



California Department of Corrections and Rehabilitation:

Although Building a Condemned Inmate Complex at San Quentin May Cost More Than Expected, the Costs of Other Alternatives for Housing Condemned Inmates Are Likely to Be Even Higher

July 2008 Report 2007-120.2



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CALIFORNIA STATE AUDITOR

Bureau of State Audits

July 29, 2008

2007-120.2

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 Bureau of State Audits presents its audit report concerning California Department of Corrections and Rehabilitations' (Corrections) efforts to build a new condemned inmate complex (CIC) and the projected costs of building a new CIC. This report concludes that, based on analyses performed by our consultant, it will cost \$395.5 million to construct the CIC at San Quentin State Prison (San Quentin), \$39.3 million more than Corrections' most recent estimate. In addition, our consultant estimates the cost to activate the new CIC will reach \$7.3 million and that the average net new staffing costs to operate the CIC will be \$58.8 million per year, totaling \$1.2 billion over 20 years. To maximize the CIC's capacity, Corrections plans to double-cell certain condemned inmates; however, experts we spoke with and our consultant expressed legal confidentiality and safety concerns with double-celling. If double-celling occurs as planned, we estimate the CIC will reach capacity in 2035; however, if the plan to double-cell is not a feasible approach, the CIC will reach capacity in 2014, less than three years after it is expected to open.

We also considered whether an alternative prison site would be a feasible location for a new CIC and compared the cost of building and operating a CIC at the currently proposed site at San Quentin with the cost of doing so at three other locations. Our analysis indicates that it would have been less expensive to construct a CIC at one of the alternative locations if construction could begin at the same time as is planned for San Quentin. However, because a significant amount of work has already been conducted to prepare for constructing a CIC at San Quentin, Corrections' current proposal is the least expensive alternative that we considered. Specifically, building a CIC at an alternate site would involve various processes such as obtaining legislative approval, assessing the environmental impacts, and designing a new facility all resulting in a later start date for construction. Therefore, although it would have been less expensive to construct a CIC at one of the alternative sites we identified if construction began this fall, due to the later construction start date building a CIC at an alternate site would result in increased construction costs, increased transition and activation costs, and increased 20-year operating costs.

Finally, another option is delaying the construction of the new CIC. For instance, we determined that the State would avoid spending approximately \$93.2 million, or an average of \$18.6 million per year, if it delayed the construction of a CIC at San Quentin for five years because the net new operating costs avoided would exceed the costs of delaying construction. However, there are unquantifiable costs associated with such a delay. For example, our consultant's projection of growth indicates that by the end of 2010, there will be more condemned inmates than Corrections can house in the three cellblocks currently used for this purpose. Thus, if the CIC is not built, Corrections will need to find additional space for these inmates.

Respectfully submitted,



ELAINE M. HOWLE
State Auditor

Contents

Summary	1
Introduction	5
Chapter 1	
Building a Condemned Inmate Complex at San Quentin May Cost More Than Expected	17
Chapter 2	
Although Moving the Condemned Inmate Complex From San Quentin Has Drawbacks, Alternate Sites Exist	39
Appendix A	
California Department of Corrections and Rehabilitation's Explanation for Changes in Condemned Inmate Complex Costs	75
Appendix B	
Detailed Methodology for Determining Alternate Sites	79
Appendix C	
Detailed Comparison of the Costs to Build a Condemned Inmate Complex at Alternate Sites	83
Appendix D	
Valuation of the Proposed Condemned Inmate Complex Site	87
Responses to the Audit	
California Department of Corrections and Rehabilitation (Response from Report 2007-120.1)	105
California State Auditor's Comments on the Response From the California Department of Corrections and Rehabilitation	109
California Department of Corrections and Rehabilitation (Response from Report 2007-120.2)	111
California State Auditor's Comment on the Response From the California Department of Corrections and Rehabilitation	113

Summary

Results in Brief

The California Department of Corrections and Rehabilitation (Corrections) houses inmates who have been condemned to death (condemned inmates) in three separate housing units at San Quentin State Prison (San Quentin). However, these units do not meet many of Corrections' design standards for maximum-security facilities, increasing the escape risk for inmates and posing potential safety concerns for inmates, staff, and the general public. Accordingly, in 2003 the Legislature approved Corrections' request for \$220 million to build a new condemned inmate complex (CIC) at San Quentin. However, according to Corrections, before construction could begin, the cost of the project increased significantly due to, among other things, increases in the cost of construction materials, design changes, and unforeseen costs, such as those to mitigate soil problems. To minimize these increases, Corrections modified its plan several times and eventually reduced the capacity of the complex from eight housing units to six and from 1,024 cells to 768 cells. Despite the 25 percent reduction in the capacity of the CIC, Corrections now estimates the cost of the project at \$356 million, an increase of \$136 million, or 62 percent in the five years since 2003.

However, analyses by our consultant suggest that the cost to construct the CIC will exceed Corrections' recent estimate. Specifically, our consultant estimates that the cost to construct the CIC will be more than \$395.5 million and that the additional cost to activate the new CIC will reach \$7.3 million. Because of the higher construction costs estimated by our consultant, as well as Corrections' proposed design modifications, the cost per cell and per bed has risen significantly from Corrections' initial fiscal year 2003–04 estimate. Specifically, the cost per cell has increased by 140 percent and the cost per bed has increased by 120 percent. Furthermore, our consultant estimates that the average net new staffing costs to operate the new CIC will be \$58.8 million per year, for a total of approximately \$1.2 billion over the next 20 years.

Additionally, Corrections currently plans to double-cell (place two inmates in one cell) certain condemned inmates to maximize the CIC's capacity; however, our consultant and other experts we spoke with raised concerns about this approach to managing condemned inmates. Specifically, the experts stated that capital cases often involve very personal, private, and sensitive materials and that double-celling raises serious concerns about maintaining confidentiality during the preparation to defend a condemned inmate during the appeal process. In addition, our consultant

Audit Highlights . . .

Our review of the California Department of Corrections and Rehabilitation's (Corrections) current proposal for constructing a condemned inmate complex (CIC) at San Quentin State Prison (San Quentin), and our analysis of alternatives for housing condemned inmates found the following:

» *Despite the 25 percent reduction in the size of the CIC, Corrections now estimates the cost of the project at \$356 million, an increase of \$136 million, or 62 percent, over its original proposal.*

» *Our consultant estimates construction of Corrections' currently proposed CIC at San Quentin is expected to cost \$395.5 million, \$39.3 million more than Corrections has estimated, and new operating costs will average \$58.8 million per year, for a total of approximately \$1.2 billion over the next 20 years.*

» *Corrections' plan to maximize the CIC by double-celling up to two-thirds of condemned inmates raises concerns about protecting the confidentiality of their legal papers and staff and inmate safety.*

» *If Corrections' plan to double-cell condemned inmates is not a feasible approach, the CIC will reach capacity in 2014, less than three years after it is expected to open.*

» *Dispersing condemned inmates to housing units at multiple prison locations is not a practical or economically viable alternative.*

continued on next page . . .

» *Between the later construction start dates and Corrections having already spent nearly \$19 million to prepare for constructing a CIC at San Quentin, constructing a CIC at an alternate site would cost between \$138.7 million to \$486.3 million more than Corrections' current proposal.*

» *The sale of the land Corrections currently plans to use for the CIC could partially offset the cost of constructing a CIC at another prison. Our consultant estimates that the land could be sold for between \$45.3 million and \$117.9 million, depending on how it was developed.*

» *The State could avoid spending approximately \$93.2 million if it delayed construction of a CIC at San Quentin for five years. However, there are unquantifiable costs associated with such a delay. For example, by the end of calendar year 2010, there will be 17 more condemned inmates than Corrections can house in the cellblocks currently used for this purpose. If the CIC is not built, Corrections will need to find additional space for these inmates.*

expressed concern that double-ceiling increases the risk of harm to staff and to the inmates who are housed together. If double-ceiling condemned inmates occurs as planned, we estimate that the CIC's 1,152-inmate capacity will be reached by 2035; however, if the plan to double-cell inmates is not a feasible approach, the CIC will reach capacity as early as 2014, less than three years after it is expected to open. Our consultant indicated that, rather than double-ceiling a large proportion of its condemned inmates, Corrections should build an additional housing unit. Adding an additional 256-cell housing unit would allow Corrections to single-cell the condemned inmates until 2028. Our consultant estimated that constructing an additional housing unit would add \$64.1 million to Corrections' currently planned CIC if it were constructed concurrently with the proposed CIC.

Rather than constructing a complete CIC at San Quentin, we considered the possibility of dispersing condemned inmates to housing units at multiple prison locations with maximum-security housing units, known as level IV units. However, because all level IV housing units are currently filled to capacity, there are literally no empty level IV beds. Thus, new level IV housing units would have to be constructed to house either the condemned inmates or the level IV inmates displaced by the transfer of condemned inmates into the existing level IV units. Our consultant also estimates that it would be more expensive to house condemned inmates at multiple locations as opposed to at a single location. Further, the custody experts of the California Prison Healthcare Receivership, which manages the State's prison health care operations, stated that housing condemned inmates at multiple sites would amplify issues such as community resistance and problems with transportation, legal access and visiting, media relations, and pre-execution procedures. Therefore, we concluded that the challenges presented by this option preclude it from being practical or economically viable.

We also considered whether an alternate prison site would be a feasible location for a new CIC, and we compared the cost of building and operating a CIC at the currently proposed site at San Quentin with the cost of doing so at three other locations that meet the criteria for a CIC. Because a significant amount of work has already been conducted to prepare for constructing a CIC at San Quentin, we found that Corrections' current proposal is the least expensive alternative that we considered. Building a CIC at an alternate site would involve various processes such as obtaining legislative approval, assessing the environmental impacts, and designing a new facility, resulting in a later start date for construction. Specifically, assuming the state budget is enacted by August 1, 2008, and with the expectation that it could take approximately three months to complete the necessary bidding

and contracting process, our consultant believes that construction can start on November 1, 2008, at the proposed San Quentin site. However, he estimates that the start of construction would be delayed until February 2014 at the other locations. Therefore, although it would have been less expensive to construct a CIC at each of the alternative locations if construction could have begun at the same time as at San Quentin, due to the later start date, building a CIC at an alternate site would result in increased construction costs; increased costs to open the facility, referred to as transition and activation costs; and increased 20-year operating costs. For instance, our consultant estimates that it will cost approximately \$1.6 billion to build and operate the four-story CIC (known as a stacked design) for 20 years at the currently proposed site. However, if Corrections had completed all the preconstruction work in the same time frame as has been done at San Quentin, then the least expensive alternative would have been to build a stacked CIC at R. J. Donovan Correctional Facility (Donovan) at Rock Mountain in San Diego. Our consultant estimates that the cost of building and operating a stacked CIC at Donovan would have been approximately \$1.5 billion, given a November 2008 construction start. However, because of the time required to change the law, gain funding approval, and complete an environmental impact report and design documents, our consultant estimates that construction at Donovan would not begin until February 2014. Due to this later start date, the cost of constructing a stacked CIC at Donovan is estimated to be almost \$2 billion.

Although the currently proposed CIC at San Quentin is the least expensive option, potential revenues from the sale of that site could partially offset the cost of constructing the CIC on another site. Specifically, our consultant estimates that the land Corrections currently plans to use for the CIC could be sold for between \$45.3 million and \$117.9 million, depending on how it was developed, if the CIC was built at an alternate site.

Another option Corrections could consider is delaying construction of the new CIC. For instance, the State would save approximately \$93.2 million, or an average of \$18.6 million a year, if it delayed construction of a CIC at San Quentin for five years. The savings would result because the additional operating costs avoided during that time would exceed the increased cost of the delay in construction. However, there are unquantifiable costs associated with such a delay. For example, by the end of calendar year 2010, there will be 17 more condemned inmates than Corrections can house in the three cellblocks currently used for this purpose, based on our consultant's projection of the growth in the condemned inmate population. If the CIC is not built, Corrections will need to find additional space for these inmates.

Agency Comments

This report includes Corrections' response to 2007-120.1, titled *California Department of Corrections and Rehabilitation: Building a Condemned Inmate Complex at San Quentin May Cost More Than Expected*, issued on June 10, 2008, which has been included in its entirety as Chapter 1 of this report. We have also included Corrections' response that addresses the content of Chapter 2 of this report.

Corrections generally agrees with the information discussed in Chapter 1. However, they disagreed with our consultant and other experts we spoke with who believe that Corrections' plan to double-cell condemned inmates may compromise staff and inmate safety and raises concerns about maintaining the confidentiality of legal papers that may be kept in cells occupied by two inmates. Conversely, Corrections did not take exception to any of the information discussed in Chapter 2.

Introduction

Background

The California Department of Corrections and Rehabilitation (Corrections) operates California's prison system, which houses more than 171,000 inmates. Corrections was formed in 2005, when the California Department of Corrections and the California Youth Authority were reorganized under one agency with the goal of managing the state's prison system more efficiently. The newly reorganized agency incarcerates youth and adult offenders.

With an annual budget of about \$9.7 billion, Corrections' mission is to control, care for, and treat men and women convicted of serious crimes or admitted to the State's civil narcotics program. Within Corrections, the Division of Adult Institutions operates 33 correctional institutions (prisons). Of these, 11 have reception centers, which provide short-term housing for incoming inmates while they are being processed, classified, and evaluated. Figure 1 on the following page presents a map of Corrections' prison locations.

As shown in the text box, Corrections assigns different custody levels to inmates within its prisons, based on its assessment of the inmates' behavior and other factors, and it houses inmates in facilities designed for their respective custody levels. Custody levels at facilities range from I to IV, with level I being the minimum-security level and level IV being the maximum-security level. Corrections classifies all inmates who have been sentenced to death as condemned inmates and houses them separately from other inmates. It houses male condemned inmates at San Quentin State Prison (San Quentin) and female condemned inmates at Central California Women's Facility in Chowchilla. As of May 2008 San Quentin housed 635 male condemned inmates and the Central California Women's Facility housed 15 female condemned inmates.¹

Housing for Different Custody Levels

Level	Description
I	Open dormitories without a secure perimeter.
II	Open dormitories with secure perimeter fences and armed coverage.
III	Individual cells, fenced perimeters, and armed coverage.
IV	Cells, fenced or walled perimeters, electronic security, more staff, and armed officers both inside and outside the installation.
Condemned	Houses inmates with death sentences; similar to level IV housing.

Source: California Department of Corrections and Rehabilitation's Web site: www.cdcr.ca.gov.

¹ Although the total male condemned inmate population as of May 1, 2008, was 656, only 635 were housed at San Quentin, according to the San Quentin warden. The other 21 inmates were out of the institution for various reasons, including 14 out for court date hearings, three out for medical care, and four serving sentences in other states. Because this report deals only with housing for male condemned inmates, any reference made to "condemned inmates" refers to male condemned inmates.

Figure 1
California's Adult Correctional and Rehabilitation Institutions



Source: California Department of Corrections and Rehabilitation's Web site: www.cdcr.ca.gov.

Corrections classifies its condemned inmates into two different levels—grade A and grade B. Inmates classified as grade A are perceived by Corrections as not having a high potential for violence or escape and as having demonstrated good behavior and an ability to cooperate safely and peaceably with other inmates and staff.

