions in Corrections' data that appeared to be associated with outdated sentencing information.

Corrections' record of one inmate's conviction is associated with information that had not been accurate for approximately 22 years prior to the date the offense occurred.

In one case, Corrections' record of an inmate's conviction for injuring a spouse or cohabitant indicates that the offense occurred in March 2003. However, this conviction is associated with sentencing information that was effective between July 1977 and December 1980. As a result, although state law was revised several times subsequent to 1980, this conviction is associated with information that had not been accurate for approximately 22 years prior to the date that this offense occurred. Further, changes to state law in 1980 imposed a longer sentence for this offense than the previous version of this law. Therefore, the conviction for this offense is associated with sentencing information that does not agree with state law at the time the offense occurred.

According to the administrator, inmate sentences imposed by the judicial system are based on legal documents and are tracked separately from the table that contains sentencing data in Corrections' data system, so errors in the sentencing information do not affect the actual sentences that inmates serve. However, she stated that convictions associated with incorrect sentencing information may require Corrections' staff to perform additional analysis to determine if an individual's actual sentence was inappropriate. According to the chief of Corrections' offender information services branch, incorrect sentencing information could lead to inaccurate estimates of the average daily inmate population in future years, which are used to estimate budgetary costs or savings. These errors also can increase Corrections' workload in other ways.

For example, state law requires Corrections to notify local law enforcement and the district attorney 45 days before the release of an inmate in their jurisdiction who was convicted of a violent felony. Our analysis of data indicated that a high number of convictions were associated with outdated sentencing information, and we were concerned that inmates associated with incorrect sentencing information in the database were not always identified in a way that would trigger Corrections' staff to comply with the notification requirements.

When we discussed our concern with Corrections, the administrator stated that analysts perform audits of the files of all inmates who are scheduled to be paroled or released within 60 days to 75 days. As part of this audit, analysts determine whether an inmate is violent and requires notification of any parties before release. We reviewed a random sample of inmates requiring notification of law enforcement and district attorneys before release and found that for the records we reviewed, Corrections' staff sent proper notifications regarding the inmate's release to parole. Although Corrections' manual process appears to be effective for meeting the notification requirements, there may be an opportunity

for Corrections to increase efficiency by ensuring that the information in the database is accurate, thus reducing the need for manual review by case records analysts.

Additionally, we found that some sentence information is inaccurate and that some inmate convictions are associated with this inaccurate information. For example, 42,000 of the 2.8 million convictions we considered in our analysis were associated with sentencing information related to 53 offenses that—according to Corrections’ records—were effective for only one day, indicating errors in the data. For instance, several convictions for grand theft of an automobile or firearm were associated with sentencing information that was effective for only one day. Some of these convictions are for offenses that occurred during 2001; however, the sentencing information associated with these convictions was effective only on January 1, 1997. When we asked about some of these records, the administrator told us that the ending date for these records reflects the same day or day after the beginning date. She stated that these records indicate errors in Corrections’ sentencing data that could not be deleted. We found thousands of convictions associated with this erroneous information, which may reduce the accuracy of some of Corrections’ analyses and increase its workload.

Corrections is developing a new data system, the Strategic Offender Management System. According to the project’s director, the new system is intended to replace approximately 40 separate systems and databases, provide consistency among juvenile and adult data, track each inmate from intake through parole, and provide inmate history upon return to prison. As part of the process of implementing this new system, the project director stated that the project’s data conversion unit would clean up the data that will be transferred into the new system. Specifically, she stated that the outdated sentencing information and other offenses that were out of the ordinary, such as a crime being effective for only one day, should be identified and cleaned up during the second release of phase one of the project. The project director indicated that this release is expected in October 2011. Although the project director indicated that cleanup of the existing data will be part of implementing the new system, Corrections’ data processing manager—who is overseeing the data conversion—told us that the current plan is to ensure that the edit tables, which include sentencing information, are set up correctly in the new system, but the plan does not address in detail how historical data will be reviewed or corrected. Although the new data system may result in more accurate information going forward, it is important that Corrections ensure that its historical data is as accurate as possible before they are converted into the new system. If Corrections is

unable to ensure that its historical data are accurate, the results of some analyses of inmates' prior convictions and sentences may be less reliable.

Recommendations

To address the erroneous sentencing information and inappropriately assigned convictions in its data system, Corrections should:

- Complete its cleanup of data that will be transferred into the new system, ensuring that this review includes a detailed evaluation of convictions that have been assigned outdated sentencing information as well as deleting erroneous sentencing information, before it begins using its new data system.
- Create a schedule for regular checks of the accuracy of existing sentencing information, as well as the accuracy with which sentencing information has been assigned to convictions.

Chapter 2

A SMALL PORTION OF THE INMATE POPULATION ACCOUNTS FOR MOST CONTRACTED SPECIALTY HEALTH CARE COSTS

Chapter Summary

A significant contributor to the cost of housing inmates is their health care. As we describe in our prior report,⁸ the California Department of Corrections and Rehabilitation (Corrections) tracks costs at the institutional level but does not track costs in a manner that would allow their stratification by specific inmate characteristics. As a result, we were unable to associate costs for medical care provided by institution medical staff, including primary care, with specific inmates. However, using the Contract Medical Database (the CMD) maintained by California Prison Health Care Services (Health Care Services), we were able to associate some contracted medical specialty health care costs with specific inmates.

In reviewing this information, we found that a large proportion of the contracted specialty health care costs were for inpatient hospital care, including acute medical and surgical care, and that most specialty health care costs are associated with a small number of inmates. Although our analysis also found that the health care of older inmates was generally more costly, the average costs associated with inmates that died were significantly greater than the average costs for any specific age group. In November 2009 the federal court-appointed receiver (receiver) submitted a required report to the Legislature discussing several cost containment measures to address rising health care costs. As part of these efforts, Health Care Services is continuing to expand its use of telemedicine and estimates significant costs for several projects that it believes are necessary for this expansion, but it has not fully estimated how much the telemedicine program expansion will save.

The Largest Portion of Contracted Specialty Health Care Costs Were Classified as Inpatient Hospital Stays for Medical and Surgical Care

As shown in Table 1 on page 8 in the Introduction, inmate health care costs totaled \$2.1 billion during fiscal year 2007–08. Much of this cost is related to primary care provided by physicians

⁸ 2009-107.1: *California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations*, September 2009.

For fiscal year 2007–08, \$529 million of the \$734 million in contracted health care costs was related to specialty health care.

and nurses within Corrections' institutions. As we described in our prior report, Corrections tracks costs at the institutional level but does not track them in a manner that would allow for their stratification by specific inmate characteristics. As a result, we were unable to associate costs for medical care provided by institution medical staff, including primary care, with specific inmates. However, using Health Care Services' CMD, we were able to associate a significant portion of contracted medical specialty health care costs with specific inmates. According to the data in the CMD for fiscal year 2007–08, Health Care Services incurred more than \$734 million in contracted health care costs. Of this amount, \$205 million was related to the salaries of temporary contracted staff hired to fill vacant health care positions within the institutions—referred to as registry costs. The remaining \$529 million was related to specialty health care services provided to inmates through contracted providers, of which we were able to associate more than \$469 million, or 89 percent, with valid inmate identification numbers. We were unable to associate the remaining \$60 million in contracted specialty health care costs with specific inmates.

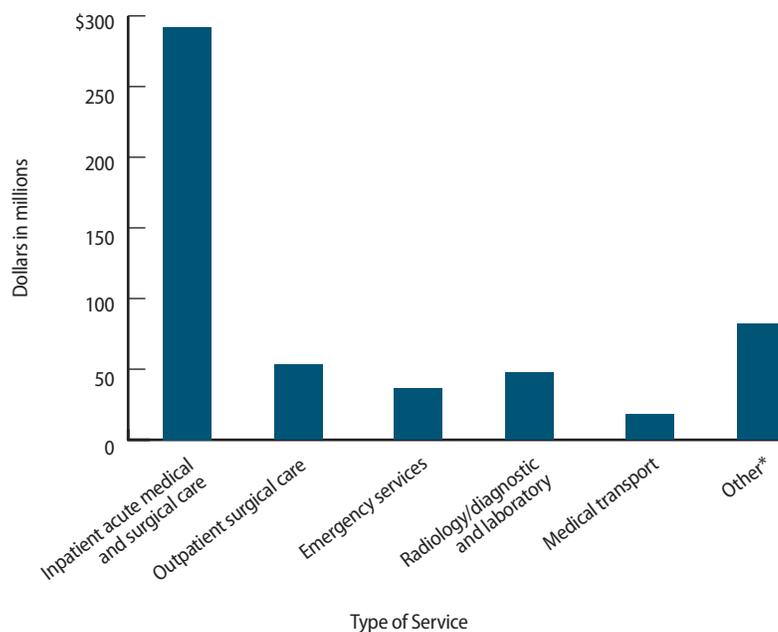
Of the \$529 million in contracted specialty health care costs, Health Care Services' CMD classified more than \$291 million as inpatient hospital care and nearly \$122 million as outpatient hospital care. Each of the remaining health care delivery methods—such as costs for laboratory and X-ray procedures, dialysis, and telemedicine—did not represent a significant amount individually. For example, care provided via telemedicine totaled \$786,000. In total, these other delivery methods cost \$116 million.

Our review indicated that a few types of contracted specialty health care represented a significant portion of the costs. By far, the majority of contracted specialty care costs were for inpatient acute medical and surgical care. As shown in Figure 4, \$292 million, or 55 percent of the total specialty health care costs of \$529 million, was for inpatient acute medical and surgical care. Further, an additional \$53 million was for outpatient surgical care. We combined the remaining service types that were not part of another category as shown in Figure 4 and each individually represented less than 2 percent of total specialty health care costs into the category labeled "Other." These costs included numerous types such as cardiology, dermatology, and dialysis care not provided by Corrections' staff.