Inmates classified as grade B are perceived by Corrections to have a high potential for escape or violence or are serious disciplinary management cases. Grade B inmates include those with a history of escape, in-prison assault, gang affiliation, or possession of contraband or weapons. These grades were originally established as a result of a 1980 consent decree approved by the United States District Court for the Northern District of California (consent decree). The consent decree established the process by which Corrections classifies condemned inmates into the two grades and periodically reevaluates condemned inmates' classifications.

In 2007 and 2008 a federal court terminated most provisions of the consent decree, including the grade A and B classifications, pursuant to a federal law that prohibits federal courts from requiring state officials to provide inmates with privileges and protections greater than those required by the United States Constitution. However, Corrections continues to classify condemned inmates as grade A or B despite the termination of the consent decree and plans to further refine these grades in the future, as we discuss in Chapter 1.

San Quentin houses inmates of other custody levels in addition to its condemned inmates. As of March 2008, in addition to the condemned inmate population, it housed approximately 204 level I inmates and 1,589 level II inmates. San Quentin also housed approximately 2,781 inmates in its reception center, which provides short-term housing for inmates from 17 counties in and around the San Francisco Bay Area (Bay Area). Inmates at the reception center have been recently sentenced to a prison term or have had their parole revoked and are returning to custody. Per the California Penal Code (Penal Code), Corrections assesses these inmates to determine the appropriate custody level and which prisons will house the inmates. This assessment includes investigating the pertinent circumstances of an inmate's life, such as any strong community and family ties that may aid in the inmate's rehabilitation.

Background on the Death Penalty in California

California has generally authorized the death penalty for certain offenses since it first achieved statehood in 1850. The Penal Code, drafted in 1872, provided for either execution or life imprisonment for individuals convicted of first-degree murder. Aside from minor

changes to the Penal Code, the punishments for first-degree murder and the procedure for imposing the death sentence remained constant for 100 years.

In 1972 the California Supreme Court found that the death penalty law violated the state constitutional provision against cruel and unusual punishment. As a result, 107 condemned inmates had their sentences changed to other than death. Soon after, the United States Supreme Court held that the death penalty was unconstitutional as it was being administered at that time in a number of states. Its decision required states to provide standards for determining the sentence in capital cases or to define more narrowly the crimes for which a death sentence could be imposed. Accordingly, California enacted a law in 1973 that made the death penalty mandatory in certain cases under certain conditions. However, in late 1976, the California Supreme Court found the State's death penalty statute to be unconstitutional. Following this ruling, similar to what had occurred four years earlier, 70 condemned inmates had their sentences changed to other than death. Proposition 7, passed by California voters in November 1978, reinstated the death penalty, which courts have consistently upheld as constitutional since that time.

Current Housing of Condemned Inmates at San Quentin

The Penal Code requires that men sentenced to death in California be sent to San Quentin to fulfill their sentence.² As Table 1 shows, Corrections uses three different housing units at San Quentin to house the 635 male condemned inmates in its custody. Each condemned inmate is housed in his own cell within these housing units. The United States Supreme Court has held that prison officials may double-cell inmates in a maximum-security prison; however, that ruling did not specifically address double-celling of condemned inmates. Corrections does not currently double-cell condemned inmates.

The original death row facility, referred to as North Segregation by Corrections, occupies the entire sixth floor of the North Block building, which was built in 1934. The facility can house up to 68 condemned inmates and has been filled to capacity since 1984. Only Corrections' most cooperative grade A condemned inmates are housed in North Segregation because its design provides the

² There are two exceptions to this law. As many as 15 condemned inmates who commit certain crimes while in prison may be transferred to California State Prison, Sacramento, although as of May 2008 no condemned inmates were housed at this prison. Inmates whose medical or mental health needs endanger the inmate or others may be housed at the California Medical Facility or another appropriate facility.

most freedom of movement within the three facilities' housing and exercise areas. These inmates use an exercise yard on the building's roof.

Table 1
Capacity of Existing Facilities for Male Condemned Inmates and Date Built

FACILITY	CAPACITY*	INMATES AS OF APRIL 21, 2008	DATE BUILT
North Segregation	68	68	1934
East Block	521	481	1930
Adjustment Center	102	86	1960
Totals	691	635	

Source: Facility captain of specialized housing at San Quentin State Prison.

* Total number of single inmate cells.

Corrections houses most of its condemned inmates in San Quentin's East Block facility (East Block), a five-story housing unit built in 1930 that houses primarily grade A and less violent grade B inmates. East Block can house up to 521 inmates and housed 481 as of April 2008. Inmates housed in East Block use six exercise yards located adjacent to the facility between the building and the prison's perimeter wall.

The most violent grade B inmates are housed in a facility referred to as the Adjustment Center, a three-story facility built in 1960 with 102 cells. It was designed as San Quentin's administrative segregation unit to house inmates with discipline problems. Inmates housed in the Adjustment Center use exercise yards located between the Adjustment Center and the North Segregation facility. As of April 2008 it housed 86 condemned inmates.

Corrections' Attempts to Build Condemned Inmate Housing

As far back as 1992, due to the growth in the condemned inmate population at San Quentin, as well as safety and security concerns inherent in managing condemned inmates in the antiquated housing units at the prison, Corrections had discussed the need for a new condemned inmate complex (CIC). More recently, in 2003, after failing to gain approval from the Legislature to house condemned inmates at other locations, Corrections requested \$220 million to build a new CIC at San Quentin. The Legislature approved this request. However, as the contemplated project moved from conceptual design to one that was more detailed and refined, the anticipated cost increased. As a result, Corrections

has requested additional funds on two occasions since 2003, in proposals that reflected the increased cost of the CIC project and at the same time reduced the number of cells from 1,024 to 768. The Legislature did not act upon the first proposal for additional funding, presented as part of Corrections' fiscal year 2007–08 budget plan. In its fiscal year 2008–09 budget, Corrections has again requested additional funding so that it can begin construction of the CIC at San Quentin. This most recent proposal is now before the Legislature. Thus, although Corrections has indicated that it is ready to begin construction of the CIC, construction has not yet begun.

Stakeholders Providing Services to Condemned Inmates

In addition to Corrections, several other entities (stakeholders) provide medical and legal services to condemned inmates. In order for them to fulfill their duties, many of these stakeholders visit inmates at San Quentin and work from offices in the Bay Area within a short distance of the prison. These stakeholders are listed in Table 2.

Table 2
Stakeholders Involved with Condemned Inmate Operations

STAKEHOLDER	DESCRIPTION
Prison Law Office	Represents inmates in litigation against Corrections regarding conditions of confinement.
Office of the State Public Defender (Public Defender)	Represents indigent condemned inmates on both appeal and in habeas corpus cases before the California Supreme Court and United States Supreme Court.*
Habeas Corpus Resource Center	Represents condemned inmates in habeas corpus petitions and recruits and trains eligible attorneys to represent condemned inmates.
California Appellate Project	Assists both public and private attorneys appointed by the California Supreme Court to represent condemned inmates on their appeals and habeas corpus proceedings. The Appellate Project also assists condemned inmates who have not yet had counsel appointed with their legal work.
California Supreme Court	Hears and decides automatic appeals and habeas corpus petitions arising out of death sentences. Appoints qualified attorneys to represent condemned inmates before the court.
California Prison Healthcare Receivership	In accordance with a federal court order, manages prison health care operations instead of the State; responsible for ensuring that inmates, including condemned inmates, receive adequate and timely medical care.

Sources: Web sites of the Prison Law Office, Office of the State Public Defender, Habeas Corpus Resource Center, and California Appelate Project. Article IV, Section 10 of the California Constitution, and *Plata v. Schwarzenegger*.

* Appeals refer to appellate briefs filed on behalf of condemned inmates who object to their sentences based on the way their trials were conducted. Habeas corpus petitions are filed with a court on behalf of a person who objects to his own or another's detention or imprisonment.

State and Federal Laws Regarding Housing Condemned Inmates

The Penal Code requires that male condemned inmates, with few exceptions, fulfill their sentence at San Quentin. Before relocating a CIC from San Quentin, whether proposed through legislation or otherwise, the Penal Code requires Corrections to first evaluate all maximum-security level IV 180-degree housing unit facilities with electrified perimeters for suitability for housing and executing condemned inmates.

Our research did not reveal any California or federal statute or any reported California or federal court decision requiring Corrections to house condemned inmates within a certain geographic proximity to a state or federal courthouse. The fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with either adequate law libraries or assistance from persons trained in the law. However, no reported California or federal court decision has held that this right is violated as a result of an inmate's distance from a courthouse. Condemned inmates also have a right to the effective assistance of counsel for their appeal of a death sentence. No reported California or federal court decision has held that this right is presumed violated as a result of an inmate's remote geographic proximity to a courthouse.

Litigation and Court Orders Affecting Prisons

In recent years federal court orders resulting from litigation have driven many of Corrections' practices and operations. As shown in the text box, these court orders require that all inmates, including condemned inmates, receive access to constitutionally adequate medical care, mental health care, and dental care, and that disabled inmates have access to Corrections' programs and services. In addition, an opinion rendered by the Court of Appeals for the Ninth Circuit, of which California is a part, found that the federal constitution requires that inmates receive opportunities to use outdoor exercise facilities. Although none of these cases contain provisions specific to determining an appropriate site for the CIC, we have used them in determining the basic services to which condemned inmates must have access.

Major federal court orders prescribe Corrections' operations (by plaintiff name):

- **Plata:** Inmates must receive access to adequate medical care.
- **Perez:** Inmates must receive access to adequate dental care.
- **Coleman:** Inmates must receive access to adequate mental health care.
- **Armstrong:** Disabled inmates may not be denied access to Corrections' programs and services.

Source: Federal court decisions.

Financing of Prison Projects

The State typically finances new prison construction projects by issuing lease-revenue bonds. The State Public Works Board (public works board) has the authority to issue lease-revenue bonds to finance acquisition and construction projects when the Legislature authorizes such projects, such as the CIC at San Quentin. In prison construction projects funded by lease-revenue bonds, Corrections typically acquires the site and transfers its control and possession to the public works board, pursuant to state law. Acting as the public works board's agent, Corrections then contracts out the project's construction. Once construction is complete, the public works board leases the site and facility back to Corrections for a fee equal to the amount needed to pay for the debt service on the lease-revenue bonds and the associated administrative expenses. Leases can be for periods up to 35 years but cannot exceed the prison facilities' useful life. The lease term for the new CIC will not be determined until the State sells the bonds. As the State Administrative Manual prescribes, Corrections is not obligated to make lease payments until Corrections occupies the new complex. At that time, lease payments will be appropriated to Corrections from the State's General Fund.

New legislation passed on May 3, 2007, also authorized the public works board to issue negotiable bond anticipation notes to finance the design, construction, and interim financing costs of specified prison projects. Bond anticipation notes are short-term interest-bearing notes issued by a government in anticipation of bond proceeds to be received at a later date. The notes are retired from the proceeds of the bonds to which they are related.

Scope and Methodology

In light of Corrections' requests for additional funds, the Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits to provide independently developed and verified information related to alternative sites for condemned inmate facilities. Specifically, we were asked to perform the following tasks:

- Review Corrections' original CIC project and cost plans and compare them to its revised project plan and actual costs to date and projected costs through the end of construction.
- Identify the parameters for constructing and maintaining a facility for housing condemned inmates.

- Considering these parameters, determine various alternatives for housing condemned inmates, including the following options:
 - Building the CIC elsewhere on the San Quentin property while preserving the possibility of using part of the property for nonprison-related purposes.
 - Building the CIC on an alternate site.

The audit committee also asked us to analyze the costs and benefits of each alternative that we developed, and to consider factors such as the following:

- The capital outlay costs for each alternate site and the projected expenditures for ongoing maintenance and operations.
- The alternate sites' access and proximity to state and federal courts, counsel, medical care, and inmates' families.
- The costs of transporting condemned inmates to courts, counsel, medical care, and other relevant resources from each alternate site.
- Concerns with housing condemned inmates at sites other than San Quentin and whether doing so presents significant risks to staff and the public.
- The relative difficulty of finding qualified counsel to represent inmates at each site.
- The ability to comply with relevant legal orders at each site.
- The relative benefits associated with constructing a CIC at San Quentin contrasted with the benefits of using the site for alternate purposes.

Additionally, the audit committee asked us to compare California construction costs, as they relate to condemned inmate facilities, with those of other states.

In 2004 the Bureau of State Audits released its report 2003-130: *California Department of Corrections: Its Plans to Build a New Condemned-Inmate Complex at San Quentin Are Proceeding, but Its Analysis of Alternative Locations and Costs Was Incomplete*. In this report, we reviewed similar subjects, such as Corrections' analyses of alternative locations, plans for alternative uses of the San Quentin site, and an analysis of the project cost plans. Because the audit addressed these subject areas through 2003, in the current audit we limited our review to work that was completed after 2003.

To obtain an understanding of the alternatives considered by Corrections since the last report on this subject, we interviewed employees at Corrections' facilities management division to determine whether additional analyses had been completed. To determine a timeline of the efforts to build a CIC, we reviewed documentation of Corrections' analyses of alternative sites that was not reviewed in the previous report.

To investigate the changes in scope and cost between the original \$220 million CIC project plan and the current \$356 million plan, we reviewed the original cost model developed by Corrections' construction consultant in 2002, Kitchell CEM (Kitchell), and compared it to documentation supporting the latest capital outlay budget change proposal that Corrections submitted to the Department of Finance requesting the \$136 million increase in project costs. Using this documentation we were able to identify the cost differences between the original \$220 million CIC project plan and the current \$356 million plan by category, such as increases related to site preparation and the construction of condemned inmate housing. We then identified material differences between the original CIC project and the revised project, defining material differences as changes of more than \$5 million in a category of costs.

To assess whether the material cost increases were reasonable, we interviewed both Kitchell and Corrections' staff to determine the reasons for the increases, reviewed relevant project documentation, and evaluated Corrections' revised project plan and actual costs to date. To assist in this evaluation we contracted with Criminal Justice Institute, Inc. (CJI), a national prison consulting firm. CJI concentrated its efforts on estimating the cost of constructing, transitioning, activating, staffing, and operating a CIC at all locations under study and oversaw all aspects of the cost analyses. CJI's team included DMJM Design, which assessed and evaluated if and how a CIC could be situated at different locations; the Louis Berger Group, which analyzed and estimated the cost of site work; Parametrix, which reexamined estimates to construct the CIC at San Quentin and estimated the cost of constructing CICs at other locations; and C. B. Richard Ellis Valuation and Advisory Services, which conducted a valuation of the land under consideration for a CIC at San Quentin. CJI's analyses included evaluating Corrections' current \$356 million project plan in terms of cost, determining the amount of other related costs, and assessing whether the current project plan will meet Corrections' needs for housing condemned inmates over a 20-year time horizon from the time that the CIC is built.

To narrow down our list of potential alternate sites for condemned inmate housing, we developed a two-pronged approach to determine which of the 33 existing prisons could be considered suitable options. Because the Penal Code requires that Corrections, before relocating the CIC, first evaluate the State's existing maximum-security level IV, 180-degree housing unit facilities with an electrified perimeter for suitability for the CIC, we began by identifying the eight prisons that meet these criteria. We then developed a second group of prisons for review, consisting of those located within two hours' travel time of the Bay Area or Los Angeles, to address concerns regarding condemned inmates' access to courts and qualified legal counsel. Of these two groups, we identified which ones have enough available land for construction of a new CIC. We also contacted representatives at each prison to determine their access and proximity to transportation, urban areas, and other services such as medical and mental health care.

To develop parameters for constructing condemned inmate housing at an alternate site, we reviewed relevant state and federal laws. We also reviewed relevant court orders regarding inmate housing. To determine the impact of housing condemned inmates at a location other than San Quentin, we also sought the input of various stakeholders involved in condemned inmate operations. We compiled their responses and included them as criteria and parameters for identifying prospective sites for condemned inmate housing. We discuss the process of identifying our proposed alternate sites in more detail in both Chapter 2 and Appendix B.

CJI assisted in finalizing the selection of the prisons we considered for housing condemned inmates. CJI also evaluated the feasibility of housing condemned inmates at multiple locations and performed cost-comparative analyses of building a CIC at different sites at San Quentin, as well as on sites at other prisons. Its analyses included evaluating each alternative location to determine the most suitable sites for a CIC; evaluating the site development costs associated with constructing a CIC at each location; and estimating the costs of construction, activation, and operations for each alternative considered. The analysis included estimating the amount of time it would take to complete preconstruction, construction, and activation tasks at each alternate site. CJI worked extensively with Corrections to obtain the necessary maps, diagrams, and reports required to evaluate utility needs at each site, and to identify topographic features and other physical site characteristics that would affect costs.

To compare California construction costs, as they relate to condemned inmate facilities, with those of other states, we surveyed 14 states that house 50 or more condemned inmates, to allow for a somewhat similar comparison with California's

population of condemned inmates. Specifically, we asked the directors of the departments of corrections in these states if their state had constructed housing for condemned inmates between January 1, 2003, and April 1, 2008, or if they planned to begin construction of condemned inmate housing between April 1, 2008, and December 31, 2009. For those states responding affirmatively to either of these questions, the survey included questions about the number of cells constructed, the number of beds, and the estimated cost of the construction.

Of the 12 states that responded, Louisiana was the only one that reported building housing for its condemned inmate population. In 2007 Louisiana constructed a single building containing 116 cells at a cost of approximately \$10.2 million, or \$88,000 per cell. To obtain additional information about this project, we contacted the architecture and engineering firm that performed the work for Louisiana. The director of the architecture and engineering firm stated that the project was bid prior to Hurricane Katrina, and he estimated that constructing the same facility today would cost at least 40 percent to 50 percent more. Additionally, according to the secretary of Louisiana's Department of Public Safety & Corrections at the time of the construction, unlike San Quentin, Louisiana's condemned inmate facility receives support services, including food services and laundry, from the facility within which the death row cellblock is situated. Due to many factors, such as significant differences in the timing of construction, the size of the projects and their relation to their respective host institutions, and the design of the projects, as well as Louisiana's use of inmate labor to construct guard towers and some fencing, we do not believe that the cost of Louisiana's condemned inmate housing project is comparable to the cost of constructing a CIC at San Quentin.

Chapter 1

BUILDING A CONDEMNED INMATE COMPLEX AT SAN QUENTIN MAY COST MORE THAN EXPECTED

Chapter Summary

Our consultant estimates that the cost to construct the condemned inmate complex (CIC) at San Quentin State Prison (San Quentin) currently proposed by the California Department of Corrections and Rehabilitation (Corrections) will exceed Corrections' estimate of \$356 million by \$39.3 million and that the added cost to activate the new CIC will reach \$7.3 million. Furthermore, our consultant estimates that the net new staffing costs to operate the proposed CIC will average \$58.8 million per year, for a total of approximately \$1.2 billion over the next 20 years. Under Corrections' current proposal, the CIC will have 768 cells, which is 256 fewer cells than under its original proposal, a 25 percent reduction.

In order to maximize the number of condemned inmates that can be housed in the CIC, Corrections plans to double-cell certain condemned inmates. Our consultant stated that double-celling increases the risk of harm to inmates and staff, and other experts raised concerns about the confidentiality of condemned inmates' legal papers. If double-celling of condemned inmates occurs as planned, we estimate that the CIC's 1,152-inmate capacity will be reached by 2035, with approximately two-thirds of the condemned inmates sharing cells; however, if Corrections' plan to double-cell inmates is not a feasible approach to managing condemned inmates, the CIC will reach capacity as early as 2014, less than three years after it is expected to open.

Rather than double-celling a large proportion of its condemned inmates, our consultant recommends that Corrections build an additional 256-cell housing unit. This would allow Corrections to single-cell the condemned inmates until 2028. Our consultant estimated that constructing this additional housing unit would cost \$64.1 million if it were constructed concurrently with the CIC.

The Cost of Constructing the New CIC Complex Has Increased Significantly Since 2003

Corrections currently estimates that the cost of constructing a new CIC at San Quentin will be \$356 million, an increase of \$136 million, or 62 percent, since the Legislature initially approved funding for a CIC in fiscal year 2003–04. This increase comes despite the fact that, among other modifications to its original CIC design,

Corrections has lowered the number of inmate housing units from eight to six, reducing the total number of cells by 25 percent. According to the director of project management at Corrections, the cost increase is due mainly to the delayed construction start, increases in construction costs, and design changes as well as the need to mitigate poor soil conditions at the San Quentin site that were unknown at the time of the original estimate. Because of the significant cost escalations, the project has temporarily been put on hold.

Corrections Estimated a CIC Would Cost \$220 Million

In fiscal year 2003–04 Corrections requested and received an appropriation for \$220 million for the construction of a new CIC. A key assumption made by Corrections when developing its cost model, which estimated the costs of various components of the proposed CIC, was that it could estimate the cost to build the housing units at San Quentin based on the cost incurred to build similarly constructed housing units at other Corrections facilities in California. Corrections planned to build the CIC on approximately 40 acres at the San Quentin site, and inmate housing in the complex was to consist of what are known as 180-degree housing units due to their design, which gives the control booth officer in the center a 180-degree view of all the cells. This prototype design has been used at other typical level IV (maximum-security) prisons in California.

According to our consultant, while other designs might work as well or even better, Corrections' staff are extremely comfortable with the 180-degree design for housing high-risk inmates, and they feel safe working in it. In addition, because architectural drawings already exist, using the 180-degree design avoids the cost of designing a different type of facility. For these reasons, our consultant has concluded that, overall, it makes sense to use the 180-degree design for the CIC.

To determine how much it would cost to build the CIC's eight housing units, Corrections, together with a consultant specializing in prison construction, developed a cost per gross square foot, using the bids it received when it built a 180-degree housing unit at the California Substance Abuse Treatment Facility, which opened in 1997. At the time that Corrections completed its cost estimate for the CIC in 2002, this facility was the most recently constructed maximum-security prison in California. It was therefore necessary to adjust these costs for inflation and for San Francisco Bay Area (Bay Area) market conditions. However, as we discuss in the following section, even with these adjustments, subsequent cost estimates prepared by Corrections and its consultant project that the CIC will cost much more than originally anticipated.

Corrections' Most Recent Estimate for a CIC Is \$356 Million, a Significant Increase Over Its Previous Estimate

Corrections' most recent estimate of the cost to construct the CIC revealed that the project will require significantly more funding than that approved by the Legislature in fiscal year 2003–04. Specifically, the estimate prepared by Corrections in November 2007 showed that the new CIC will cost \$356 million, an increase of 62 percent over its original estimate. Because of these escalating costs, construction of the new CIC was put on hold. In its fiscal year 2008–09 budget, Corrections has again requested additional funding so that it can begin construction of the CIC at San Quentin. Table 3 shows the change in costs for each component of the proposed CIC.

According to the CIC project director, the significant increase in the project's costs was the result of an unprecedented rise in construction costs during the five years between the development of the original cost model and the most recent estimate. The CIC project director noted that various modifications made to the original design of the CIC also increased the costs. The original cost estimate was based on construction bids received for a prior prison construction project and adjusted for inflation, whereas Corrections' most recent cost estimate is based on final construction documents specific to the San Quentin site.

Table 3
Cost Comparison of the Original Budget for the Condemned Inmate Complex to the Proposed Condemned Inmate Complex Budget

COST COMPONENT	ORIGINAL CONDEMNED INMATE COMPLEX BUDGET*	PROPOSED CONDEMNED INMATE COMPLEX BUDGET†	DIFFERENCE	PERCENTAGE CHANGE
Site demolition and grading‡	\$32,156,544	\$29,050,571	(\$3,105,973)	(9.7%)
Site utilities	9,006,401	34,286,761	25,280,360	280.7
Housing and guard towers	81,749,624	134,758,964	53,009,340	64.8
Secure support buildings	26,909,888	51,301,759	24,391,871	90.6
Correctional treatment center	18,627,961	27,082,592	8,454,631	45.4
Nonsecure support buildings	11,590,189	22,158,089	10,567,900	91.2
Professional fees	28,923,983	39,820,000	10,896,017	37.7
Other	11,035,410	17,815,631	6,780,221	61.4
Totals	\$220,000,000	\$356,274,367	\$136,274,367	61.9%

Source: Bureau of State Audits' analysis of the California Department of Corrections and Rehabilitation's (Corrections) original and revised cost estimates.

* Corrections prepared this estimate for a two-level 1,024-cell condemned inmate complex (CIC) on November 1, 2002.

† Corrections prepared this estimate for a four-level stacked 768-cell CIC on November 13, 2007.

‡ This component consists of 12 different subcomponents. Although the overall costs declined, due largely to a reduction in costs for demolition and hazardous materials cleanup, other subcomponent costs increased. For example, site grading and soil stabilization costs increased by \$14.1 million.

Final construction documents provide a much more accurate representation of the true cost of a project because they contain details regarding variables and contingencies specific to building at a particular site. For instance, the following items included in the final construction documents have contributed to increased costs:

- The original cost model assumed that Corrections would use its standard 180-degree housing unit for the condemned inmate population, which is a two-story building with a total of 128 ground-floor and mezzanine cells. According to officials from Corrections' facilities management division, the design of this housing unit provides both a higher level of security and operational flexibility for the condemned inmate population. Due to constraints specific to the San Quentin site, however, Corrections decided to stack the 180-degree housing units on top of one another, resulting in three four-story buildings, each containing two housing units. Although stacked, each housing unit is designed to operate totally independently, for security reasons. This security requirement resulted in the need for elevators, dumbwaiters, and additional access and stairways that were not in the original 180-degree housing design or in the budget.
- Because of the size, configuration, and weight of the stacked structures, the structural engineer of record reported that the concrete could not be precast but would have to be cast in place, resulting in a significant increase in the cost.
- The original cost model assumed that average soil conditions existed on the site. Following completion of a detailed geotechnical investigation, however, it was determined that the soil conditions would require extensive mitigation before construction could begin.
- The soil conditions at the San Quentin site require that the foundations for the housing units be constructed in a much more substantial manner, further adding to the cost. Specifically, Corrections determined that the housing units will require pile foundations instead of a conventional spread footing, due to the weight of the stacked configuration, soil conditions, and seismic requirements.
- Additional site costs that were not in the original budget include the removal of Dairy Hill, a 30- to 40-foot-high sandstone hill located on about one-third of the proposed CIC site. Material from Dairy Hill will be removed, crushed, and reused as general site fill or in excavations where poor soils exist. Soil piers spaced approximately 8 to 10 feet apart must also be installed in selected areas throughout the site to keep sidewalks and roads from settling. Further, the soils in the middle of the asphalt-paved recreation yards will undergo deep dynamic compaction to prevent settling.

- The original cost model budgeted approximately \$18.7 million for a correctional treatment center (treatment center) and central health services totaling 48,993 square feet. However, based on input from the San Quentin medical staff and revised operational requirements, it was determined that many of the medical functions (such as pharmacy and dialysis) that were provided at other on-site facilities would be relocated to the new treatment center. These new functions added approximately 8,400 square feet to the size of the structure, increasing the cost of the building. Corrections also decided not to construct the central health services building, reducing costs by \$5.1 million. However, the increase in the size of the treatment center increased its costs by \$13.5 million, for a net increase of \$8.4 million.
- A warehouse was not included in the original cost model, based on initial planning information received from the San Quentin staff. It was later determined that the existing warehouse space was at capacity and that a new warehouse would be required to store goods and materials to support the new CIC.
- The original budget was based on the standard amount of asphalt paving required for a maximum-security prison. The biggest increase in this category was for additional work and materials related to paving four recreational yards, which constitute approximately 75 percent of the 14.5 acres of paving to be installed on the project. Because of the poor soil conditions, the geotechnical engineer recommended that from 12 to 16.5 inches of aggregate base topped by up to 3.5 inches of asphalt be placed on all areas to be paved.

Because of these and other factors identified in Appendix A, Corrections now estimates that the new CIC will cost approximately \$356 million.

Several Factors Contributed to the Decision to Stack the Housing Units

One of the critical decisions leading to the increased costs was the decision to stack the standard 180-degree housing units one on top of the other. This decision resulted in increased area related to vertical movement, increased foundation costs, and a requirement to change from precast modular construction to cast-in-place concrete construction. Additionally, the greater height of the facilities contributed to community concerns during the environmental impact report (EIR) process, resulting in the need to develop a more sensitive approach to the exterior facade, again resulting in increased costs.

One of the critical decisions leading to increased costs was the decision to stack the housing units one on top of the other.

According to the CIC project director, because of site constraints and the desire to maintain the existing staff housing adjacent to the CIC site, Corrections decided to stack the housing units on top of one another. Under its original proposal, Corrections would have had to demolish 57 homes to make room for the eight two-story housing units. These are among the 86 homes located on the San Quentin property for prison employees and their families. According to the CIC project director, allowing prison employees to reside on the grounds enables them to respond to emergencies more quickly. Specifically, the project director told us that staff housing is deemed very important to San Quentin because it allows operations and maintenance staff essential to the operation of the prison to be housed on prison grounds should an emergency such as an earthquake occur in the Bay Area. The project director further stated that these homes are important because most of San Quentin's staff commute from outside the area due to the high cost of living in Marin County, where San Quentin is located.

Additionally, according to the September 2004 EIR, Corrections' original proposal would have resulted in the demolition of a schoolhouse building. The EIR stated that demolition of the building would be a significant impact, because the schoolhouse could be listed as a historical resource. The project director also noted that public input during the EIR process indicated a strong desire to maintain the aesthetic appearance of the view from Sir Francis Drake Boulevard, a main access road running parallel to the San Quentin site.

Corrections did not perform a comparative cost analysis to determine whether moving the houses and schoolhouse to other locations and continuing its plan for a two-story condemned inmate complex would result in lower overall costs.

Although these appear to be reasonable explanations for Corrections' decision to stack the housing units, Corrections did not perform a comparative cost analysis to determine whether moving the houses and schoolhouse to other locations on the San Quentin site or elsewhere and continuing its plan for a two-story CIC would result in lower overall costs to build the complex.

The Cost of the New CIC at San Quentin May Exceed Corrections' Current Estimates

Analyses performed by our consultant found that, with one exception, Corrections correctly estimated construction cost, was precluded from applying realistic escalation rates, and omitted estimating the cost to activate the CIC. However, our consultant believes that Corrections inappropriately reduced the cost of constructing the CIC because it believed that economies of scale realized in building multiple, similarly designed buildings would reduce construction costs. Our consultant estimates that the cost to construct the CIC at San Quentin will exceed Corrections' most recent estimate by \$39.3 million. Additionally, Corrections did not estimate all of the costs associated with activating the new CIC until very recently

at our request. Our consultant estimates that these costs will total approximately \$7.3 million. Finally, at our request Corrections provided salary information for the staff it anticipated needing to operate the CIC.³ Our consultant's analysis of Corrections' estimated staffing needs found that San Quentin will spend \$39.5 million more in staffing costs in the first full year after the facility opens than it would spend if the new CIC were not built. Overall, our consultant estimates that San Quentin will incur additional staffing costs of approximately \$1.2 billion during the first 20 years the facility is in operation. Table 4 compares Corrections' estimated costs with those developed by our consultant, including the net new costs to complete anticipated major repairs to the CIC.