It is important to point out that the variance in the amounts spent on different types of service does not necessarily relate to an increased number of inmates served, because some types of specialty health care are significantly more costly per inmate than other specialty types. For example, inpatient acute medical and

surgical care totaled \$292 million, averaging \$29,584 per inmate for the 9,870 inmates receiving this type of care, while emergency services totaled \$36 million and averaged only \$2,787 per inmate for the 12,940 inmates served.

Figure 4
Contracted Specialty Care Costs by Type of Service
Fiscal Year 2007–08



Sources: Bureau of State Audits' analysis of cost data from California Prison Health Care Services' Contract Medical Database for fiscal year 2007–08.

* This category includes other types of care such as cardiology, dermatology, and dialysis.

Most Specialty Health Care Costs Were Associated With a Small Population of Inmates, and Older Inmates Were Generally More Costly

Our analysis of the information in the CMD for fiscal year 2007–08 revealed that most specialty health care costs were associated with a relatively small population of inmates. Specifically, 70 percent of the inmate population with specialty health care costs averaged just more than \$1,000 per inmate and cost \$42 million in total, while the remaining 30 percent of inmates amassed specialty health care costs totaling more than \$427 million.

Of the specialty health care costs we could associate with specific inmates, we determined that 58,726 inmates incurred costs for specialty health care services in fiscal year 2007–08. However, as shown in Table 3 on the following page, 1,175 of these inmates,

or 2 percent, represented 39 percent of the total costs. Specialty health care costs for these 1,175 inmates totaled \$185 million, for an average cost per inmate of nearly \$158,000. In contrast, a large majority of the population of inmates incarcerated during 2007 and 2008 did not have any specialty health care costs. Specifically, although Corrections reported that more than 171,000 inmates were incarcerated as of December 31, 2007, and 2008, it also reports that it paroled, discharged, or otherwise released from custody more than 139,000 inmates and admitted nearly 143,000 inmates during 2008. As a result, the 1,175 inmates incurring 39 percent of specialty health care costs in fiscal year 2007–08 represent approximately one-half of 1 percent of the inmates incarcerated during the year.

Table 3
Specialty Health Care Costs for the Highest-Cost to Lowest-Cost Inmates
Fiscal Year 2007–08

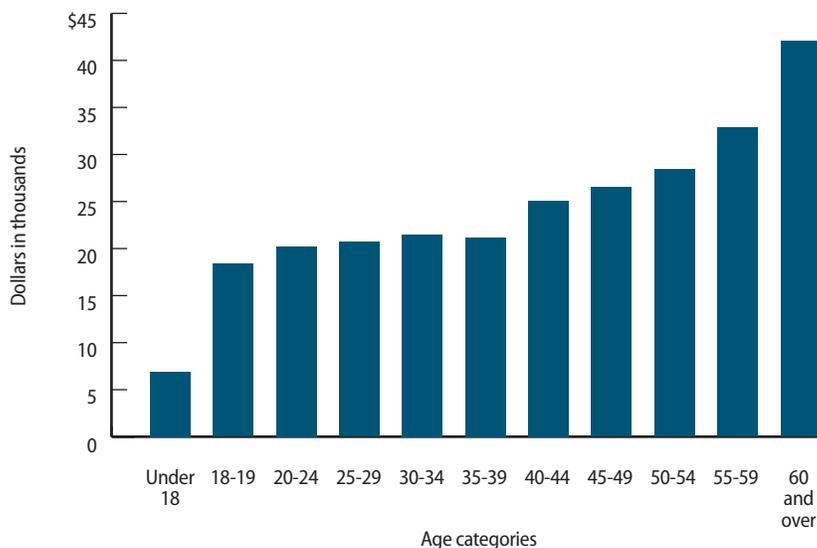
NUMBER OF INMATES WITHIN RANGE (FROM HIGHEST COST TO LOWEST COST)	PERCENTAGE OF THE POPULATION WITH SPECIALTY HEALTH CARE COSTS	TOTAL COST OF SPECIALTY HEALTH CARE FOR INMATES WITHIN THE RANGE	PERCENTAGE OF TOTAL SPECIALTY HEALTH CARE COSTS	AVERAGE COST OF SPECIALTY HEALTH CARE PER INMATE
1,175 (1 to 1,175)	2%	\$185,305,361	39%	\$157,707
2,350 (1,176 to 3,525)	4	96,811,134	21	41,196
4,700 (3,526 to 8,225)	8	80,035,638	17	17,029
9,400 (8,226 to 17,625)	16	65,419,783	14	6,960
41,101 (17,626 to 58,726)	70	41,673,892	9	1,014
58,726		\$469,245,808		

Source: Bureau of State Audits' analysis of data from California Department of Corrections and Rehabilitation's Offender Based Information System and California Prison Health Care Services' Contract Medical Database for fiscal year 2007–08.

In our prior report, we noted that older inmates generally require more health care. Our current analysis of the cost of inmates receiving specialty medical services by age is consistent with that conclusion; specifically, for the inmates that we were able to associate with contracted specialty health care costs who incurred more than \$5,000 in such costs, the average cost generally increased with the age of the inmate. While reviewing data associated with the nearly 15,800 inmates that incurred more than \$5,000 in specialty health care costs during fiscal year 2007–08, we noted that 63 percent were age 40 and older. In comparison, inmates age 40 or over represent only 41 percent of all inmates. As shown in Figure 5, during fiscal year 2007–08 average specialty health care costs generally increased with age, and the oldest inmates were the most costly on average. Specifically, among all inmates with more than \$5,000 in specialty health care costs, specialty health care for inmates age 60 and older averaged \$42,000 per inmate.

We also compared specialty health care costs of inmates incarcerated under the three strikes law (striker inmates) to those of non-striker inmates. We found that the average specialty health care costs in fiscal year 2007–08 were \$8,700 for striker inmates, or 13 percent more than the average of \$7,700 for non-striker inmates. The higher amount for striker inmates is not surprising given the disparity in age between striker inmates and non-striker inmates. As described in our prior report, the largest age group of striker inmates ranges between 40 and 44, while the range for the largest age group of non-strikers is 25 to 29.

Figure 5
Average Contracted Specialty Health Care Costs by Age for Each Inmate Who Incurred More Than \$5,000 in Specialty Care
Fiscal Year 2007–08



Sources: Bureau of State Audits' analysis of data from California Department of Corrections and Rehabilitation's Offender Based Information System and California Prison Health Care Services' Contract Medical Database for fiscal year 2007–08.

Additionally, although we noted that average contracted specialty health care costs generally increased with the age of inmates, the cost of specialty health care associated with inmates that died during the last quarter of fiscal year 2007–08 were significantly greater than those of any specific age group. Each of the 72 inmates who died during the last quarter of fiscal year 2007–08 incurred, on average, \$122,300 for specialty health care services for that fiscal year. Ranging from \$150 for one inmate to more than \$1 million for another, these 72 inmates accounted for \$8.8 million in specialty health care costs during fiscal year 2007–08. A more detailed analysis of the types of care these inmates received reveals that

92 percent of the costs were for inpatient acute medical and surgical care. In contrast to the average of \$122,300 associated with inmates that died, as shown in Figure 5, the average was \$42,000 for the oldest age group of inmates with specialty health care costs exceeding \$5,000.

State law establishes a program that allows Corrections to recommend to a court that it consider the early release of certain inmates who would not threaten public safety and who either are terminally ill with six months or less to live or are medically incapacitated as assessed by a health care provider. According to the receiver, after both Health Care Services and Corrections agree that an inmate meets the criteria for the program, the information is forwarded to a sentencing judge who makes the final determination. The receiver stated that this process occurs very rarely and that few inmates reach the point of having their cases presented to a judge or being released from prison.

Health Care Services Is Taking Steps to Contain Health Care Costs

In November 2009 the receiver submitted a cost containment report to the Legislature in compliance with state law, which requires that Health Care Services provide detailed written reports on actions taken and planned to reduce and better manage medical service contract costs in fiscal year 2009–10 and for future fiscal years. The report discussed several cost containment measures the receiver has implemented or is in the process of implementing. Additionally, when we interviewed the receiver about his plans for containing medical costs, he explained that he and his staff had reviewed expenditures and found that there was a two- to three-year period of large increases in medical costs as more inmates were provided with access to care and began receiving necessary specialty medical care. He explained that he and his staff are focusing on efforts to contain costs, such as utilization management—defined as assessing the efficiency of the health care process and the appropriateness of decision making related to the site, frequency, and duration of care; contracting with a third-party administrator to process medical invoices electronically; and expanding telemedicine. The receiver's November 2009 cost containment report states that Health Care Services is working to achieve a zero growth rate in contract medical expenditures for fiscal year 2009–10, instead of the projected growth rate of 17 percent.

According to the receiver, past efforts to reduce the amount of medically unnecessary off-site referrals were ineffective and not only affected costs but also hindered the ability to support patient care and movement.

In Health Care Services' cost containment report and in his discussion with us, the receiver explained that there were concerns that past utilization management efforts were ineffective in reducing the amount of medically unnecessary off-site referrals.

The report states that these unnecessary referrals not only affect the costs but also overuse scheduling, nursing, and custody staff, hindering their ability to support patient care and movement.