Table 4
Comparison of Estimated Costs to Construct, Activate, and Operate the 768-Cell Condemned Inmate Complex

NATURE OF COSTS	CORRECTIONS' ESTIMATED COSTS (NOVEMBER 2007)	BUREAU OF STATE AUDITS' CONSULTANT'S ESTIMATED COSTS (MAY 2008)	VARIANCE
Capital Construction Costs			
Site work	\$63,337,332	\$67,536,412	\$4,199,080
Construction	246,309,035	278,140,663	31,831,628
Equipment	6,808,000	7,944,910	1,136,910
Professional fees	39,820,000	41,926,556	2,106,556
Subtotals	\$356,274,367	\$395,548,541	\$39,274,174
Activation Costs*			
Staff	\$7,403,992	\$6,786,332	(\$617,660)
Escalation	604,166	553,765	(50,401)
Subtotals	\$8,008,158	\$7,340,097	(\$668,061)
20-Year Operating Costs†			
Staff		\$1,176,150,497	
Major repairs/replacements		22,500,000	
Subtotal		\$1,198,650,497	
Total			\$1,601,539,134

Source: Our consultant's analysis of documented estimates prepared by the California Department of Corrections and Rehabilitation (Corrections).

* Activation costs are certain types of nonconstruction costs associated with opening any new prison and include recruiting, hiring, and training of new staff and moving inmates from their current location to the new facility. Unlike its construction costs, Corrections estimated these costs in May 2008, at our request.

† These amounts represent costs that are specifically related to the new condemned inmate complex or net new operating costs. Corrections has not estimated these costs as of May 2008.

³ We confirmed a sample of salaries used in the computation of staff costs by tracing to the fiscal year 2008–09 Governor's Budget.

Our Consultant's Projected Capital Construction Costs for the San Quentin CIC Are Higher Than Corrections Estimated

Capital construction (construction) costs for the new CIC at San Quentin may be as much as \$39.3 million higher than Corrections' most recent estimate. As shown in Table 4, Corrections estimates that construction costs for the CIC will total \$356.3 million. However, our consultant estimates that these costs will total \$395.5 million, 11 percent more than Corrections' estimate. Table 5 shows the factors contributing to the differences between Corrections' estimates of the construction costs and those developed by our consultant.

Table 5

Reasons for the Differences Between Corrections' Estimated Capital Construction Costs and the Bureau of State Audits' Consultant's Estimates

	CORRECTIONS' ESTIMATED COSTS (NOVEMBER 2007)	BUREAU OF STATE AUDITS' CONSULTANT'S ESTIMATED COSTS (MAY 2008)	VARIANCE ATTRIBUTABLE TO		
			APPLICATION OF HIGHER ESCALATION RATES AND DELAYS IN STARTING THE PROJECT	ADJUSTMENT TO COST OF ITEMS	TOTAL VARIANCE
Site work	\$63,337,332	\$67,536,412	\$4,199,080	\$0	\$4,199,080
Construction	246,309,035	278,140,663	26,759,363	5,072,265	31,831,628
Equipment	6,808,000	7,944,910	1,136,910	0	1,136,910
Professional fees	39,820,000	41,926,556	2,106,556	0	2,106,556
Totals	\$356,274,367	\$395,548,541	\$34,201,909	\$5,072,265	\$39,274,174

Source: Our consultant's analysis of documented estimates prepared by the California Department of Corrections and Rehabilitation.

An escalation factor is applied to construction estimates to account for the price of construction materials and services at a future point in time. In California state departments are required to use the projected California Construction Cost Index (cost index), published monthly by the Department of General Services, in their estimates for capital outlay projects, as a way to escalate construction costs. The cost index is an average of the Building Construction Cost Indices for Los Angeles and the Bay Area, as published in the *Engineering News Record*. Departments must apply the most recently published cost index when preparing budget packages, preliminary plans, or working drawings estimates for a given project.

According to our consultant, the cost differential between the two estimates is due primarily to the fact that the escalation factor Corrections was mandated to use was too low and not reflective of market conditions. In August 2007 the Department

of Finance (Finance) issued a budget letter stating that to help ensure adequate funding for projects, costs for construction projects are to be escalated on a monthly basis, starting from the date the cost index for the project was last updated to the estimated start and midpoint of construction, at an uncompounded annual rate of 5 percent, or 0.42 percent per month. Our consultant determined that this escalation rate does not accurately reflect the current or future rate. Prior to 2008 our consultant believes that the average escalation factor was in excess of 8.7 percent due to factors in both the domestic and international markets. Going forward, our consultant believes that an escalation rate of 8 percent for 2008, slowing to 6 percent in 2009 and beyond, is more reflective of the current market conditions. Consequently, because Corrections' project cost estimates were based on price increases for purchasing construction materials and paying for services and work at a future point in time using the rate mandated by Finance, its cost estimates were understated. Additionally, our consultant recommends that escalation be compounded annually.

Furthermore, Corrections estimated that site preparation work would begin in August 2008, and any delays will increase project costs. Specifically, unaccounted for delays in starting the project extend the project's completion date further into the future, and require taking into consideration the additional costs associated with paying for goods and services during that unanticipated period of time. Although Corrections estimated that site preparation work would begin in August 2008, funding has been delayed pending further analysis of the project and, therefore, escalation costs will increase. Our consultant believes that the earliest feasible start date will be November 2008, assuming the state budget is enacted by August 1, 2008, and with the expectation that it could take approximately three months to complete the necessary bidding and contracting process before work on the project will actually begin. In the case of the proposed CIC, our consultant estimates that for every month the start of the project is delayed from when it was expected to begin, the cost of the project will increase by one-half percent per month, based on an annual escalation rate of 6 percent for 2009 and subsequent years. Assuming a currently estimated cost of \$395.5 million for a 24-month project with a start date of November 1, 2008, the cost of the project would increase by approximately \$2 million for every month the project's start date is delayed beyond November 1, 2008.

Finally, Corrections reduced the cost of constructing the three buildings in which inmates would be housed because it believed that the economies of scale realized in building multiple similarly designed buildings would reduce the overall costs of constructing them. However, our consultant believes that the anticipated 4 percent cost reduction is not likely to be realized

given the current market conditions. Therefore, he eliminated the discount in his calculation, increasing the cost of building the housing units by \$5 million.

As shown in Table 6, because of the higher construction costs estimated by our consultant, as well as Corrections' proposed design modifications, the cost per cell and per bed has risen significantly from Corrections' initial fiscal year 2003–04 estimate. Specifically, as shown in the table, the cost per cell has increased by 140 percent and the cost per bed has increased by 120 percent.

Table 6
**Unit Cost Comparison for Corrections' Condemned Inmate Complex,
 Using the Original and Modified Designs and Cost Estimates**

	ORIGINAL DESIGN: \$220 MILLION COST ESTIMATE (FISCAL YEAR 2003–04)	MODIFIED DESIGN: \$395 MILLION COST ESTIMATE* (FISCAL YEAR 2008–09)	DIFFERENCE	PERCENTAGE CHANGE
Housing units	8	6	2	(25%)
Cells	1,024	768	256	(25)
Beds	1,408	1,152	256	(18)
Square footage	609,957	541,061	68,896	(11)
Cost	\$220,000,000	\$395,548,541	\$175,548,541	80
Total cost per cell	\$214,844	\$515,037	\$300,193	140%
Total cost per bed	\$156,250	\$343,358	\$187,108	120%
Total cost per square foot	\$361	\$731	\$370	102%

Source: Our consultant's analysis of documented estimates prepared by the California Department of Corrections and Rehabilitation.

* This amount represents the total estimated construction costs as calculated by our consultant.

Corrections' Current Cost Estimates Do Not Include \$7.3 Million to Open the CIC and Move the Condemned Inmates Into the Complex

Before opening the new CIC and moving all of the condemned inmates into the complex, Corrections will incur certain start-up costs unrelated to constructing and operating the facility. These one-time costs are referred to as activation costs and generally include costs associated with recruiting and hiring new staff and costs for training and orienting staff to the new facility. Additional activities include testing the CIC's operational plans, procedures, and systems prior to the arrival of condemned inmates and transporting them from their current housing units to the new CIC.

In the capital outlay budget change proposal submitted to Finance for fiscal year 2008–09, Corrections indicated that it would need a total of 505 staff to operate the CIC, consisting of 158 existing San Quentin employees and 347 new staff.

According to Corrections' associate director of reception centers, 167 of the new staff would be correctional officers. However, due to an expected increase in population, Corrections expects to hire 11 new correctional officers before the CIC is opened, and therefore the number of new correctional officers that must be hired to operate the new CIC is 156 ($167-11=156$).⁴ After it hires the 11 correctional officers, the total number of existing San Quentin staff available for assignment to the CIC will be 169. Therefore, to fully staff the CIC, Corrections will need to hire 336 additional employees ($505-169=336$).

As shown in Table 7, our consultant, working with Corrections, estimated the total activation costs for the new CIC as approximately \$7.3 million.

Table 7
Estimated Costs to Activate the Condemned Inmate Complex

ESTIMATED COST	
Preservice training for 156 new correctional officers	\$4,002,804
San Quentin classroom training for 336 new staff	560,179
Training for 54 health care staff	130,290
Orientation for all 169 condemned inmate complex (CIC) staff	152,614
Total Training and Orientation	\$4,845,887
CIC activation staffing	\$1,125,000
Moving condemned inmates to the CIC	815,445
Subtotal	\$6,786,332
Two-year estimated increase in salary and benefit costs (4% per year for 2 years, compounded)	\$553,765
Total	\$7,340,097

Source: Information obtained from the California Department of Corrections and Rehabilitation in memos, e-mails, and meetings.

Our consultant concluded that recruitment and hiring costs are likely to be substantially absorbed within Corrections' operations budget. The incremental costs associated with recruiting and hiring new staff for the CIC are likely to be minimal compared to Corrections' ongoing expenditures for these activities, as Corrections already hires hundreds of employees each year. Therefore, we have not included any additional costs for recruiting and hiring the 336 new staff.

⁴ Corrections would hire any mix of staff they deem appropriate, not just correctional officers. However, for the purpose of estimating costs, it is assumed that Corrections would hire correctional officers only.

Training and orienting staff to the new CIC is estimated to cost \$4.9 million. The 156 new correctional officers will attend Corrections' 16-week preservice training program, during which time they will be paid as correctional officer cadets at an estimated cost of \$25,659 per cadet, for a total of \$4 million. In addition, all 336 new employees will receive 40 hours of formal classroom orientation upon arrival at San Quentin. The estimated cost of this training is \$560,179, based on an average of \$41.68 per hour for salary and benefits. Additional institutional-level training will be provided for the estimated 54 new health care staff, including medical, mental health, and dental employees who will be assigned to the CIC. Assuming that such classroom training will be 40 hours in duration, another \$130,290 in additional costs will be incurred, based on an average rate for all of the health care positions. Follow-up mentoring and orientation by more experienced institution health care staff is anticipated in the week(s) following the formal training as the new employees make the transition into their new jobs.

Further, all 505 staff assigned to the CIC will require an average of 16 hours of orientation and training specific to the new CIC's systems and procedures, prior to the activation of the CIC. However, additional costs are likely to be incurred only for training the existing San Quentin staff, who will have to be relieved from their current assignments to attend the training. Applying an average hourly overtime rate of \$56.44 for 16 hours for these 169 employees produces a cost of \$152,614 for this training.

In addition to training and orientation costs, prior to the arrival of any of the condemned inmates, considerable nonconstruction work is required to ensure that the CIC is in proper working order. According to Corrections, as part of its general protocol, tasks to be accomplished prior to moving condemned inmates into the CIC would include, among other tasks, developing institutional policies and procedures, practicing operational responses, conducting inspections and searches, and securing areas. To accomplish this work, staff will need to be assigned to the CIC on a phased-in schedule well in advance of the arrival of the first condemned inmate. A few experienced staff will begin work at the CIC as much as a year in advance, with more coming on board as the opening approaches. Based on discussions with Corrections, our consultant estimates that 50 staff will be assigned to the CIC in this capacity for an average of three months prior to its opening, at an average monthly rate for salary and benefits of \$7,500, resulting in a cost of \$1.1 million.

Our consultant estimates that the process of moving the inmates will require some staff to work additional hours on an overtime basis, incurring up to an additional \$815,445 in costs.

Finally, it is neither practical nor desirable to move all of the condemned inmates at one time from the cellblocks in which they are currently housed to the CIC. Thus, a phased-in approach is anticipated, resulting in some additional one-time costs. Assuming that about 125 inmates per week are transferred to the CIC, it will

be necessary to operate both the CIC and the old condemned inmate facilities for about six weeks. This transition time will provide CIC staff the opportunity to make sure that the CIC, its systems, and its procedures are working properly prior to moving all of the condemned inmates to the new facility. Based on conversations with Corrections, our consultant estimates that the process of moving the inmates will require some staff to work additional hours on an overtime basis, incurring up to an additional \$815,445 in costs. This estimate is based on filling 43 security posts for an average of eight hours a day for 42 days at \$56.44 per hour.

Corrections' Current Cost Estimates Do Not Include Additional Costs to Operate the New CIC

In addition to the one-time costs for construction and activation, there will be significant additional ongoing costs to operate the new CIC. In order to provide a thorough analysis of the additional cost of the CIC, our consultant estimated the additional (net new) staffing costs over a 20-year period, from fiscal year 2011–12, the first full year the CIC is expected to be operational if construction begins as anticipated, to fiscal year 2030–31. Furthermore, this information is necessary to compare the net new costs of staffing the CIC for 20 years at San Quentin with the net new staffing costs at other potential sites for the CIC.

Based on the analysis prepared by our consultant, we estimate that San Quentin will incur approximately \$39.5 million in net new staffing costs during the first full year of the CIC's operation. Net new staffing costs are estimated to average \$58.8 million per year, for a total of about \$1.2 billion over the 20-year span, with the assumption that the cost of salaries and benefits will increase at 4 percent per year, compounded annually. According to our consultant, these are costs that San Quentin will incur only if the new CIC is built, and they include the cost of paying salaries, benefits, and overtime for 336 new CIC staff. Furthermore, during the first 20 years the CIC is in operation, our consultant estimated that there will be an additional \$22.5 million needed for major building repairs.

The total cost to operate the CIC will also include the cost of the existing 169 employees as well as the cost of nonpersonnel services at the CIC, which include the costs of providing food, clothing, and medical care for inmates, among other things. Our consultant estimated that the nonpersonnel cost would average approximately \$17 million per year during the first 20 years the new CIC is in operation. However, we did not include these in our calculations because they are expenditures that Corrections would incur whether or not the new CIC is in operation. For the same reason,

Net new staffing costs are estimated at about \$1.2 billion over the first 20 years the CIC is in operation.

we did not include the cost of adding staff in future years to keep pace with the projected increase in the number of condemned inmates, because those costs would be incurred to operate the existing facilities that house condemned inmates.