As part of its effort to address the concern about unnecessary referrals, Health Care Services has implemented the use of specialty referral guidelines, referred to by the receiver as InterQual. According to the cost containment report, InterQual is a licensed software product containing a library of evidence-based decision-support criteria, is supported by a clinical advisory team of academic experts, and is updated annually. The report indicates that the use of InterQual promotes the provision of care that meets the criteria of medical necessity. In its cost containment report, Health Care Services reports that since the implementation of InterQual in the fall of 2008, the number of requests for services decreased by 31 percent between April 2009 and September 2009. Additionally, in its April 2010 cost containment report, the receiver reported additional decreases in requests for services through January 2010 for a total decrease of 41 percent between April 2009 and January 2010. Despite this decrease in referrals for specialty care overall, the receiver stated that Health Care Services has not calculated the cost savings associated with the reduction in referrals. However, he indicated that he believes the number of unnecessary referrals has decreased significantly. According to Health Care Services' chief medical officer for utilization management, the data captured by the utilization management databases do not interface with any of Health Care Services' contract or claims databases. Because utilization management data do not interface with the contract or claims databases, Health Care Services is unable to associate specialty health care utilization with the cost of providing the care. As a result, Health Care Services has not calculated a savings associated with the decrease in the number of referrals.

The receiver also discussed with us, and reported in the cost containment report, his concerns about the length of hospital stays by inmates in acute care hospitals in the community. These are inmate stays for emergencies or urgent care that is beyond the scope of Corrections' staff and facilities. According to the receiver, inmates sometimes must remain in the hospital longer than necessary because they cannot be placed back into the general inmate population and the institutions do not have recovery beds available when the hospital is ready to release them. The receiver told us that Health Care Services recently started monitoring 14 or 15 high-volume contracted hospitals that house 80 percent of the hospitalized inmates. The cost containment report also states that Health Care Services implemented a Web-based electronic database in October 2009 that allows institutions and headquarters to monitor the use of infirmary beds at institutions and at community

Although the receiver indicates that the number of unnecessary referrals has decreased significantly, Health Care Services has not calculated a savings associated with the decrease because its utilization data do not interface with certain databases.

hospitals. Under this new monitoring program, the database is updated daily and shows the inmates that were admitted, discharged, and still in the hospital, according to the chief medical officer for utilization management. The information collected in the database is distributed to physicians at the institutions to better manage infirmary beds available at the institutions and to avoid keeping inmates in community hospitals when it is not medically necessary.

According to the receiver, as a result of lawsuits and the appointment of the receiver, inmates were provided additional access to medical services, resulting in major increases in the amount of health care provided. The receiver reported in the cost containment report that this increased access to care has meant that Health Care Services experienced a significant increase in the volume of invoices received for processing from contracted providers. To address the additional volume of invoices, improve the accuracy and timeliness of invoices that were processed manually, reduce duplicate payments, and avoid the penalties incurred due to late payments, the receiver contracted with a third-party administrator to automate invoice processing. According to the director of Health Care Services' administrative support services (director), 80 percent of the invoices will be processed through the third-party administrator once the transition to automated invoicing is fully implemented. The director also told us that contracting with the third-party administrator reduced errors associated with processing health care invoices and the cost of penalties for late payments. Further, the director indicated that Health Care Services contracted with a company to conduct a two-year post audit of health care invoices and estimates that this audit will identify \$10 million in overpayments.

Finally, as we discuss in more detail in the next section, Health Care Services continues to expand the use of telemedicine as part of its cost containment strategies. According to the cost containment report, Health Care Services is taking steps to increase the use of telemedicine to deliver medical care, including expanding the number of medical specialties available through telemedicine and introducing an initiative to increase telemedicine use at selected institutions. Based on the initiative experience, it will develop methods and procedures to improve and expand the use of telemedicine at all institutions. In the solution vision statement of the Telemedicine Services Project summary, Health Care Services indicates that the project will result in significantly improved access to care and quality of care while significantly reducing costs and increasing effectiveness of health care delivery at institutions. The statewide program director of the office of telemedicine services stated that using telemedicine saves costs by reducing the need for guarding and transporting inmates outside of the institutions to

Health Care Services continues to expand the use of telemedicine as part of its cost containment strategies.

see a medical specialist and improves safety by keeping the inmate within an institution's walls. As we discussed in our prior report, medical visits outside the institutions have increased significantly since the establishment of the receiver in 2005, as part of an effort to improve the quality of health care provided to inmates. Taking into account increases in custody staff salary, medical guarding and transportation overtime increased by 449 percent from fiscal years 2003–04 to 2007–08, or more than \$111 million. For the most recent year of our review period, fiscal year 2007–08, overtime for medical guarding and transportation totaled \$136 million.

Although Health Care Services is implementing several cost containment measures that might result in savings, its director of administrative support services stated that it is unable to determine the extent to which each cost containment measure separately contributed to reducing contract medical costs. Further, the director stated that Health Care Services did not perform cost-benefit analyses on the various cost containment measures described in this section because they either were mandated through the court's approval of the receiver's turnaround plan or are integral parts of a modern managed health care organization. The director also told us that although the benefit analysis was not done in the traditional way, the implementation of the cost containment measures are projected to save approximately \$250 million in fiscal year 2009–10. This estimated cost savings figure—according to the receiver's April 2010 cost containment report—is based on projected costs of \$741 million for fiscal year 2009–10 and an assumption that absent the cost containment measures, contract medical service expenditures would have continued to increase to more than \$992 million, a growth of 17 percent over the prior year.

Health Care Services Has Not Fully Estimated the Cost Benefit of Expanding Telemedicine Use

Although Health Care Services has continued expanding its use of telemedicine as part of its cost containment strategy, it has not fully estimated the potential cost savings of using additional telemedicine. Health Care Services has significantly expanded the use of telemedicine within Corrections' institutions over the past two years and reported that it has an ongoing initiative at selected institutions designed to continue increasing the use of telemedicine. According to Health Care Services, in fiscal year 2008–09 it conducted 15,900 medical specialty consultations using telemedicine, a 51 percent increase over fiscal year 2007–08 and a 144 percent increase over the fiscal year 2006–07 amount. In addition, Health Care Services told us it has expanded the specialty services offered through its telemedicine program from 14 medical specialties in April 2009 to 22 medical specialties as of March 2010.

From fiscal years 2003–04 to 2007–08 the cost of overtime for medical guarding and transportation increased by 449 percent to \$136 million.

When we asked Health Care Services to provide us with an estimate of the number of medical specialty visits that could be replaced with telemedicine, the statewide program director for the Office of Telemedicine Services (program director) stated that the data systems needed to generate data that Health Care Services could use to estimate the percentage or number of medical specialty visits that could potentially be provided using telemedicine are not available. The program director stated that the specific data needed for an estimate of this type would include a breakdown of specific procedure codes and information regarding the nature and purpose of visits. The program director stated that it might be possible to develop an estimate by using this data.

Health Care Services did provide an estimate of the medical guarding and transportation costs that are avoided with each telemedicine consultation. This cost avoidance estimate of \$290 or \$580 per telemedicine consultation has been updated from the estimate we discussed in the prior report and is significantly lower than the \$800 previously indicated. The \$580 represents the cost avoidance for transporting and guarding one inmate per visit and the \$290 represents a transport of two inmates per visit. The new estimate provided uses the per visit cost avoidance of \$290 and \$580 to indicate that the telemedicine consultations completed in fiscal year 2008–09 resulted in \$4.6 million to \$9.2 million in avoided guarding and transportation costs. However, according to Health Care Services' staff, the cost avoidance for most visits would be \$290 per visit. Although the updated methodology used to create this estimate addresses one of the concerns described in our prior report, other concerns remain. For example, the calculation continues to exclude consideration of other factors that might affect costs, such as whether a subsequent in-person visit must be performed because the issue could not be treated through telemedicine.

In estimating the medical guarding and transportation costs that are avoided with each telemedicine consultation, Health Care Services needs to include other factors.

Estimated Costs for Improvements to the Outdated Information Technology Infrastructure Necessary to Facilitate the Expansion of Telemedicine Are Significant

Although Health Care Services has not estimated the expected total savings of telemedicine, estimates of the costs associated with projects that will facilitate expanding telemedicine are significant. According to Health Care Services' chief information officer, many of the projects under development are not specific to telemedicine but are necessary to develop a modern information technology infrastructure to take the place of outdated or nonexistent information technology. The chief information officer stated that,

in addition to bringing Corrections closer to current information technology standards, implementing these technology projects would facilitate the provision of additional telemedicine care.

Health Care Services identified seven projects, shown in Table 4, as important and necessary to facilitate the expansion of the telemedicine program. The chief information officer stated that it is important to note that these projects will facilitate a more efficient functioning of the health care program as a whole. He also stated that many of the technological deficiencies that will be addressed by these projects have constrained Health Care Services for many years and said that some of the projects will bring technological resources online that are considered fundamental in most medical facilities. For example, according to the project description for the Health Care Network project, it will establish a high-speed data network that will allow all 33 institutions and headquarters to communicate electronically. The program director told us that the current network inhibits the growth of telemedicine because telemedicine equipment cannot be moved, and that a new computer network would allow telemedicine equipment to be used at many locations in the institutions.

Table 4
Projects Identified by California Prison Health Care Services That Will Facilitate the Expansion of Telemedicine

PROJECT NAME	ESTIMATED PROJECT EXPENDITURES, FISCAL YEARS 2009-10 THROUGH 2013-14
Telemedicine Services	\$41,383,065
Health Care Network	181,501,008
Health Care Scheduling System	21,841,574
Clinical Imaging Services	37,207,667
Clinical Data Repository	118,476,434
Utilization Management	15,118,191
Health Care Data Center	107,539,314
Total	\$523,067,253

Source: Bureau of State Audits' summary of costs from California Prison Health Care Services' Economic Analysis Workbook forms.

Health Care Services also is projecting to spend more than \$41 million on the Telemedicine Services Project, which is a broadly defined project intended to provide technology and resources to improve and expand telemedicine services. More specifically, the

project's budget estimates one-time costs for purchasing hardware, software, and additional telemedicine equipment, as well as ongoing funding for staff and maintenance costs.

According to Health Care Services the Telemedicine Services Project—which is estimated to cost more than \$41 million during fiscal years 2009–10 through 2013–14—will increase telemedicine services by 400 percent, to 80,000 consultations per year by fiscal year 2013–14. Using Health Care Services' most recent per visit cost avoidance estimates of \$290 and \$580 and the increased estimated number of consultations each year due to the expansion project, we estimated that the project would result in \$46 million to \$93 million in cost avoidance over the five-year period. However, as previously described, the telemedicine service project director indicates that Health Care Services is unsure of how many of the current specialty health care consultations can be provided through telemedicine. Further, even without considering the degree to which telemedicine consultations are unsuccessful because the issue must be treated through an in-person consultation, the underlying information used in Health Care Services' cost avoidance figures varies between \$94 and \$1,233 per visit, suggesting that telemedicine consultations may not be cost-effective at some institutions. As a result we believe that additional analysis could allow Health Care Services to better identify visits that would result in a larger cost avoidance if they were replaced with telemedicine. In addition, obtaining a better understanding of the extent to which telemedicine consultations can replace traditional consultations seems prudent, given the infrastructure and staffing costs associated with expanding the program.

Recommendations

Health Care Services should continue to explore methods of reducing the costs of medical care to the State, including those of inmates with high medical costs. These efforts could include proposing a review of the program that allows for the early release of terminally ill or medically incapacitated inmates, and other possible means of altering the ways in which inmates are housed without unduly increasing the risk to the public.

To improve its ability to analyze and demonstrate the effectiveness of current and future utilization management efforts in containing health care costs, Health Care Services should identify a method to associate cost information with utilization management data.

To determine whether the additional expansion of telemedicine is cost-effective within the California correctional system, Health Care Services should do the following:

- Identify and collect the data it needs to estimate the savings of additional telemedicine through an analysis of the cost of specialty care visits currently provided outside of the institution that could be replaced with telemedicine.
- Further analyze the cost-effectiveness of telemedicine through a more robust estimate of savings, including considering factors such as the percent of telemedicine consultations that required subsequent in-person visits because the issue could not be addressed through telemedicine.

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Chapter 3

VACANT POSITIONS, MEDICAL GUARDING, AND LEAVE ACCRUALS INFLUENCE OVERTIME COSTS

Chapter Summary

For our prior report, we identified and reviewed a number of factors that influenced custody staff overtime costs.⁹ Specifically, we found that vacant positions, increased medical guarding, and increased salaries and benefits have led to increased overtime costs. Custody staff vacancies and salary increases were specifically identified as having a significant impact on overtime, due to the need to cover shifts regardless of staffing levels and the increased cost of doing so. Although vacant positions increase the use of custody overtime, they decreased over the last two years we reviewed.

In reviewing more detailed information regarding leave, vacancies, and overtime use by the California Department of Corrections and Rehabilitation (Corrections) for this report, we identified issues that limited our ability to determine the relationships among these factors. One such issue is that a significant workload exists that is covered through overtime in addition to the workload associated with authorized positions. For example, staff at San Quentin State Prison (San Quentin) indicated that there are roughly 100 guarding assignments, on average, necessary each day to guard inmates in community hospitals. Although these inmates must be guarded each day, 58 of these guarding assignments, on average, are covered through overtime as there are not enough positions authorized for this purpose.

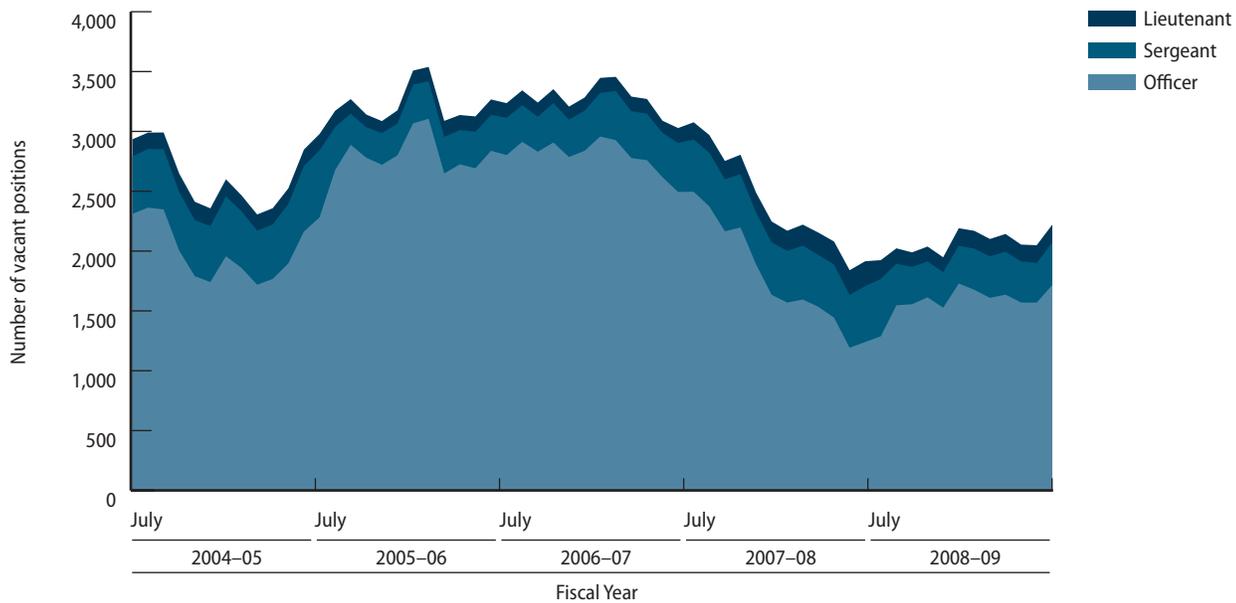
We also determined that Corrections' staffing formulas contain several errors that may cause institutions to schedule more or less leave than they should, depending on the number of vacant positions. Further, we found that custody staff have accumulated leave balances that represent a future liability to the State that we estimate is at least \$546 million and could be more than \$1 billion, depending on whether staff are paid for the leave when they quit or retire, or are able to use the leave while they are employed. We also estimate that upon its termination the furlough program will have contributed more than 8.7 million hours—or \$332 million to \$518 million—to the liability for the leave balances of correctional officers alone, not including other custody staff such as sergeants or lieutenants.

⁹ 2009-107.1: *California Department of Corrections and Rehabilitation: It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations*, September 2009.

Vacancy Levels Have Fluctuated Over the Last Five Years and Can Increase the Use of Overtime

Using position data from the State Controller’s Office for the five-year period ending June 2009, we calculated that Corrections had more than 2,200 vacant custody staff positions as of June 2009. Although this number is significantly lower than the average of 2,700 vacancies that we calculated for fiscal years 2004–05 through 2008–09, it still represents a 7 percent vacancy rate. As shown in Figure 6, the number of vacant custody staff positions fluctuated, ranging from a peak of 3,500 positions in February 2006 to a low of 1,800 in May 2008.

Figure 6
Custody Staff Vacancies
Fiscal Years 2004–05 Through 2008–09



Source: Bureau of State Audits’ analysis of data from the State Controller’s Office position roster file for fiscal years 2004–05 through 2008–09.

Although the number of custody staff employed by Corrections increased overall during this same period, vacancies persisted as Corrections added new authorized custody staff positions. According to the State Controller’s Office data, Corrections’ authorized custody staff positions increased from 25,400 in July 2004 to nearly 30,200 in June 2009—an increase of 4,800.

Two key factors contributed to the increase in authorized positions for custody staff over the period we reviewed. First, changes in the inmate population directly affect the number of custody staff needed. The inmate population increased by 5 percent during fiscal years 2004–05 through 2006–07. Consistent with this increase in population, Corrections’ authorized positions for custody staff increased as well. The second factor was an increase in inmate access to medical care brought about by the actions of the federal court-appointed receiver (receiver). Although the inmate population decreased during the remaining two years of our review period, fiscal years 2007–08 through 2008–09, the receiver identified a need for more custody staff to be assigned to the medical delivery system in the institutions, due to the increase in access to medical care. According to Corrections, the receiver requested 1,750 additional custody staff positions, and Corrections filled these positions during fiscal years 2007–08 and 2008–09.

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To determine the number of vacant custody positions, we identified the number of authorized positions, using the State Controller’s Office position roster file, and subtracted from it the number of paid positions. However, when we compared this result with a summary of data collected by Corrections’ program support unit from each institution in November 2008, we found that Corrections’ summary indicated that it had filled about 1,070 more correctional officer positions than we calculated using the State Controller’s Office position roster file. When we discussed the differences with Corrections’ staff, the chief of the program support unit (chief) stated that there are a number of factors that could cause the differences. Some of the reasons he provided include a variance in the methodology used by each institution to determine the number of filled positions, significant time lag between when positions are filled at institutions and when the institutions submit the paperwork and it is processed by the State Controller’s Office, and institutions counting staff that are in temporary positions—referred to as blanket positions—as filled positions. The chief told us that institutions have many staff in blanket positions. In our calculation of filled positions, we did not include individuals in blanket positions because they are not filling staffing needs associated with authorized positions.

We also discussed the differences with the deputy director of fiscal services (deputy director), who told us that the State Controller’s Office position roster file is not an accurate account of actual authorized and paid positions on a month-to-month basis. He stated that due to Corrections regularly activating and deactivating inmate beds in order to match changes in the inmate population, the number of authorized positions changes every month, and over the course of a year may vary by 5 percent or more. The deputy director also stated that as a result of the activations and

deactivations, forms to add and remove positions are sent to the State Controller's Office and there is a time lag between the positions being opened up at the institutions and the processing of the forms to change the positions. He stated that, as a result, the position roster file might not accurately reflect a particular point in time. Further, the deputy director stated that there are an unknown number of positions that may not have been removed in the State Controller's Office records after a deactivation or staffing change, or may not have been removed in the position roster file in a timely manner. He stated that although Corrections reconciles its budgeted authority to its scheduling system to find and correct differences in the number of custody staff positions, there is no reconciliation between the scheduling system or the budgeted authority data and the State Controller's Office position roster file. Although the deputy director stated that the information from Corrections' scheduling system would have the most accurate representation of actual staffing because shifts and assignments in the system determine actual daily shift coverage and assignments, Corrections was unable to provide us with data from its scheduling system for the five-year period we were asked to review.