Although the Proposed CIC May Provide Adequate Capacity to House Condemned Inmates in Future Years, There Are Concerns About Corrections' Plans to Double-Cell Condemned Inmates

Corrections' current plan for the CIC includes double-celling up to two-thirds of the condemned inmates, meaning that half of the cells would house two inmates.⁵ Given a projected growth of 18 inmates per year and 768 cells in the new CIC, Corrections would need to begin double-celling inmates in calendar year 2014, less than three years after the CIC is scheduled to open, and the CIC would reach its inmate bed capacity during calendar year 2035.

Our consultant expressed concerns about staff safety, inmate safety, and the protection of confidential legal papers if condemned inmates are double-celled. The Office of the State Public Defender concurs with our expert regarding the protection of confidential legal documents. Corrections believes it has procedures in place to address these concerns. Nevertheless, representatives from 11 of 12 other states who responded to our request for information indicated that they do not double-cell condemned inmates. Notwithstanding Corrections' position that many condemned inmates can be double-celled, our consultant believes that a more realistic alternative is to add another housing unit to the CIC, which he estimated would cost \$64.1 million if constructed concurrently with the proposed CIC project.

Corrections' Plans Include Double-Celling Inmates to Meet Future Needs

As currently envisioned, the new CIC would house condemned inmates in three buildings, each containing 256 cells, for a total of 768 cells. Half of the cells would be configured with a second bed to accommodate two inmates per cell. Thus, according to Corrections' plan, the total capacity of the CIC would be 1,152 inmates. Although Corrections' policy is to double-cell inmates, the memorandum outlining the policy states that it will be adhered to for inmates in the general population, administrative segregation, and security housing units. However, it does not address whether condemned inmates can be double-celled. Nevertheless, according to the chief deputy secretary of adult institutions (chief deputy), this policy

⁵ Current condemned inmate cells are approximately 42 square feet, whereas under the proposed design the cells would be approximately 80 square feet.

would also apply to condemned inmates confined at the CIC. Corrections' decision to double-cell certain inmates is based on an evaluation of their characteristics and history, which includes assessing the inmates' compatibility and disciplinary history. Although it does not currently double-cell any of its condemned inmates, as the condemned inmate population increases, Corrections has indicated it will begin doing so in the new CIC.

If double-celling of the condemned inmates occurs as planned, we estimate that the CIC's 1,152-inmate bed capacity will be reached in 2035. If double-celling does not turn out to be a feasible approach, the CIC will reach its cell capacity in 2014. As of April 2008 Corrections was housing 635 condemned inmates at San Quentin.⁶ In designing the new CIC, Corrections estimated that the condemned inmate population would grow by 24 male condemned inmates per year, which would result in the new CIC reaching its inmate bed capacity in 2028. However, our consultant believes that Corrections may have overestimated the population growth, because its estimate did not take into account that in recent years fewer people have been sentenced to death. This change has resulted in an average annual increase of 12 condemned inmates rather than 24. Recognizing that this downturn could be short-lived, but that the annual increase might not soon return to the earlier level, our consultant estimated that the male condemned inmate population will grow by 18 inmates per year. This is the net population growth, accounting for factors such as executions, deaths due to other causes, and inmates that are removed from death row because their sentences are changed. Our consultant's estimated population growth rate of 18 condemned inmates per year results in the facility reaching its full bed capacity in 2035 if Corrections implements its plan to double-cell some condemned inmates.

According to the chief deputy, Corrections intends to double-cell those condemned inmates that it determines pose the least threat to one another and staff. Corrections currently classifies its condemned inmates into two levels—grades A and B. As of May 2008, 474 of the condemned inmates were classified as grade A. Corrections views the inmates classified as grade A as having a low propensity for violence or escape. According to Corrections, these inmates have demonstrated good behavior and an ability to cooperate safely and peaceably with other inmates and staff. Conversely, condemned inmates currently classified as grade B have a high potential for escape or violence or are serious disciplinary management cases.

If double-celling does not turn out to be a feasible approach, the CIC will reach its cell capacity in 2014.

⁶ Although the total male condemned population as of May 1, 2008 was 656, according to the San Quentin warden only 635 were housed at San Quentin. The other 21 inmates were out of the institution for a variety of reasons, including 14 out for court dates and hearings, three out for medical care, and four serving sentences in other states.

California Department of Corrections and Rehabilitation's Anticipated New Condemned Inmate Grades

Grade A: These inmates have demonstrated a low propensity for violence or escape. These inmates have demonstrated good behavior and an ability to cooperate safely and peaceably with other inmates and staff, and they are provided work assignments and other privileges. According to the California Department of Corrections and Rehabilitation (Corrections), these inmates can be double-celled.

Grade B: These inmates have also demonstrated a low propensity for violence. However, they are not provided with work assignments. According to Corrections, most of these inmates can be double-celled.

Grade C: These inmates have special needs and are in protective custody due to the nature of their crimes. Their custody requirements are similar to those of grade B inmates. According to Corrections, some of these inmates can be double-celled, but only with other grade C inmates.

Grade D: These inmates are management cases who will have no contact with inmates of other grades. According to Corrections, these inmates cannot be double-celled.

Grade E: These inmates are serious management cases and/or validated gang members who will have no contact with inmates of other grades. According to Corrections, these inmates cannot be double-celled.

Sources: Corrections' chief deputy secretary of adult institutions and the *Condemned Inmate Complex Architectural Program report*.

Corrections intends to update and expand this classification system by placing condemned inmates into one of five different grades. Under the new system, the condemned inmates currently classified as grade A will be reclassified to grades A through C, and the current grade B inmates will be reclassified to grades D and E. (Refer to the text box for a brief description of these anticipated grades.) Corrections' architectural program report for the CIC specifies a level of double-celling for inmates classified as grades A, B, or C and states that inmates classified as grades D and E will be single-celled. Additionally, the chief deputy stated that Corrections has not yet implemented the new grading system, and while court approval for the system is not required, he believes Corrections would engage the courts and others before making the change.

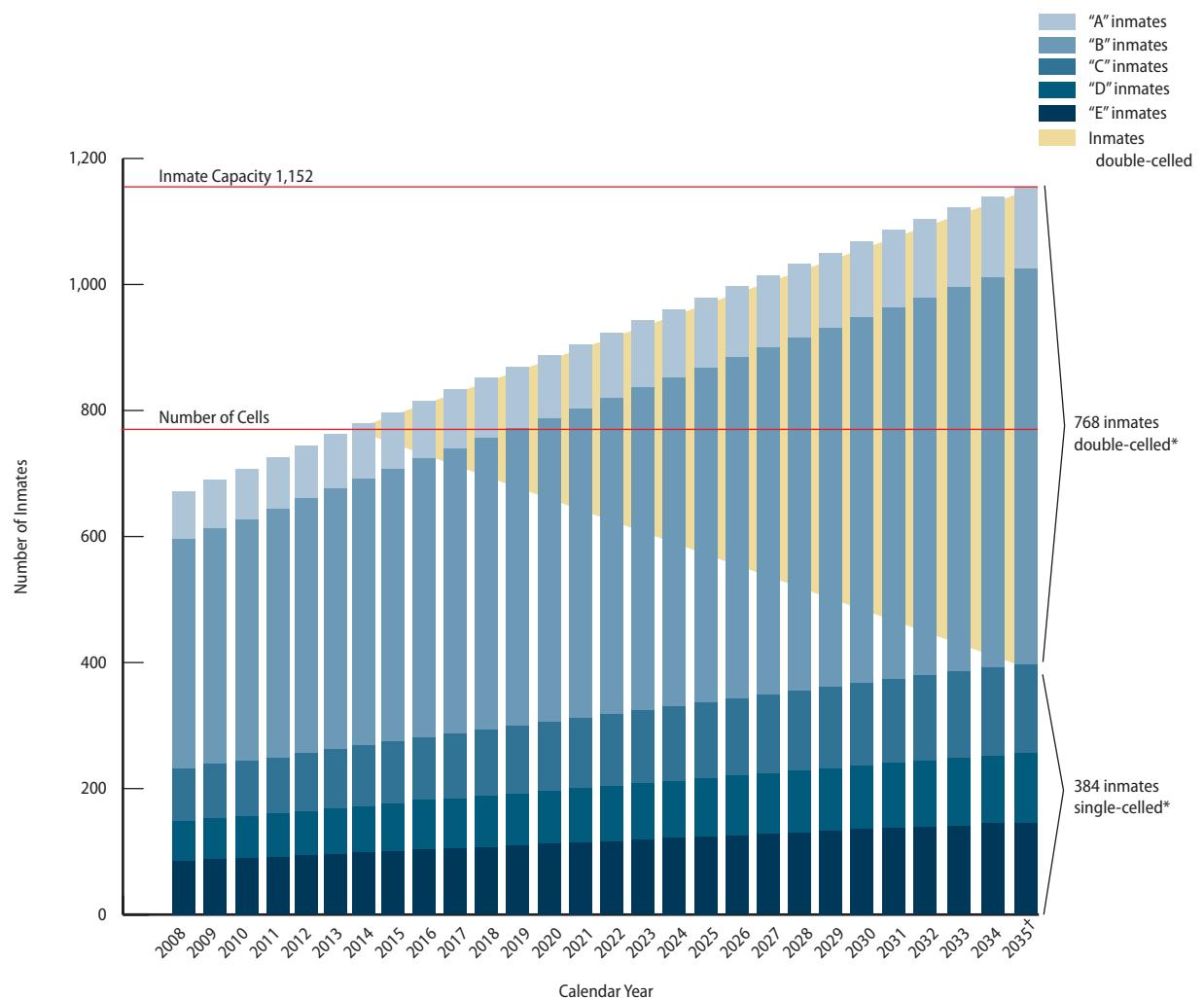
According to the chief deputy, under the new grading system it would be reasonable to assume that Corrections will first evaluate inmates classified as grade A for potential double-celling. Corrections would likely evaluate inmates classified as grade B next, and so on. The chief deputy stated that these evaluations would be performed on an individual basis, and therefore it may not be the case that all inmates classified as grade A will be double-celled but would depend on Corrections' evaluation of each individual.

Based on our consultant's projected population growth, placing two condemned inmates in some cells will be necessary beginning in 2014, three years after the CIC is expected to open.

As Figure 2 indicates, in that year the condemned inmate population is expected to exceed the 768 cells available in the CIC. By the end of calendar year 2016, all of the grade A condemned inmates would be double-celled, assuming that double-celling is appropriate for all of these inmates, and Corrections would need to begin double-celling its grade B condemned inmates. Continuing this process, by 2035, when the CIC has reached its capacity, 1,152 condemned inmates would be housed in the CIC, and two-thirds of these, a total of 768 inmates, would be sharing cells.

Figure 2

**Projected Growth in Condemned Inmate Population by Grade and Condemned Inmate Complex Capacity
2008 Through 2035**



Source: Bureau of State Audits' consultant's condemned inmate population projections using the California Department of Corrections and Rehabilitation's (Corrections) condemned inmate counts for 1978 through 2007 and its anticipated reclassification of existing condemned inmates. We did not verify inmate counts to source documentation such as inmate files.

* Estimate based on Corrections' current projections of the number of inmates in each grade level.

† Represents only nine months of 2035, at which point the condemned inmate complex would be at capacity.

In this hypothetical scenario, all grade A condemned inmates would be double-celled, all but one of the grade B inmates would be double-celled, and 16 of the grade C inmates would be double-celled.⁷

⁷ The condemned inmate population is projected to reach 1,152 during calendar year 2035. At this point, there is projected to be an odd number of grade B inmates, requiring one of these inmates to be single-celled since grade B inmates cannot be double-celled with grade C inmates.

Some Experts Have Expressed Concerns About Double-Celling Condemned Inmates

The United States Supreme Court has ruled that placing two inmates per cell in a relatively modern prison facility does not violate the constitutional prohibition against cruel and unusual punishment. However, some experts we spoke to raised concerns about double-celling condemned inmates. Because condemned inmates typically have appeal matters pending throughout their time on death row, the chief assistant state public defender (chief public defender) stated that inmates often review legal papers related to their cases while in their cells, and housing two inmates in a cell may compromise the confidentiality of an inmate's legal papers. Further, according to the chief public defender and the executive directors of the California Appellate Project and the Habeas Corpus Resource Center, capital cases often contain very personal, private, and sensitive materials. They added that double-celling raises serious concerns about maintaining confidentiality during the preparation to defend a condemned inmate. Additionally, although the chief public defender cannot say at this point whether his office would challenge the legality of double-celling, in his professional opinion, a legal challenge would certainly be brought to such a plan by others who have standing to do so. The executive director of the California Appellate Project agrees, stating that it is likely that double-celling condemned inmates in California would be legally challenged.

Although the chief assistant state public defender cannot say whether his office would challenge the legality of double-celling, in his professional opinion a legal challenge would certainly be brought by others who have standing to do so.

In our discussions with Corrections' chief deputy on this point, he stated that there are ways to address concerns regarding confidentiality. Specifically, he stated that storage exists in which condemned inmates are currently permitted to store legal documents outside of their cells. When necessary, a condemned inmate can request legal papers from this storage area, and the correctional officers at San Quentin then retrieve the documents. However, according to the captain who oversees the inmates currently on death row at San Quentin, condemned inmates are allowed to have 1 cubic foot of legal paperwork in their cells. Thus, to address the risk that another inmate will access confidential legal materials in a shared cell, Corrections would need to change its current practices.

Our consultant believes double-celling the new grade A inmates is worth exploring. However, he expressed concern that double-celling any of the other inmates increases the risk of harm to the inmates who are housed together, especially for long periods of time. He added that health and mental issues may preclude double-celling a portion of the condemned inmates. Additionally, he said that condemned inmates are more likely to resist double-celling than other difficult-to-manage inmates.

Consequently, they may do whatever it takes in terms of acting out to remain in a single cell, unless significantly greater privileges are afforded to them when they are assigned to a two-person cell.

The chief deputy stated that it is Corrections' current policy to double-cell inmates whenever it is safe to do so, given space limitations and overcrowding, and that condemned inmates would not be an exception to this policy. He stated that the architectural design for the CIC assumed a certain level of double-celling. According to the chief deputy, the purpose of Corrections' process for evaluating whether inmates would be suitable to share a cell is to minimize the risk of harm to the inmates who are celled together, and part of the evaluation of inmates for double-celling would include consultation with medical and mental health staff. He further noted that the heightened risk of harm is not unique to the condemned inmate population. This concern also applies to inmates serving life without parole and to those that are housed in segregated housing units. Currently, some of these prisoners are double-celled in cells that are similar in size to those planned for the CIC. Additionally, he stated that it is likely that some condemned inmates would not be opposed to sharing a cell and that existing incentives would be sufficient motivation for these inmates.

To provide some context regarding the double-celling of condemned inmates, we surveyed 13 states that had populations of 50 or more condemned inmates as of April 2008. Of the 12 that responded, only one, Oklahoma, stated that it currently double-cells around 80 percent of its condemned inmates. The assistant deputy director of Oklahoma's Department of Corrections stated that inmates are double-celled after the department has determined that they are not an imminent threat to others. The remaining 11 states said that they do not double-cell condemned inmates. Representatives from the corrections departments of the other 11 states cited security as the main reason for not double-celling condemned inmates, stating that they believe condemned inmates would be more prone to violence against correctional officers and fellow inmates if they were double-celled. (See the text box for a listing of the states.)