Although Corrections increased the number of custody staff employed during the period of our review, vacancies continued to exist because Corrections also added positions. The existence of vacant positions can increase the need for overtime. For example, if the vacancies exist in positions that are designated to cover custody staff on leave, Corrections must have an existing custody staff person work overtime to cover the absent person's guarding assignment. However, as we discussed in our prior report, when we compared the cost of hiring a new correctional officer to the cost of overtime for correctional officers, we determined that the hourly cost of hiring a new correctional officer during the first year of work at an institution is slightly higher than the cost of paying an officer to work overtime. Therefore, reducing overtime by filling vacancies would not reduce costs. However, there are concerns regarding the safety of staff working a high number of overtime hours.

Although reducing overtime by filling vacancies would not reduce costs, there are concerns regarding the safety of staff working a high number of overtime hours.

A Significant Number of Medical Guarding Assignments Are Covered With Overtime

Another factor influencing overtime is that positions have not been created to address a significant number of guarding assignments. This additional guarding work is for custody-related assignments such as medical guarding and transportation, and although much of this work must be covered through overtime, the overtime does not appear to be related to an established workload. Staff we interviewed at three institutions told us they either did not have

authorized positions for medical guarding and transportation or the authorized positions were insufficient. For example, an associate warden at San Quentin told us that it guards inmates receiving inpatient care at Bay Area hospitals. She stated that the number of inmates in community hospitals varies from 10 to 35 per day, but averages 19. She stated that guarding these inmates requires about 100 guarding assignments for 24 hours. This is because guarding an inmate out of the institution typically requires two correctional officers per inmate for each of the three shifts in a day. Further, she stated that on average 58 of these guarding assignments are not associated with authorized positions and are covered through overtime. This information is consistent with the receiver's February 2010 *Monthly Health Care Access Quality Report* (Monthly Health Care Report). The report indicates that, as of February 2010, the monthly average for fiscal year 2009–10, based on information reported by the institutions, is 1,900 personnel years related to medical guarding and transportation that are being covered by overtime, redirected, and part-time staff.

The 1,900 personnel years described in the Monthly Health Care Report include a year-to-date monthly average of 243,500 hours of overtime for medical guarding and transportation. Using the overtime rate of \$52 per hour for a correctional officer with six years of experience, as described in our prior report, the 243,500 hours of overtime per month would cost \$12.7 million, or \$152 million a year. Overtime accounts for 78 percent of the medical guarding and transportation hours, with the remaining 22 percent of hours worked by staff that are redirected from other duties or by part-time employees. Although the actual cost of this overtime may be slightly lower because some correctional officers are paid for overtime at a lower rate, this number of hours represents a significant amount of total custody staff overtime.

The receiver's 11th *Tri-Annual Report* to the federal court, issued in June 2009, states that Health Care Services had planned to assess the hospital guard positions needed and to implement them at each institution. However, the report further states that Health Care Services stopped these efforts and intends to assess and create strategically placed locked guarding units at community hospitals throughout the State to reduce the custody resources required and to gain operational efficiencies. According to the director of administrative support services, Health Care Services decided not to request additional custody staff positions because it believes that referrals for outside specialty services will decrease in the future as a result of cost containment measures, such as the utilization management and telemedicine projects we discuss in Chapter 2. In addition, according to the receiver, Health Care Services is considering a plan to place inmates with higher specialty care needs in institutions that can provide some of those specialties, reducing

The receiver's report states that on average there are 243,500 hours of overtime for medical guarding and transportation each month.

the number of inmates receiving care outside the institution. Finally, the director of administrative services stated that, because emergency transportation cannot be predicted, it would be inefficient to staff for this item through established positions. Using overtime for a workload that is expected to decrease in the future seems practical, and it may be more efficient to cover some of these hours through overtime if they vary significantly from day to day. However, given the amount of medical guarding and transportation work covered through overtime, care must be taken to ensure that the total amount of overtime worked by custody staff does not impact the safety of operations.

Corrections' staffing formula accounts for factors such as vacation and sick leave, so overtime should be necessary only when positions are vacant, emergencies occur, or staffing needs differ from the percentages described in the formula. As shown in Figure 7, we compared our estimate of the number of hours that guarding assignments were vacant to the number of hours of overtime for fiscal years 2004–05 through 2008–09, and found that the number of hours of overtime actually worked exceeded the estimated need for overtime to cover for authorized vacant positions for nearly all of the period.

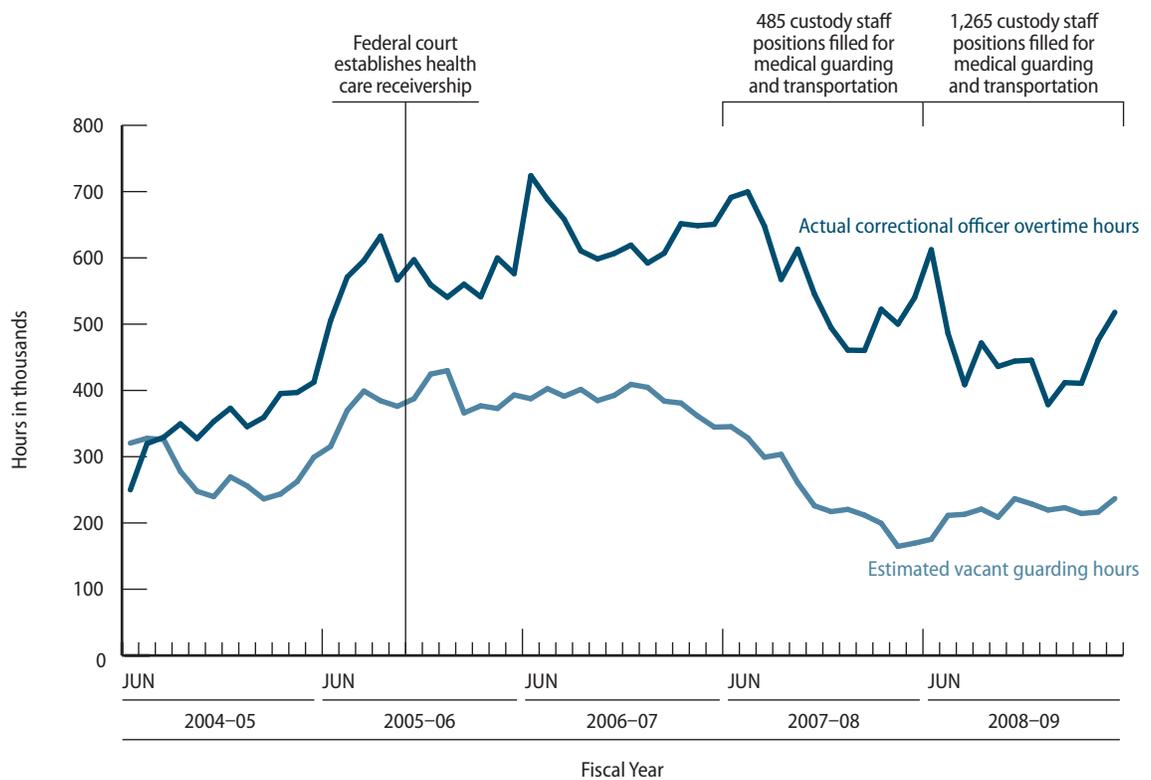
As we discussed in our prior report, institutional and miscellaneous security issues, such as emergencies and firefighting, also contribute to overtime costs. We found that these factors accounted for 21 percent of custody staff overtime costs in fiscal year 2007–08. Medical guarding and transportation costs were responsible for nearly 32 percent of overtime costs, or \$136 million, in fiscal year 2007–08. The difference between the amount of overtime and the estimated hours for which positions were vacant increased in the months after the establishment of the receiver in 2005, and generally decreased in fiscal year 2008–09, a time when Corrections indicated that it filled 1,265 of the 1,750 custody staff positions added to provide increased inmate access to health care in fiscal years 2007–08 and 2008–09.

Additionally, during our analysis of overtime, the deputy director explained to us that even though the staffing formulas were established to ensure that there is adequate staff to cover guarding assignments, if more than the average number of staff call in sick on a particular day, additional staff may be needed to work uncovered guarding assignments, and institutions may need to cover the guarding assignments by using overtime. We were unable to determine how often this situation arises. Our analysis of the reasons for overtime, which covered a five-year period, was based on reviewing monthly overtime and leave data we obtained from the State Controller's Office. Although reviewing daily overtime data would most likely have allowed us to identify more detailed

Medical guarding and transportation costs were responsible for nearly 32 percent of overtime costs—\$136 million—in fiscal year 2007–08.

causes for overtime, Corrections did not have complete overtime and leave data for the period we reviewed. As a result of this and other factors that cause undetermined fluctuations in overtime, we were not able to measure precisely the relationship between changes in overtime and the number of vacancies.

Figure 7
Correctional Officer Overtime Worked Compared With Estimated Vacant Guarding Hours at Adult Institutions From Fiscal Year 2004–05 Through 2008–09



Sources: Bureau of State Audits’ analysis of data from the State Controller’s Office position roster and payroll records for fiscal years 2004–05 through 2008–09; an estimate of monthly guarding hours for vacancies based on Department of Corrections and Rehabilitation’s (Corrections) correctional officer staffing formula; and number of medical guarding positions filled in fiscal years 2007–08 and 2008–09 provided by the chief of Corrections’ Program Support Unit.

Note: Correctional officers earn overtime based on thirteen 28-day work periods each year. However, they are paid for these overtime hours as part of the normal monthly pay process. As a result, some months include the overtime payments for two work periods. In these months we divided the number of hours of overtime worked by two and added a second data point with that amount of overtime.

Some Aspects of Corrections’ Staffing Formulas Are Outdated and Others Appear to Be Flawed

To ensure that it hires sufficient staff to handle the guarding assignments that exist, Corrections uses staffing formulas to ensure that, when the regularly scheduled custody staff are unavailable, additional staff can work the assignment. These staffing formulas

also are used to determine how many individuals can take vacation at any time. However, Corrections' current staffing formulas contain errors and outdated information. Because these formulas are used for staffing, such errors have an effect on Corrections' ability to ensure that custody staff are able to use the leave they earn.

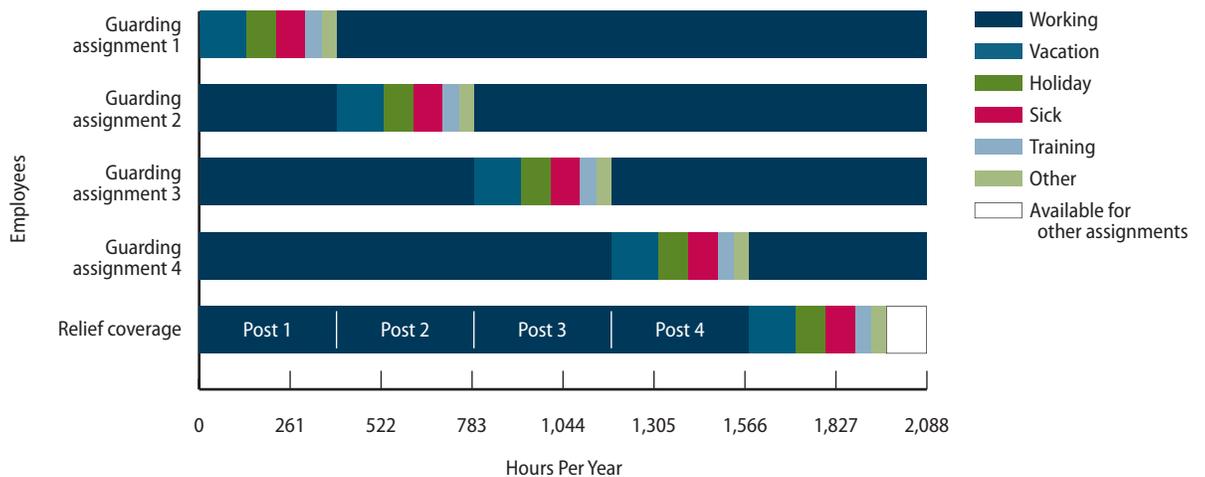
Staffing Formulas Identify the Number of Custody Staff Necessary for Guarding Assignments and Dictate Leave Use

Because Corrections is responsible for operating the institutions that house inmates 24 hours per day, 365 days per year, it must schedule many custody staff to work guarding assignments every day. However, staff may not work their regularly scheduled guarding assignment because of vacation, training, and other reasons, so Corrections must hire a sufficient number of individuals to ensure that it has custody officers available when needed. According to the chief of the program support unit, Corrections determines the custody staffing needs of institutions based on a number of factors, including the inmate population and the staffing needs of various program areas—such as education—at each institution.

Corrections determines the number of custody staff needed for its guarding assignments using staffing formulas. The staffing formulas generally include one position to regularly work each assignment plus an allocation for relief coverage—an employee who will work an assignment if the regularly scheduled employee is absent. For example, Corrections' current staffing formula for a five-day-per-week correctional officer guarding assignment includes an allocation of 8 percent of another position for working the guarding assignment during the primary officer's vacation leave. This and the other relief values, such as sick leave and training, are added to the one full-time position to determine the total personnel necessary to ensure that someone is available to work in the guarding assignment every day necessary, resulting in a formula value of 1.24 correctional officers for this guarding assignment. Corrections has additional staffing formulas for sergeants and lieutenants, as well as formulas for administrative assignments. Another common guarding assignment—the seven-day-per-week assignment—requires a correctional officer to be on duty every day, resulting in a formula of 1.74 correctional officers needed to cover an eight-hour shift every day of the week. In addition to identifying the total number of staff needed to ensure that custody staff are available to work all of the guarding assignments, staff at the institutions use the staffing formulas to identify how many staff can sign up to take vacation or holiday leave at the same time.

Figure 8 illustrates one of the staffing formulas, showing that Corrections budgets about five full-time employees for four guarding assignments that require coverage five days per week. In our example, each of four employees is assigned to an individual guarding assignment and is expected to work that assignment each day unless they attend training, use leave, or are absent for other reasons. As the figure shows, the fifth employee provides relief coverage for the other employees when they are absent.

Figure 8
Staffing Formula Hours for Four Correctional Officers Working Five-Day Per-Week Guarding Assignments



Source: Bureau of State Audits' analysis of Department of Corrections and Rehabilitation's (Corrections) correctional officer staffing formula, including adjustments by Corrections' Program Support Unit.

Errors in the Staffing Formula Affect the Amount of Leave Custody Staff Can Sign Up to Take

We reviewed the documentation Corrections provided to support the specific calculations it used when updating the correctional officer staffing formula. Although we found the factors that make up the formula agreed in total, some factors do not match the documentation provided as support for the calculations used to update the formula, which occurred about six years ago. According to a captain in the program support unit, this occurred because of limitations of the computer system into which the formula is entered. Specifically, the system cannot account properly for certain relief factors.

The staffing system cannot accommodate the percentage values for some factors such as holiday leave, so the number of opportunities to use this leave—which must be requested in advance—are lower

than needed to allow correctional officers to use all the leave they earn each year. In contrast, some factors are overstated, such as vacation, bereavement leave, or leave under the provisions of the Family Medical Leave Act. Correctional officers can use two of these three leave types only in certain circumstances. As a result, the staffing system does not properly reflect the staffing levels Corrections calculated it needs to allow correctional officers to use various types of leave. When correctional officers are not able to use all the leave they earn, their leave balances increase. For example, based on Corrections' documentation for a five-day-per-week correctional officer guarding assignment, and the number of authorized positions that were paid in June 2009, the errors associated with the vacation and holiday leave factors would have caused Corrections to provide 19,400 fewer opportunities to sign up for days of vacation and holiday leave than is earned by correctional officers in a year.

The captain told us that Corrections is in the process of revising its staffing formula methodology. He also stated that the system used to schedule custody staff guarding assignments is being replaced with a new system and will account for the revised methodology. The captain also stated that updating the current scheduling system would entail months to conduct a change order to accept any revised formula changes and is not cost-efficient because the system is being replaced this year.

Some of the staffing formulas Corrections uses to determine the number of custody staff needed for guarding assignments have errors and Corrections has not modified the formulas.

Corrections recently made changes to its staffing, but it did not use the opportunity to correct for errors in the formula. State law changed in February 2009 to eliminate two paid holidays, reducing the number of holidays earned from 14 to 12 per year. Instead of changing the staffing formula by reducing the overstated categories described earlier, according to a November 2009 memo from the acting director of the division of adult institutions, the institutions were directed to reduce their holiday relief positions to account for the two holidays. As a result of this change, opportunities for staff to use holiday credit remain below the level they earn.

The errors previously described regarding the amount of hours placed in leave categories for which custody staff can schedule time off are reduced by errors in the way in which Corrections calculates the amount of vacation leave that it allows custody staff to take. Specifically, the number of staff who can take vacation and holiday leave at an institution is based on the number of authorized guarding assignments and does not change based on the number of custody staff positions actually filled. However, when there are vacant positions, less vacation coverage is needed because there are fewer employees. In addition, individuals working overtime in place of staff who would otherwise fill vacant positions do not earn additional leave. As a result, at institutions that have vacant

positions, the staffing formula allows for more holiday or vacation leave than the formula indicates custody staff earn. For example, if an institution has 1,000 correctional officer positions, 100 of which are vacant, the staffing formula would create opportunities for the 900 correctional officers employed to sign up for the amount of vacation and holiday leave available to 1,000 staff. If these staff choose to take more leave than they earn in a year by using accrued leave from prior years, additional overtime would be necessary to cover their positions.

Using Corrections' staffing formula and associated documentation for a five-day-per-week correctional officer guarding assignment and the number of authorized positions that were vacant in June 2009, we estimate that because of the way in which the staffing formula is applied to the number of authorized guarding positions, institutions would have allowed correctional officers the opportunity to sign up for nearly 46,800 more days worth of leave in a year than it should. However, because this issue is specific to institutions with vacant positions, the net effect of this error may be offset by the error previously discussed regarding the amount of hours placed in leave categories for which custody staff can sign up to take leave. As a result, depending on the number of vacant positions at a specific institution, correctional officers may be provided too many or too few opportunities to use the leave they earn.

Growing Leave Balances, Due in Part to Vacancies and Errors in the Staffing Formulas, Reduce Current Costs but Represent a Future Liability

Various factors have caused Corrections' custody staff to accrue large leave balances. When this occurs, current staffing costs are reduced but the State incurs the cost in the future when staff take the leave or are paid for the balances when they quit or retire. Currently, the state furlough program is the most significant cause of the accumulation of leave balances for Corrections' custody staff. Although many custody staff have chosen to use the furlough hours they have earned, the amount of leave they can take is limited, as defined in the staffing formulas. As a result, their use of furlough hours means they use less of other types of leave, causing balances in those categories to increase. The liability these balances represent must be paid out at employees' retirement, if it is not addressed before then. Moreover, these costs will be higher in future years as custody staff salaries increase. In contrast, because accrued leave postpones the compensation of staff for additional work, it decreases the cost of the correctional system in the current year.