According to our consultant, California's reasons for pursuing double-celling are not compelling. Our consultant does not believe Corrections can sufficiently mitigate the difficulties and risks inherent in double-celling condemned inmates

Most States We Surveyed Do Not Double-Cell Condemned Inmates

Eleven states do not double-cell condemned inmates:

Alabama
Arizona
Florida
Georgia
Louisiana
Mississippi
Nevada
Ohio
Pennsylvania
South Carolina
Tennessee

One state double-cells condemned inmates:

Oklahoma

One state did not respond:

Texas

Source: Bureau of State Audits' survey of states with 50 or more condemned inmates as of April 2008.

who, more than any other inmate group, have nothing to lose. Although he agrees that some condemned inmates could be double-celled, our consultant believes it would be prudent for Corrections to consider double-celling only the condemned inmates classified as grade A under the new classification system.

A More Practical Solution for Housing the Growing Number of Condemned Inmates Would Be to Add a 256-Cell Housing Unit

Our consultant indicated that, rather than double-celling a large proportion of its condemned inmates, Corrections should build a fourth housing unit, which the existing land can accommodate. Based on an estimated increase in the condemned inmate population of 18 inmates per year, adding an additional 256-cell housing unit would allow Corrections to single-cell the condemned inmates until 2028. At that time, if Corrections began double-celling its grade A condemned inmates, total capacity would be reached during 2030. The additional housing unit would increase the total number of cells in the CIC to 1,024, and bed capacity would increase to 1,408.

Adding a housing unit would also be consistent with Corrections' original plan for the CIC, which included eight housing units containing 128 cells each, for a total of 1,024 cells. Its modified plan to construct the stacked housing units, each containing 256 cells, initially would have resulted in the same number of cells. However, due primarily to cost considerations, Corrections reduced the capacity of the proposed CIC by 25 percent, or 256 cells, by eliminating one of the four stacked housing units.

Although our consultant believes that the addition of a fourth stacked housing unit is preferable to double-celling, it would come at a substantial cost. Our consultant estimated that constructing a fourth stacked housing unit would add \$64.1 million to Corrections' currently planned CIC if it were constructed concurrently with the proposed CIC. With the addition of the fourth stacked housing unit, the CIC would have a total of 1,024 cells and 1,408 beds. This would lower the total cost per cell and cost per bed to \$448,876 and \$326,445, respectively. Thus, when compared to the per cell and bed cost shown in Table 6 on page 26, the additional housing unit would decrease the cost per cell and per bed because the fixed cost of the correctional treatment center and other CIC facility support functions would be spread over a greater number of cells and beds.

Although our consultant believes that the addition of a fourth housing unit is preferable to double-celling, it would come at a substantial cost.

However, if construction of the fourth stacked housing unit was delayed, our consultant estimated that the construction costs would rise significantly. For example, if construction was delayed five years until 2013, our consultant estimates that the construction costs would be \$92.6 million, due to \$19.2 million in costs associated with delaying the project and \$9.3 million in additional costs due to construction inefficiencies created by doing the work after construction of the other structures and while the CIC was in full operation.

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Chapter 2

ALTHOUGH MOVING THE CONDEMNED INMATE COMPLEX FROM SAN QUENTIN HAS DRAWBACKS, ALTERNATE SITES EXIST

Chapter Summary

In our report titled *California Department of Corrections: Its Plans to Build a New Condemned-Inmate Complex at San Quentin Are Proceeding, but Its Analysis of Alternative Locations and Costs Was Incomplete*, issued in March 2004, we reviewed the alternatives considered by the California Department of Corrections and Rehabilitation (Corrections) for constructing a new condemned inmate complex (CIC) and concluded that its analyses of alternatives did not consider all feasible locations and relevant costs. Our follow-up review found that Corrections has not performed any additional analyses of alternatives since we published the previous report.

Our study for the current report found that Corrections' current proposal for building the CIC at San Quentin State Prison (San Quentin) is the least expensive of the various alternatives we considered for housing condemned inmates. In evaluating the alternatives, our consultant determined that dispersing the inmates to multiple prison locations is neither practical nor economically viable: There are no excess level IV beds at other prisons, and the costs to build additional condemned inmate housing at multiple locations would be higher than the costs of building at a single location, due to economies of scale. Further, a significant amount of time would necessarily elapse before construction of a CIC at another location could begin, likely delaying the start of construction for almost five years. This delay, due to the time required for the approval and planning processes, would add an average of \$447 million in costs for a similar-sized CIC at the three alternative prison locations we considered: California State Prison, Sacramento (Sacramento); R. J. Donovan Correctional Facility (Donovan); and California State Prison, Solano (Solano). Constructing a two-story CIC at the currently proposed San Quentin site or a stacked CIC at an alternate site at San Quentin is also estimated to cost more than Corrections' current proposal, due to delayed construction start dates. Potential revenues from the sale of the currently proposed CIC site would only partially offset the cost of constructing the CIC elsewhere. Specifically, our consultant estimates that the land Corrections currently plans to use for the CIC could be sold for between \$45.3 million and \$117.9 million, depending on how it was developed.

The State would avoid approximately \$93.2 million in staffing costs if Corrections delayed construction of a CIC at San Quentin for five years—an average of \$18.6 million a year. However, although the State could save money by postponing the project, there are unquantifiable costs associated with doing so. For example, by the end of calendar year 2010, there will be 17 more condemned inmates than Corrections can house in the three cellblocks currently used for this purpose, based on our consultant's projection of the growth in the condemned inmate population. Further, the current facilities Corrections uses for condemned inmates do not meet many of Corrections' current standards for maximum-security facilities. As a result, our consultant has concluded that the use of the current facilities for housing condemned inmates increases the risk of escape and heightens the risk of harm to both staff and inmates. Thus, the cost avoidance involved in postponing construction of the new CIC for five years has to be weighed against the potential costs and risks associated with continuing to house the condemned inmates in outdated and inadequate facilities.

Corrections Did Not Consider Alternatives to Building a New CIC at San Quentin

Our previous report, issued in March 2004, concluded that Corrections' analyses of alternatives to its proposed CIC did not consider all feasible locations and relevant costs. We recommended that if the Legislature desired a more complete analysis regarding the optimal location for housing male condemned inmates, it should require Corrections to assess the costs and benefits of relocating the CIC to each of the current prison locations possessing either adequate available land for such a facility or an existing adequate facility that could be renovated to house condemned inmates, including in its assessment the relative disadvantages and costs related to each site's geographic location.

Corrections has not completed any additional analysis of feasible alternatives since our last report.

Based on our follow up during this audit, we found that Corrections has not completed any additional analyses of feasible alternatives since our last report. The CIC project director stated that, because the Legislature was clear in its intent that Corrections should build the CIC on the San Quentin site, conducting alternate site analyses would have been counterproductive. The deputy director of facilities management and the manager of Corrections' real estate unit also stated that no such analyses were ever requested, either internally or externally by the Legislature.

Corrections has made various attempts to address the housing and security of condemned inmates over the past 16 years, and the director of project management and construction has noted

that performing additional analyses would mean starting the project all over again. According to the CIC project director and representatives for the California Prison Healthcare Receivership (Receiver), looking for alternative locations and conducting the analyses necessary to determine the suitability of these locations would increase the amount of time necessary to solve the current housing problem.

Dispersing Condemned Inmates Among Housing Units at Multiple Prison Locations Is Neither a Practical nor Economically Viable Option

In examining the possibilities for housing condemned inmates, we evaluated the possibility of constructing individual 180-degree housing units at San Quentin within the secure prison perimeter, defined as the area within which existing prisoners and support services are located on the San Quentin property. We also considered transferring condemned inmates from San Quentin to existing 180-degree housing units at other level IV prisons, or constructing new individual 180-degree housing units at these level IV prisons. However, we found that these options presented a variety of challenges that would make them neither practical nor economically viable.

Due to limits on the existing available space within San Quentin's prison perimeter, according to our consultant, constructing one or more individual housing units at San Quentin rather than a complete CIC could be accomplished only outside the existing perimeter. Further, he concluded that building individual level IV housing outside of the perimeter without also constructing the support buildings to serve the population is not a practical alternative. Because of the need to eliminate contact between condemned and noncondemned inmates, services and programs for condemned inmates must be provided in close proximity to their housing units.

Transferring condemned inmates from San Quentin to other level IV prisons is similarly problematic. Because all level IV housing units are currently filled to capacity, there are literally no empty level IV beds. As a result, new level IV housing would have to be constructed to house either the condemned inmates or the level IV inmates displaced by the transfer of condemned inmates into existing level IV units. Additionally, the custody experts of the Receiver do not recommend dispersing condemned inmates to multiple locations. They identified community resistance and problems with legal access and visiting, media relations, and pre-execution procedures associated with this alternative, and stated that housing condemned inmates at multiple sites would amplify these issues.

Our consultant estimates that it would be more expensive to house condemned inmates at multiple locations as opposed to keeping them at a single location.

Additionally, our consultant estimates that it would be more expensive to house condemned inmates at multiple locations as opposed to keeping them at a single location. Certain costs associated with building level IV housing would be repeated at each location. Specifically, necessary construction-related work, including the preparation of environmental impact reports (EIRs), soil studies, site grading, architectural design, and the purchase and delivery of materials, would be incurred at each location, at a greater combined cost than if it all were to be accomplished at a single prison. The activation costs identified in Chapter 1 would also be multiplied, to a degree. For example, rather than activating and training all employees at the same prison, activation and training would need to take place at each location, which would likely increase overall costs. According to our consultant's analysis, the increased cost of multiple locations would not be offset by cheaper labor or materials costs at these alternative locations.

To Determine Possible Alternative Locations for a CIC, We Considered Court Orders, Stakeholder Concerns, and Other Factors

As mentioned in the Introduction, state and federal law provide little guidance on the parameters for siting a CIC. In the absence of such guidance, we used other factors, such as court orders and stakeholder concerns, to narrow our alternatives from 33 prisons to four: San Quentin, Sacramento in Folsom, Solano in Vacaville, and Donovan at Rock Mountain in San Diego.⁸

In selecting alternative locations for a CIC, we considered the following parameters:

- Section 3600 of the California Penal Code, which states, "Prior to any relocation of a CIC from San Quentin, whether proposed through legislation or any other means, Corrections must evaluate all maximum-security level IV, 180-degree housing unit facilities with an electrified perimeter for suitability for the CIC and execution of condemned inmates."
- Court orders and other litigation affecting Corrections' operations, which were discussed in the Introduction: *Plata, Perez, Coleman, and Armstrong*.
- Concerns from various stakeholders who represent condemned inmates in their appellate and habeas corpus work.⁹

⁸ In this report, we refer to California State Prison, Sacramento, as "Sacramento" and the city in which it is located as "Folsom."

⁹ Habeas corpus petitions are filed with a court on behalf of a person who objects to his own or another's detention or imprisonment. Appellate briefs are appeals filed on behalf of condemned inmates who object to their sentences based on the way their trials were conducted.

- The Prison Law Office requested that the CIC be located in a major urban area that could be easily accessed by doctors, attorneys, psychiatrists, protestors, volunteers, and inmate families by car, airplane, and other public transportation.
- The California Appellate Project (Appellate Project), the Office of the State Public Defender (Public Defender), and the Habeas Corpus Resource Center (Habeas Corpus Center) prefer that the CIC be built near the San Francisco Bay Area (Bay Area) so that inmates are easily accessible to attorneys.
- The following two stakeholders did not have an official position on the location of the CIC but still voiced location preferences and concerns:
 - The Receiver's chief of staff specified that the CIC should be built in an area where inmates would receive adequate medical care. Custody experts working with the Receiver stated that the CIC should be located in an area where the Receiver could easily recruit and retain qualified medical personnel (clinicians).
 - A representative from the California Supreme Court suggested that the CIC be located in or near the Bay Area to reduce the risk that attorneys would not accept death row appellate cases if their clients were located far from the Bay Area.
- Other practical considerations that do not fall into the aforementioned categories, such as the ability to fill security positions, and the public acceptance of a CIC.

Using these parameters, we developed a two-pronged approach to determine which prisons merited further consideration as a possible location for a CIC. Level IV prisons with 180-degree housing units were analyzed as one group, per state law. Other prisons were evaluated based on their proximity to the Bay Area and Los Angeles. We anticipate that taking these concerns into account might alleviate some of the resistance to moving the CIC away from San Quentin. Additionally, since some stakeholders, such as the Public Defender, the Habeas Corpus Center, and the attorneys assisted by the Appellate Project, are funded by the State, keeping the CIC near a major urban area would help avoid increased travel costs.

We developed a two-pronged approach to determine which prisons merited further consideration as a possible location for a CIC.

Working with our consultant, we evaluated the possible options and summarized their strengths and weaknesses with respect to various factors, such as availability of land and the ease of recruiting to fill custody and clinical positions. The results of the evaluation are summarized in Table 8.

Table 8

Summary of Factors Considered in Selecting Potential Sites for a Condemned Inmate Complex

FACTORS CONSIDERED	SAN QUENTIN	CALIFORNIA STATE PRISON, SACRAMENTO	R.J. DONOVAN	CALIFORNIA STATE PRISON, SOLANO	CALIFORNIA CORRECTIONAL INSTITUTION	DEUEL VOCATIONAL INSTITUTION	CALIFORNIA INSTITUTION FOR MEN
Potential availability of land	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Public support for a condemned inmate complex	Neutral	Negative	Neutral	Negative	Unknown	Unknown	Negative
Public support for the prison in general	Positive	Positive	Positive	Neutral	Unknown	Unknown	Unknown
Ability to fill security positions	Good	Best	Good	Good	Good	Good	Unknown
Ability to fill support service positions	Poor	Good	Good	Good	Good	Good	Unknown
Ability to fill health care positions	Best	Best	Good	Good	Poor	Good	Good
Proximity to current legal counsel	Best	Good	Poor	Good	Poor	Poor	Poor
Proximity to potential future legal counsel	Best	Good	Good	Good	Poor	Good	Good
Availability of hospital resources	Best	Best	Best	Best	Poor	Unknown	Good
Host prison experience with inmates of similar custody levels (level III or IV)	Best	Best	Good	Good	Good	Poor	Poor

Source: Criminal Justice Institute, Inc.

Note: This table depicts the results of various objective and subjective factors that we considered in order to identify a limited number of alternative prison sites for analyzing their suitability for a new condemned inmate complex.

Appendix B describes in more detail the process by which we chose three of these alternate sites. Although we initially considered Deuel Vocational Institution, California Institution for Men, and California Correctional Institution in addition to Sacramento, Solano, and Donovan, we determined that these were less viable alternative locations for a CIC. Deuel Vocational Institution and the California Institution for Men do not currently house inmates of similar custody levels, which according to our consultant makes them less desirable for housing condemned inmates, and the California Correctional Institution would be a less desirable location for a CIC due to the lack of available hospital resources and the lack of a sufficient labor pool to fill additional health care positions at the prison.