Currently, the state furlough program is the most significant cause of the accumulation of leave balances because some staff use furlough days when taking time off rather than other types of leave.

Corrections cannot allow many custody staff to take additional time off and as a result, under the furlough program custody staff receive reduced pay and earn leave credit for future use.

Furloughs Have Created New Liabilities

In February 2009, pursuant to an executive order issued by the governor concerning the State's fiscal crisis, Corrections implemented a mandated furlough program, requiring custody staff to take two days of unpaid leave each month, resulting in the reduction of custody staff pay by 9 percent. In July 2009 this program was expanded to three days per month. As applied to many other state workers, the furlough program generally reduced pay and the amount of time worked, resulting in many state offices and operations closing three days per month. However, due to the unique nature of its operations, Corrections cannot allow many custody staff to take additional time off without hiring individuals to take their place or requiring overtime. As a result, under the furlough program Corrections' custody staff receive reduced pay for the same amount of work and receive furlough leave credit for future use. A lawsuit was filed on behalf of correctional officers to pay employees full wages due or at least the minimum wage for all hours worked, and in December 2009 a judge ruled in the correctional officers' favor. However, as of April 2010 the ruling had been stayed while an appellate court considers the case.

Although the total amount of leave that custody staff are earning has increased, the amount of time off they can sign up to take is determined by the staffing formulas, which do not include allocations for the furlough program. As a result, custody staff have earned significantly more leave than they are able to use, and regardless of whether staff use furlough hours and their other leave balances increase or staff accrue their furlough hours, total leave balances have increased due to the furlough program. It is difficult to predict exactly how the increased leave balances earned as a result of the furlough program will be paid out or used, but unless the staffing formula is altered to provide additional staff for the purpose of allowing higher levels of leave use, custody staff will not generally be able to reduce their leave balances. As a result, leave balances will remain high until they are paid out when individuals quit or retire. Thus, the furlough program postpones the compensation of custody staff for work they perform until the time they are able to use the additional leave they accrued. Because the amount of leave custody staff can sign up to use is defined by the staffing formula, in order for individuals to use both their regular leave as well as the additional leave accrued as a result of the furlough program, other staff must accrue their leave instead of using it, or staff must wait until they retire or quit to receive compensation for their leave balance.

By multiplying the number of hours of furlough credit provided to an individual each month since the program began by the number of filled correctional officer positions in those months, and using

the June 2009 staffing level to project the number of correctional officers employed in future periods, we estimate that more than 8.7 million hours of furlough credit will have been earned by correctional officers under this program by the time it is scheduled to end in June 2010. At the typical pay rate of \$35 per hour for an officer with six years of experience, this represents a liability of \$304 million. However, if the increase in leave balances due to staff using furlough instead of their regular types of leave is not paid out until individuals retire, this liability will likely increase over time as individuals receive pay increases or are promoted. Further, if Corrections were to increase staffing or allow more overtime so correctional officers are able to use the additional leave they accrued, this liability would represent \$455 million in staffing costs. Finally, because staff continue to earn leave while absent, or when leave balances are paid out when they quit or retire, our estimate of the total number of furlough hours provided to correctional officers will result in more than 1.2 million additional hours of vacation, sick, and holiday leave. Consequently, we estimate that the total cost of the furlough program for correctional officers—not including sergeants and lieutenants—will be \$28 million to \$63 million higher because of this factor, for a total of \$332 million or \$563 million, depending on whether correctional officers are paid for their leave balances when they quit or retire or use them.

We estimate more than 8.7 million hours of furlough credit—or a liability of \$304 million—will have been earned by correctional officers under this program by the time it is scheduled to end.

Leave Accruals Reduce Current Costs

As shown in Figure 7 on page 55, Corrections has had a significant number of vacant custody positions for several years. According to the chief of the program support unit, vacant positions increase overtime because they reduce the number of staff available to cover leave. However, if staff are not able to, or choose not to use leave, there is not a need for their work to be performed by someone working overtime. In fact, our analysis of the State Controller's Office leave data indicates that custody staff earned nearly 8.4 million hours more leave than they used between July 2004 and January 2010. Although 6.8 million of these hours¹⁰ were the result of the furlough program, we estimate it would have resulted in almost \$435 million in additional costs if Corrections had been required to increase staffing or use overtime to cover the use of this leave. The furlough program—which is intended to reduce current costs—represents more than \$354 million of this amount. This increase contributed to a total leave balance, including sick leave, that represents a

¹⁰ The January 2010 balance for the furlough leave of custody staff in adult institutions was 2.4 million hours. However, because total leave use is limited by the staffing formulas, use of furlough leave decreases the use of other types of leave. For this reason we have attributed 6.8 million hours of the increase in the total leave balance—the amount of furlough leave earned up to that point in time—to the furlough program.

liability we estimate to be approximately \$940 million if Corrections were to increase staffing or overtime to allow custody staff to take their accrued leave. Alternatively, if paid out as lump sums when individuals retire or quit, the leave balance—minus sick leave that can be credited toward the amount of time an individual is considered to have worked when they retire but is not paid out as other types of leave are—represents a liability to the State that we estimate at approximately \$500 million. The actual liability may be higher, as some of these hours are associated with sergeants and lieutenants who receive a higher salary. Although guarding needs are reduced by individuals who choose not to take their accrued leave before they retire, or are unable to sign up for enough leave to deplete their balance, the leave balance still represents an eventual cost to the State when it is paid out in a lump sum upon retirement.

Further, the liability previously described is even higher than the current number of hours in custody staff leave balances. If Corrections increased staffing or overtime to allow staff to use this leave, they would continue to earn leave while absent, which we estimate would increase the liability to Corrections by roughly \$130 million. Even if Corrections pays the leave in lump sums when employees quit or retire, state law requires that the payment include the amount of leave staff would earn had they used their leave balances, increasing the lump-sum payments by more than \$46 million to a total of more than \$546 million.

When vacant positions exist, custody staff who do not use the amount of leave they earn reduce the need for overtime to work the guarding assignments of those vacant positions. Although this reduces staffing costs in the near term, it contributes to the growth of staff leave balances and essentially defers the costs to later years. Because the existence of vacant positions can result in additional overtime when leave use increases, custody staff decisions to use, accrue, or take a payout at retirement for accrued leave can cause Corrections' staffing costs to fluctuate. In addition, according to the deputy director, custody staff commonly reach retirement with hundreds of hours of accrued leave. Moreover, the deputy director also informed us that Corrections does not budget for leave payouts upon retirement, so these costs represent an unbudgeted expense each year.

Providing leave coverage and paying out lump-sum payments represent significant costs. Some custody staff may choose not to take the full amount of leave that they earn each year. Others may use accrued leave from past periods, so in any single period some of these costs may be offset. However, in years that the cumulative leave balance grows, Corrections is deferring staffing costs to future years. For example, this might occur when the number of custody staff increases and new staff are willing to forgo using their leave

while other staff with large balances either take leave or receive lump-sum payments that do not exceed the leave amounts earned by new staff. If the number of custody staff does not change for a significant period of time or begins to decrease, there may be fewer individuals willing to forgo using their leave, and the percentage of leave costs deferred would decrease.

The large leave balances previously described indicate that some portion of the cost of the correctional system was deferred in past years, that is, correctional system costs were lower than they could have been because staff did not use the full amount of leave they earned each year. Essentially, custody staff who did not take the full amount of leave they earned were providing more work each year than expected based on the staffing formula. However, the furlough program causes custody staff's leave balances to accumulate, which will likely result in larger leave payouts for retiring staff. In addition, if custody staff choose to take more of the leave the staffing formula allows them to use in a year because of the additional leave provided through the furlough program, fewer costs will be deferred in the current and future fiscal years.

Recommendations

To ensure that the State Controller's Office has accurate information on the number of authorized and filled positions, Corrections should determine why the number of positions the State Controller's Office indicates are vacant is higher than the number of vacant positions it is aware of, and submit information to the State Controller's Office to correct this situation as necessary.

To ensure that the total amount of overtime worked by custody staff does not unduly reduce their effectiveness and result in unsafe operations, Health Care Services should monitor overtime closely. If its efforts to reduce the number of referrals of inmates to outside specialty services do not reduce the amount of overtime worked by custody staff for the purpose of medical guarding and transportation, Health Care Services should explore other methods of reducing the total amount of overtime worked by custody staff.

To ensure that custody staffing meets institutional needs, and to provide staff the opportunity to use the amount of leave that they earn in the future, Corrections should update its staffing formulas to accurately represent each of the factors for which custody staff are unavailable to work, such as vacation or sick leave. Corrections should attend to this project before implementing its new business information system to ensure the updated formulas can be used as

soon as practical. In addition, Corrections should create a policy for regularly scheduled reviews of the data used in the staffing formulas and update the formulas as necessary.

To better communicate to policy makers the annual cost of incarceration, and to provide a more accurate estimate of expenditures associated with changes in the large leave balances of custody staff—many of whom require relief coverage when they are absent—Corrections should provide the following as supplemental information to the relevant legislative policy and fiscal committees:

- A calculation of the annual increase or decrease in its liability for the leave balances of custody staff to better explain the cause of changes in expenditures.
- An estimate of the annual cost of leave balances likely to be paid for retiring custody staff.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of the report.