Our Consultant Evaluated the Costs of Several Options for Comparison to Corrections' Current Condemned Inmate Complex Proposal

In considering alternatives to constructing the CIC at the San Quentin site Corrections has selected, our consultant evaluated the costs of two alternative scenarios at San Quentin and two alternative scenarios for each of the other three prisons examined. Each alternative considered by our consultant included estimating the cost of building a CIC that has the same number of beds and cells as the currently proposed facility at San Quentin. The alternatives considered at San Quentin included building a CIC with standard, two-story 180-degree housing units on the currently proposed site (as opposed to the stacked housing units in Corrections' current design), and building a stacked CIC at a different site on the San Quentin property. As we discussed in Chapter 1, a standard 180-degree housing unit is a two-story building with 128 ground floor and mezzanine cells. In the stacked design, the standard two-story housing units are stacked one on top of the other, resulting in housing units four stories in height. The stacked design results in a smaller footprint, and was selected by Corrections as the optimal design for its currently proposed San Quentin CIC due to site constraints and the desire to maintain the existing staff housing adjacent to the site. Our consultant also evaluated the costs of building both standard two-story housing units and stacked housing units at Sacramento, Solano, and Donovan for the purpose of comparing these costs to those for Corrections' proposed CIC at San Quentin.

The Currently Planned CIC at San Quentin is the Least Expensive Option Due to Later Construction Start Dates at Other Locations

Because a significant amount of work has been conducted to prepare for constructing a CIC at San Quentin, we found that Corrections' current proposal is the least expensive alternative that we considered. Building a CIC at a different site would involve various processes such as obtaining legislative approval, assessing the environmental impacts, and designing a new facility. These processes would result in later construction start dates. Because of their later start dates, building a CIC at another site would result in increased construction costs, increased costs to open the facility, referred to as transition and activation costs, and increased 20-year operating costs.

Because of the later start dates, building a CIC at another site would result in increased construction costs, increased costs to open the facility, referred to as transition and activation costs, and increased 20-year operating costs.

Alternative CIC Designs and Locations Would Result in Later Construction Start Dates

Redesigning Corrections' currently proposed CIC or building the CIC at an alternate location would result in a later construction start date. For any significant changes to the design or location of the CIC, Corrections would need to secure the Department of Finance's approval for a budget change, the Legislature would need to approve a change in the current law as well as the funding, and an environmental assessment would be needed for compliance with the California Environmental Quality Act. The environmental assessment would include producing detailed statements of the project's impacts, including, among other things, an assessment of the biological resources and of the potential harm to endangered species, as well as an evaluation of the historical, cultural, and visual impacts of the project. The process includes public review and comment, results in an EIR, and may result in changes to the project design to mitigate the identified impacts. Redesigning Corrections' currently proposed CIC or building the CIC at another location would also require additional time to design the facility, which involves hiring engineers, architects, and other experts to examine the unique physical characteristics of each site and produce detailed drawings of the CIC. Additional time would also be needed to prepare and review construction bid documents.

The processes required to bring an alternative design and/or location to an equal footing with the currently proposed San Quentin CIC would involve years of work.

The currently proposed plan for a CIC at San Quentin is in the final stages of the process. Pending the additional funds that it needs, Corrections is ready to prepare and review construction bid documents, and assuming that the state budget is enacted by August 1, 2008, construction could begin as early as November 1, 2008. In contrast, the processes required to bring an alternative design and/or location to an equal footing with the currently proposed San Quentin CIC would involve years of work.

One of the two alternatives considered by our consultant for San Quentin is to build a CIC with two-story housing units, rather than four-story, stacked units at the currently proposed site. Due to the time required for environmental review and other processes, our consultant estimates that construction for this alternative could begin August 1, 2010. This extended start date allows time for legislative deliberation, for delays in the start of design until an updated EIR is completed, and for updating the construction documents to reflect design changes. Postponing the start date would also allow time for addressing potential renewed community concerns. The second San Quentin alternative is to construct a CIC with stacked housing units at an alternate site at San Quentin.

For this alternative, our consultant projects that additional time would be required for environmental review and design work, and he estimates that construction at this site could not begin until August 2011.

The processes for planning a CIC at locations other than San Quentin would require even more time. As shown in Table 9, our consultant projects that this planning process would take a total of 66 months. Thus, if the process began on August 1, 2008, construction could not begin until February 1, 2014.

Table 9
Processes Extending Estimated Construction Start Dates to February 2014

PROCESS STARTING AUGUST 1, 2008	ESTIMATED TIME REQUIRED (IN MONTHS)
Legislative approval	24
Environmental impact review	24
Design	15
Bid preparation and review	3
Total	66

Source: Criminal Justice Institute, Inc.

Legislative approval of a change in the law would be required to move the condemned inmate population to another location, as the California Penal Code currently requires that men sentenced to death in California be sent to San Quentin to fulfill their sentence.¹⁰ Additionally, if it elected to build a CIC at another location, the Legislature would need to approve the funding. Our consultant estimated that these two legislative actions could take up to 24 months, which corresponds to one regular session of the Legislature. Constructing a CIC at an alternate site would also require an assessment of the environmental impacts, which our consultant estimated to take 24 months from the time that funding is approved. Our consultant projects that the design phase would take 15 months. Finally, as noted in Chapter 1, completing the necessary bidding and contracting process would take approximately three months.

¹⁰ There are two exceptions to this law. As many as 15 condemned inmates who commit certain crimes while in prison may be transferred to Sacramento. Inmates whose medical or mental health needs endanger the inmate or others may be temporarily housed at the California Medical Facility or another appropriate facility.

Later Construction Start Dates Associated With Alternative CIC Designs and Locations Significantly Increase Costs

The later construction start dates for the two alternatives at San Quentin significantly affect the costs. As shown in Table 10, extending the start date to August 2010 for constructing a two-story CIC with 768 cells and 1,152 beds at the currently proposed San Quentin site adds \$123.5 million in costs, shown as the subtotal under “Increases in Project Costs Due to Projected Construction Start Dates.” Similarly, extending the start date to August 2011 for the stacked configuration at the alternate San Quentin site increases the estimated project cost by \$231.5 million.

The most significant cause of the increase in the estimated costs of building a CIC at Sacramento, Donovan, or Solano is the later construction start date of February 2014.

The most significant cause of the increase in the estimated costs of building and operating a 768-cell, 1,152-bed CIC at Sacramento, Donovan, or Solano is the later construction start date of February 2014. As discussed in Chapter 1, an escalation factor is applied to construction estimates to account for the price of construction materials and services at a future point in time. Even though each of the alternative locations has the same projected construction start date, because escalation is a function of capital project costs, the estimated escalation costs differ. Escalating the capital project costs alone adds between \$182.5 million and \$226.7 million to the cost of each of the alternative projects. These costs are calculated using an 8 percent escalation rate for 2008 and 6 percent for future years, compounded annually to the expected midpoint of construction, which is estimated to be 12 months from the date construction starts.

The later construction start dates would also increase the net new staff costs for locations other than the currently proposed San Quentin site. As discussed in Chapter 1, our consultant assumed that there would be yearly increases in staff salaries and benefits. Therefore, because delays in beginning construction of a CIC using a different design or at a different location would result in a later opening date for the facility, staff costs will be higher when the CIC initially opens. Consequently, our consultant determined that transition and activation and net new staffing costs to operate the CIC over a 20-year period would be more using a different design or building at one of the alternative locations than they would be at Corrections’ currently proposed stacked CIC at San Quentin. Because the cost of staff and the cost of training are also expected to increase over time, both transition and activation costs and 20-year operating costs will continue to increase if the date that the CIC is projected to open is delayed.

Table 10
Cost Comparison of the Currently Proposed Stacked Condemned Inmate Complex at San Quentin State Prison to Design and Location Alternatives

COMPONENT	SAN QUENTIN STATE PRISON		CALIFORNIA STATE PRISON, SACRAMENTO		R. J. DONOVAN CORRECTIONAL FACILITY		CALIFORNIA STATE PRISON, SOLANO	
	CURRENTLY PROPOSED SITE: STACKED DESIGN*	PROPOSED SITE: TWO-STORY DESIGN	ALTERNATE SITE: STACKED DESIGN	TWO-STORY DESIGN	STACKED DESIGN	TWO-STORY DESIGN	STACKED DESIGN	TWO-STORY DESIGN
	Project Costs†							
Capital costs								
Site-specific costs	\$361,346,632	\$392,321,693	\$344,582,340	\$390,076,299	\$359,117,655	\$317,573,778	\$312,712,984	\$379,806,136
Sunk costs‡	-	18,965,760	18,965,760	18,965,760	18,965,760	18,965,760	18,965,760	18,965,760
Subtotals	\$361,346,632§	\$411,287,453	\$363,548,100	\$409,042,059	\$378,083,415	\$336,539,538	\$331,678,744	\$398,771,896
Transition and activation costs	\$6,786,332	\$6,786,332	\$6,786,332	\$11,562,446	\$11,562,446	\$13,740,969	\$13,740,969	\$11,341,605
20-year operating costs	1,198,650,497	1,198,650,497	1,198,650,497	1,198,650,497	1,198,650,497	1,198,650,497	1,198,650,497	1,198,650,497
Subtotals	\$1,566,783,461	\$1,616,724,282	\$1,563,984,929	\$1,619,255,002	\$1,588,296,358	\$1,548,931,004	\$1,544,070,210	\$1,608,763,998
Increases in Project Costs Due to Projected Construction Start Dates#								
Escalation of capital costs**	\$34,201,909	\$90,233,990	\$104,689,759	\$226,746,367	\$209,059,075	\$185,324,229	\$182,547,160	\$220,878,822
Increases in transition and activation costs	553,765	967,248	1,116,652	4,261,560	4,261,560	5,064,496	5,064,496	4,180,165
Increases in 20-year operating costs	-	32,268,468	125,664,105	237,528,773	237,528,773	237,528,773	237,528,773	237,528,773
Subtotals	\$34,755,674	\$123,469,706	\$231,470,516	\$468,536,700	\$450,849,408	\$427,917,498	\$425,140,429	\$462,587,760
Increases in projected costs as a percentage of total cost	2.2%	7.1%	12.9%	22.4%	22.1%	21.6%	21.6%	22.3%
Totals	\$1,601,539,135††	\$1,740,193,988	\$1,800,455,445	\$2,087,791,702	\$2,039,145,766	\$1,976,848,502	\$1,969,210,639	\$2,071,351,758

Sources: Our consultant's analysis of the costs related to each site, and information obtained from the California Department of Corrections and Rehabilitation (Corrections).

* In the stacked design, the two-story housing units are stacked one on top of the other, resulting in four stories.

† The project costs are estimated assuming construction of a 768-cell condemned inmate complex (CIC) would start on November 1, 2008, which provides a similar basis of comparison across all alternatives. As discussed later in this chapter, our consultant also estimated the cost of constructing an additional 256 cells at Sacramento, Donovan, and Solano.

‡ According to Corrections, as of November 13, 2007, it had expended approximately \$19 million for professional services related to the currently proposed CIC at San Quentin. Thus, these costs are included in the stacked design, site-specific for the currently proposed site. Because these costs have already been incurred, they are included as sunk costs at each of the other alternative locations, as one of the costs of building the CIC at these alternative locations would be to forego the benefit of the expenditures for professional services that have already been provided at the currently proposed site.

§ Total capital project costs for the currently proposed CIC at San Quentin are \$361,346,632 plus \$34,201,909 in escalation costs, for a total of \$395,548,541.

|| These amounts represent costs that are specifically related to a new CIC or net new operating costs, including the costs of paying salaries and benefits for new CIC staff and the costs of major repairs or replacements.

The increases in project costs are to account for the projected construction start dates anticipated for each alternative. At San Quentin construction of the two-story design at the currently proposed site is projected to start August 1, 2010, while the stacked design at the alternate site is projected to start August 1, 2011. Construction is expected to be able to start February 1, 2014, for the other designs and locations.

** An escalation factor is applied to construction estimates to account for the price of construction materials and services at a future point in time. The projected start date for the currently proposed stacked CIC at San Quentin is November 1, 2008, and the escalation cost associated with this start date is identified separately for the purpose of comparison to the other alternatives.

†† Total does not match the \$1,601,539,134 reported in Chapter 1 due to rounding.

As discussed in Chapter 1, transition and activation costs are certain types of nonconstruction costs associated with opening any new prison and include the costs of recruiting, hiring, and training of new staff and moving inmates from their current location to the new facility. The adjustments to these costs for the projected start dates are calculated starting with the base cost shown in the top portion of Table 10, increased at 4 percent per year, and compounded annually to represent Corrections' staff salary and benefit increases over time. In the case of transition and activation costs, the end point of the annual cost adjustment is February 2016, when each of the CICs at these sites would be expected to open, and 20-year net new operating costs are calculated as the sum of staff and major maintenance costs for 20 years from the date that the CIC is expected to open.

If the current law had been amended in 2003 to permit condemned inmate confinement at Donovan, the cost of constructing a stacked CIC at Donovan may have resulted in cost savings of 13 percent, or approximately \$49 million.

The Donovan site best illustrates the effect of a later construction start date on the ultimate cost of a new CIC. If the current law, which for all intent and purpose prohibits the confinement of male condemned inmates at locations other than San Quentin, had been amended in 2003 to permit their confinement at Donovan, the cost of constructing a stacked CIC at Donovan may have resulted in cost savings of more than 13 percent, or approximately \$49 million. As Table 10 illustrates, the capital project costs of building a stacked CIC at Donovan, excluding escalation costs, are nearly \$49 million less than those for the proposed facility at San Quentin. However, due to the necessity of postponing the construction start date to February 1, 2014, to allow time for the Legislature to change the law and approve funding, for the EIR process to take place, and for design and bidding to be completed, Donovan is estimated to cost much more than the currently proposed CIC at San Quentin. The escalation and other cost increases of \$425 million due to the difference in construction start dates makes Donovan much more costly than the currently proposed San Quentin stacked design.

Various Other Factors Also Contribute to Cost Differences Among Sites

Although the delay in start dates for using a different design at the current site or for building a CIC at an alternative location accounts for most of the differences in the cost models developed by our consultant, there are other factors that result in cost differences. For example, as shown in Table 10, the capital project costs, excluding the cost of escalation, vary significantly among the sites. Capital project costs include site preparation work, construction, equipment, and professional services. When comparing the capital costs of the currently proposed CIC project to each alternative, sunk costs must be considered. According to Corrections, as of November 13, 2007, it had expended approximately \$19 million for professional services, including design, program management,

construction management, and other project-related costs. These costs are part of the \$361.3 million site-specific costs for the currently proposed San Quentin stacked CIC shown in Table 10. In order to account for these past expenditures, we included them as sunk costs for each alternative location, as one of the costs of building the CIC at these alternative locations would be to forego the benefit of the expenditures for professional services that have already been provided at the currently proposed site.

Except for Donovan, once the sunk costs are added to the capital costs at each alternative site (shown as the subtotal for capital costs in Table 10), the capital costs are greater for all alternatives when compared to the currently proposed CIC at San Quentin. As discussed later in this chapter, the variances in capital costs are largely attributable to differences in the physical characteristics at each site. Appendix C shows a detailed breakdown of the differences in capital project costs and other costs for each of the alternatives developed by our consultant.

According to our consultant, if the CIC is constructed at a location other than San Quentin, transition and activation costs will increase by between \$4.6 million and \$7 million, depending on the location, primarily because Corrections would need to hire more staff at these locations than it would at San Quentin. As discussed in Chapter 1, Corrections has identified that it would need 505 staff to operate the CIC. If the CIC were constructed at San Quentin, the net new staff required would be 336, since San Quentin plans to transfer 169 existing correctional officers to the new facility. However, according to our consultant, other locations would need to hire all 505 staff, which would increase training costs at these locations by \$4.5 million. Additionally, if the CIC is built elsewhere, the condemned inmates would need to be relocated to the new prison, which accounts for the remainder of the increases in transition costs. As shown in the top portion of Table 10, both of these factors would result in higher transition and activation costs at the alternative locations, net of the increases in project costs associated with later construction start dates.