Respectfully submitted,



ELAINE M. HOWLE
State Auditor

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Appendix

SERIOUS OR VIOLENT FELONIES AS DEFINED BY CALIFORNIA STATE LAW

The three strikes law is intended to ensure longer prison sentences and greater punishment for offenders who commit a felony and were convicted previously of a serious or violent felony. The felony for which the offender currently is convicted need not be serious or violent. As shown in Table A, state law describes which felonies are considered serious or violent, and some crimes are considered both serious and violent. For example, murder is considered both a serious and a violent felony. Courts commonly refer to a person's prior convictions for serious and violent felonies as strikes. The list of offenses that may count as strikes has expanded since California enacted the three strikes law in 1994. Specifically, in March 2000, through the passage of Proposition 21, voters expanded the list of offenses that constitute strikes. In 2006 the Legislature again expanded the list of offenses.

Table A
Felonies Considered Serious or Violent

OFFENSE	SERIOUS (PC 1192.7 (c))	VIOLENT (PC 667.5 (c))
Murder	×	×
Voluntary manslaughter	×	×
Mayhem	×	×
Rape	×	×*
Sodomy	×†	×*
Oral copulation	×†	×*
Lewd or lascivious act on a child under 14 years of age	×†	×*
Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice	×†	×*
Any felony in which the defendant personally uses a firearm	×	×*
Robbery	×†	×
Arson	×	×*
Sexual penetration	×†	×*
Attempted murder	×	×
Exploding or igniting, or attempting to explode or ignite, any destructive device with the intent to commit murder		×
Willfully and maliciously exploding or igniting any destructive device, which causes mayhem, death, bodily injury, or great bodily injury of any person		×
Exploding a destructive device or any explosive with the intent to injure or murder or that causes bodily injury, great bodily injury, or mayhem	×	
Kidnapping	×	×
Assault with the intent to commit rape, sodomy, or other crimes		×*

continued on next page...

May 2010

OFFENSE	SERIOUS (PC 1192.7 (c))	VIOLENT (PC 667.5 (c))
Continuous sexual abuse of a child	×	×
Carjacking	×	×
Extortion and threats to victims or witnesses committed as part or in association with a criminal street gang		×
Burglary of the first degree	×	×*
Using, discharging, and injuring someone with a firearm while committing certain felonies such as murder, rape, or kidnapping	×	×
Using a weapon of mass destruction	×†	×*
Assault with the intent to commit rape or robbery	×	
Assault with a deadly weapon or instrument on a peace officer	×	
Assault by a life prisoner on a non-inmate	×	
Assault with a deadly weapon by an inmate	×	
Holding of a hostage by a person confined in state prison	×	
Any felony in which the defendant personally used a dangerous or deadly weapon	×	
Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, or any precursors of methamphetamines	×	
Grand theft involving a firearm	×	
Certain felonies committed as part of or in association with a criminal street gang	×	
Assault with the intent to commit mayhem, rape, sodomy, or oral copulation	×	
Throwing acid or flammable substances with the intent to injure or disfigure another person	×	
Assault with a deadly weapon, firearm, machine gun, assault weapon, or semiautomatic firearm, on a person, peace officer, or firefighter	×	
Assault with a deadly weapon against a public transit employee, custodial officer, or school employee	×	
Discharge of a firearm in an inhabited dwelling, vehicle, or aircraft	×	
Rape or sexual penetration in concert with another person	×	×
Shooting from a vehicle	×	
Intimidation of victims or witnesses	×	
Criminal threats	×	
Any attempt to commit a serious felony listed in California Penal Code, Section 1192.7 (c) other than assault	×	
Any conspiracy to commit an offense listed in California Penal Code, Section 1192.7 (c)	×	
Any felony punishable by death or imprisonment in the state prison for life	×	×
Attempt to commit a felony punishable by death or imprisonment in the state prison for life	×	

OFFENSE	JUVENILE (WIC 707 (b))
Assault with a firearm or destructive device	‡
Assault by force likely to produce great bodily injury	‡
Discharge of a firearm at an inhabited or occupied dwelling	‡
Any felony offense in which the minor personally used a certain weapon such as a dagger, metal knuckles, or short-barreled shotgun	‡
Bribing or inducing witnesses	‡
Manufacturing, compounding, or selling a controlled substance	‡
Escape by a juvenile where great bodily injury is intentionally inflicted on an employee of the juvenile facility	‡
Torture	‡
Aggravated mayhem	‡
Committing or attempting certain felonies against a senior citizen or disabled person	‡
Kidnapping for ransom, robbery, with bodily harm, while carjacking, or with the intent to commit specified sex crimes	‡
Carjacking while armed with a dangerous or deadly weapon	‡

Sources: California Penal Code, sections 667.5 (c) and 1192.7 (c) and California Welfare and Institutions Code, Section 707(b).

* Certain types of this crime are violent felonies.

† Certain types of this crime are serious felonies.

‡ While juvenile offenses are not expressly defined as serious or violent felonies, we use the term “serious or violent felony” to describe any offense that could count as a strike.

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(Agency response provided as text only.)

Department of Corrections and Rehabilitation
Office of the Secretary
P.O. Box 942883
Sacramento, CA 94283-0001

April 30, 2010

Ms. Elaine Howle*
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

This letter represents the California Department of Corrections and Rehabilitation's (CDCR) response to the Bureau of State Audits (BSA) report entitled, ***California Department of Corrections and Rehabilitation: Inmates Sentenced Under the Three Strikes Law and a Small Number of Inmates Receiving Specialty Health Care Represent Significant Costs***. This audit, requested by the Joint Legislative Audit Committee, was intended to determine the effects of the three strikes law on incarceration costs and review custody staffing formulas to determine its effects on annual overtime and leave balances. ①

We agree with your assessment that the issues addressed in this audit are extremely complex and concur with your recommendations to ensure accurate sentencing guideline data will be transferred into our new data system. The review of this data is in fact part of our implementation process for the new system. Our analysts review all sentencing documents when performing their audits of case files, which includes a review for any notification or registration requirement.

In implementing the Business Information System (BIS), the Department will have an improved ability to track and account for budgeted and filled positions. However, the data the State Controller's Office tracks will likely continue to vary from the Department's data. We will continue to monitor these discrepancies in an effort to reduce the scope of these differences.

Your report states that we should update our staffing formulas to represent factors such as vacation and sick leave. We are reviewing staffing formulas for accuracy, but changes in the formulas will need to go through the budget process. In the interim, we are working with the vendor for BIS to ensure this project can accommodate any necessary changes to the relief formulas.

Your report indicates the Department should provide as supplemental information to the Legislature a calculation of the increase or decrease in leave liability, as well as estimate of costs of leave balances likely to be paid out for retiring custody staff. There are a number of factors that influence retirement decisions that ②

* California State Auditor's comments appear on page 71.

Ms. Elaine Howle

Page 2

lead to wide variances in the likely expenditures, which make it very difficult to estimate these costs. The Department is committed to ensuring that its budget reflects the cost of operation, and will work closely with the Administration to ensure the budget accurately reflects those costs.

We would like to thank BSA for their work on this report and will address BSA's specific recommendations in a corrective action plan at 60-day, 6-month, and one-year intervals. If you should have any questions or concerns, please contact Lee Seale, Deputy Chief of Staff, at (916) 323 6001.

Sincerely,

(Signed by: Brett H. Morgan)

BRETT H. MORGAN

Chief of Staff

Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

To provide clarity and perspective, we are commenting on the response to our audit report from the California Department of Corrections and Rehabilitation (Corrections). The numbers below correspond to the numbers we have placed in the margin of Corrections' response.

The imprecision of statements regarding the nature of the audit, our assessments, and the six recommendations we directed to Corrections is disappointing. The reiteration of several points presented in the report regarding Corrections' current actions to address the items we discussed does not provide any additional information, and the indefinite comments related to changes in operations do not appear to intimate any alteration of policies or procedures. We look forward to reviewing the more specific actions Corrections plans to take related to each of the recommendations in the report when we receive its corrective action plans at 60 days, six months, and one year from the date of the publication of the report.

①

Although we agree that various factors make it difficult to precisely estimate the costs of leave balances paid out to retiring custody staff, given the number of correctional officers, it seems unlikely that there would be a year in which no custody staff retired. As such, it seems that even a conservative estimate of the cost of leave balance payouts—using, for example, historical information on such payouts during prior years—would provide a more accurate estimate of the costs of the correctional system than no estimate at all.

②

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(Agency response provided as text only.)

California Prison Health Care Services
P.O. Box 4038
Sacramento, CA 95812-4038

April 30, 2010

Ms. Elaine M. Howle*
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: Response to BSA Draft Report – California Department of Corrections and Rehabilitation: Inmates Sentenced Under the Three Strikes Law and a Small Number of Inmates Receiving Specialty Health Care Represent Significant Costs

Dear Ms. Howle:

We have reviewed the above draft report from the Bureau of State Audits. We are committed to reform the California prison medical health care utilizing best practices with the most cost effective manner. While we welcome and concur with the audit findings and recommendations, tremendous efforts and ongoing improvements have been undertaken as addressed in the Receiver's Turnaround Plan of Action Tri-Annual and monthly reports. You can find the Tri-Annual and monthly reports on our website at <http://www.cphcs.ca.gov/receiver.aspx>.

①

Again, we would like to thank you and your staff for the valuable review and recommendations.

Sincerely,

(Signed by: J. Clark Kelso)

J. Clark Kelso
Receiver

* California State Auditor's comment appears on page 75.

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Comment

CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM CALIFORNIA PRISON HEALTH CARE SERVICES

To provide clarity and perspective, we are commenting on the response to our audit report from California Prison Health Care Services (Health Care Services). The number below corresponds to the number we placed in the margin of Health Care Services' response.

Although Health Care Services concurs with our findings and recommendations, we are disappointed that the federal court-appointed receiver's response does not specify how Health Care Services intends to implement the recommendations. We look forward to reviewing the more specific actions the receiver plans to take related to each of the recommendations when Health Care Services submits its corrective action plans at 60 days, six months, and one year from the date of the publication of this audit report.

①

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press