Operating costs would also be higher at each of the alternate sites than at San Quentin. However, these increases are directly attributable to the later project start dates. Although Corrections would need to hire only 336 new staff if the CIC is built at San Quentin, as opposed to 505 new staff for an alternative location, assuming that no existing San Quentin staff transfer to the new site, the net differences in Corrections' overall staffing costs over time are likely to be zero, because Corrections would have staff at San Quentin available for reassignment as a result of the transfer of the condemned inmates to another location. Therefore, as the noncondemned inmate population at San Quentin increases

Operating costs would be higher at each of the alternate sites than at San Quentin; however, the increases are directly attributable to the later project start dates.

over time, Corrections would not need to hire as many staff to meet its needs. Ultimately, any additional staff hired beyond the amount needed at San Quentin would likely be offset by future declines in hiring at San Quentin. As a result, the 20-year net new operating costs shown in the top portion of Table 10 are the same for all alternative locations. If some or all of the staff transferred from San Quentin to the new site, there would be additional costs associated with the relocation of staff but a reduction in the number of new staff needed; however, it is not known how many, if any, staff would transfer. Therefore, we did not attempt to estimate these costs.

There May Be Other Costs Associated With Building the CIC at a Site Other Than San Quentin

According to documents our consultant obtained from Corrections, condemned inmates require and receive significant amounts of health care services. These services are typically provided both at San Quentin and at Bay Area hospitals and clinics. Additionally, under certain circumstances, condemned inmates may receive health care services at other Corrections' institutions, such as the California Medical Facility. Although condemned inmates represent approximately 12 percent of all inmates at San Quentin, they receive approximately 23 percent of all on-site specialty clinic appointments. Moreover, during the first five months of 2008, San Quentin's transportation unit scheduled an average of 56 trips by condemned inmates to area hospitals and clinics per month. Providing on-site and off-site health care services to condemned inmates is not achieved without a cost to the State. However, given that the three alternate sites and San Quentin are similar in terms of their proximity to urban areas, transportation hubs, hospitals, airports, and other amenities, the cost of transporting condemned inmates to medical and other services is not likely to be materially different among the sites. Therefore, we did not evaluate these costs.

The cost of transporting condemned inmates to medical and other services is not likely to be materially different among the sites.

We also do not expect there to be increased costs related to inmates traveling to courts. Since condemned inmates do not typically travel to courts, the cost of transporting them for legal services is minimal. However, building the CIC at an alternate location may impact legal counsel currently representing condemned inmates, and could result in fewer attorneys accepting these cases in the future. As discussed in the Introduction, several entities (stakeholders) provide legal services to condemned inmates. Many of these stakeholders visit inmates at San Quentin and work from offices located in the Bay Area within a short distance of the prison. To determine the impact that building the CIC at a site other than San Quentin would have on these stakeholders, we interviewed

each of them for their feedback and opinion. The California Supreme Court had no official position on the location of the CIC, but pointed out that moving death row out of the Bay Area may have an impact on the processing of death penalty matters, both appeals and habeas corpus, and may adversely affect the court's ability to attract counsel for condemned inmates.

Representatives from the Public Defender, Habeas Corpus Center, Appellate Project, and California Supreme Court all cited increased travel time as a factor that could impact attorneys' ability to represent condemned inmates. All of these stakeholders are located in San Francisco, with the exception of the Public Defender, which also has an office in Sacramento, and according to the director of the Appellate Project, 45 percent of the attorneys who represent condemned inmates have their law practices in the Bay Area. As a result, building the CIC at a location other than San Quentin would mean increased travel time, and attorneys might reduce the number of condemned inmate cases they accept in the future. According to a 2007 review by the University of Southern California, condemned inmates in California remain on death row for an average of 17.2 years, mostly due to a lack of qualified attorneys to take their cases.¹¹ If fewer attorneys were to accept their cases, this wait time could increase.

The director of the Appellate Project stated that the habeas corpus litigation would be most affected by relocating death row, because the work is inmate-intensive, and involves interviewing inmates, their families and others, and bringing psychiatric and other experts to the prison to examine the inmates. He stated that locating condemned inmates in a remote facility is likely to make the wait for counsel longer by creating further scheduling and economic disincentives for attorney's to accept habeas corpus work. In addition, according to the director of the Habeas Corpus Center moving death row would increase the cost of bringing in experts, such as psychiatrists, to see inmates during their habeas corpus litigation. He stated that a network of qualified experts has grown up in the Bay Area, and if a CIC were built at another location, the experts would incur greater travel costs, which would be passed on to the Habeas Corpus Center.

Although the chief assistant public defender stated that his office might consider opening a satellite office in Los Angeles if the CIC were built in Southern California, he would not relocate all operations to Southern California, because he would lose most, if not all, of his experienced staff, and recruiting qualified attorneys

¹¹ Arthur L. Alarcón, "Remedies for California's Death Row Deadlock." *Southern California Law Review* vol. 80, no. 4 (May 2007): 697–752.

The director of the Habeas Corpus Center stated that although it may be possible to fully staff a Los Angeles office over a long period of time, it would not happen quickly.

could pose a challenge. He also stated that it is more difficult to recruit attorneys to the Sacramento office, despite the fact that the attorneys in both the San Francisco and Sacramento offices are paid the same salary. The director of the Habeas Corpus Center stated that his office has consistently decided against opening a Los Angeles office, because of the time it would take to bring new attorneys to the experience level required to represent inmates on habeas corpus petitions. He stated that although it may be possible to fully staff a Los Angeles office over a long period of time, it would not happen quickly. He also stated that creating additional offices would require substantial expenditures for the additional operating and administrative costs that are currently avoided by maintaining a single office.

To provide some context as to the fiscal impact moving the CIC could have on the State for compensating attorneys who represent condemned inmates, we asked the stakeholders how frequently they visit their condemned clients. According to the director of the Appellate Project, attorneys visit condemned inmate clients an average of four to six times per year and are reimbursed at a rate of \$145 per hour. According to the chief public defender, attorneys visit their clients an average of six times per year. We did not perform a detailed analysis of the costs that the State may incur if the CIC were built away from San Quentin for two reasons: We are not able to determine how many attorneys would relocate to offices near a CIC constructed at an alternate location, and calculating the cost in the short term would require too many assumptions to create an accurate estimate.

Although the Currently Proposed CIC at San Quentin Is the Least Expensive Option, Potential Revenues From the Sale of That Site Could Partially Offset the Cost of Constructing the CIC at Another Prison

As we discussed previously, the current proposal for a stacked CIC is the least expensive of the three possibilities our consultant considered for building a CIC at San Quentin. The other two options are to build a two-story facility at the proposed site or to build a stacked facility at an alternate site at San Quentin. Table 11 shows the results of our consultant's calculations for these three alternatives. However, although Table 10 indicates that building and operating a stacked CIC at an alternate prison site would cost more than at the proposed site, the State could offset a portion of the increased cost by selling the land that Corrections currently plans to use for the CIC. Our consultant estimates that this land could be sold for between \$45.3 million and \$117.9 million. These revenues could also partially offset the cost of building the CIC at another location, such as Sacramento, Donovan, or Solano.

Table 11

**Estimated Costs of Building and Operating the Condemned Inmate Complex
at San Quentin State Prison Under Three Different Scenarios**

COMPONENT	STACKED DESIGN AT CURRENT SITE	STACKED DESIGN AT ALTERNATIVE SITE	TWO-STORY DESIGN AT CURRENT SITE
Capital project costs	\$361,346,632	\$344,582,340	\$392,321,693
Sunk costs*		18,965,760	18,965,760
Subtotals	\$361,346,632	\$363,548,100	\$411,287,453
Transition/activation costs†	\$6,786,332	\$6,786,332	\$6,786,332
Net new 20-year operating costs‡	1,198,650,497	1,198,650,497	1,198,650,497
Subtotals	\$1,566,783,461	\$1,568,984,929	\$1,616,724,282
Increases in project costs due to projected construction start dates	\$34,755,674	\$231,470,516	\$123,469,706
Totals	\$1,601,539,135	\$1,800,455,445	\$1,740,193,988

Sources: Our consultant's analysis of the costs related to each site, and information obtained from the California Department of Corrections and Rehabilitation (Corrections).

* According to Corrections, as of November 13, 2007, it had expended approximately \$19 million for professional fees related to the currently proposed condemned inmate complex (CIC) at San Quentin State Prison. These costs are included in the capital project costs for this project. Because these costs have already been incurred, they are included as sunk costs at each of the other alternate sites.

† Transition/activation costs are certain types of nonconstruction costs associated with opening any new prison and include recruiting, hiring, and training of new staff and moving condemned inmates from their current location to the new facility.

‡ These amounts represent costs that are specifically related to a new CIC, or net new operating costs, including the costs of paying salaries and benefits for new CIC staff and the costs of major repairs or replacements.

San Quentin comprises 432 acres on the banks of the San Francisco Bay. A large portion of the property is already developed and occupied by components that serve to support the existing prison facility. Therefore, other than the currently proposed site for the CIC, the available land on the San Quentin property is limited. Nevertheless, our consultant identified a potential alternative site at San Quentin where the new CIC could be built. To fit the CIC into this site, however, our consultant had to develop a compressed configuration for the CIC. This configuration reduces the footprint of the facility from about 30 acres to about 20 acres. Figure 3 on the following page shows both the layout of the currently proposed CIC and the layout at the alternative site.

Figure 3

Current and Alternate Sites for the Stacked Condemned Inmate Complex at San Quentin State Prison

Source: Criminal Justice Institute, Inc. Photograph: <http://maps.yahoo.com>.

Although our consultant believes that the CIC could be built on the alternate site, several factors make it less desirable than the currently proposed site, as shown in the text box on the following page. Additionally, because of the sloping terrain of the alternate site, a considerable amount of earthwork would be required to develop a level site for the CIC. Due to the nature of the soil, our consultant anticipates that a high percentage of the excavation will be rock. Our consultant also believes that road improvements to the alternate site would be required for access by staff and emergency and service vehicles. Building the CIC at the alternate site would also require grading and excavation work to accommodate approximately 4 acres of parking for visitors and staff.

Our consultant did not develop a cost model for a two-story CIC at the alternate site because the creation of two separate housing compounds cannot be achieved, yard space is limited, the space may not provide enough room for perimeter roads, and not enough land is available for support buildings.

In addition to evaluating the possibility of building the CIC at an alternate site at San Quentin and estimating the costs associated with such an alternative, our consultant also assessed the possibility of constructing a two-story CIC at the site where Corrections intends to build the stacked CIC. Unlike the CIC currently proposed by Corrections, which would consist of three stacked housing units, a two-story CIC with the same number of beds would require six housing units.

As shown in Figure 4 on the following page, our consultant believes that space exists at the currently proposed location to build a two-story facility, but not without additional cost.

As shown earlier in Table 11, the cost to construct a two-story CIC at the currently proposed site far exceeds the cost to build a stacked facility at the same site. According to our consultant, the cost differences are due primarily to the additional site preparation and redesign work that would need to be done, and the need to update the EIR, and adjust the costs for the projected date when construction could begin. Additionally, as discussed in Chapter 1, the two-story model would require the removal of 57 of the 86 staff residences as well as a schoolhouse building that, according to a September 2004 EIR, could be listed as historic. Our consultant also determined that there are areas on the site's added footprint that have elevated levels of hazardous substances. Furthermore, asbestos, lead-based paint, and other hazardous materials are likely to be present in the buildings on the site. Thus, the two-story design would require not only the demolition or relocation of these buildings but also the removal of contaminated soils.

Proceeds From the Sale of the Land Corrections Plans to Use for the CIC Could Partially Offset the Increased Cost of Building a CIC at Another Prison

One economic benefit of building the CIC at a prison other than San Quentin would be the ability to use the 40 acres currently proposed for the CIC for other purposes. Taking the proximity of

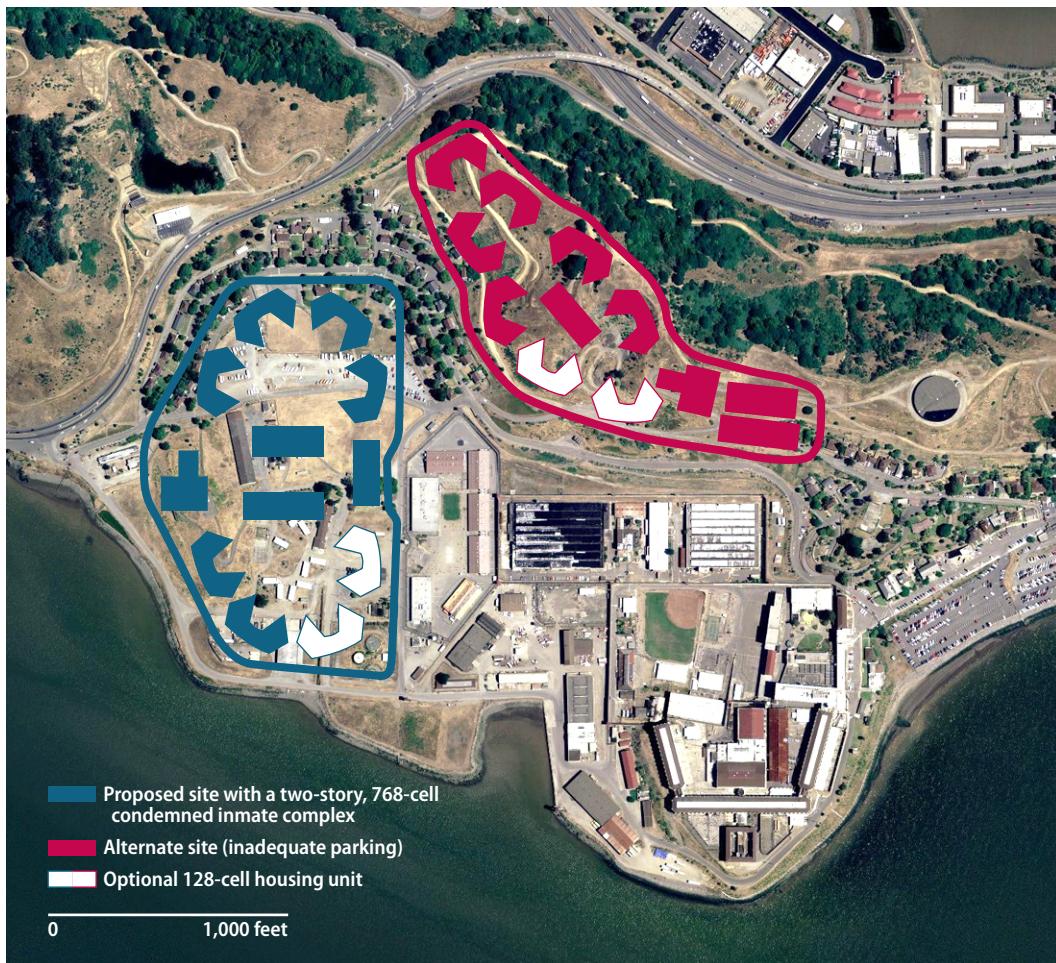
Disadvantages of Building the Condemned Inmate Complex at the Alternative Location

- Extensive regrading would be required to accommodate access, buildings, and parking. The regrading will also impact existing staff housing.
- The existing hill provides a visual barrier blocking views from the adjacent developed areas to the San Quentin site.
- Development in this area will be highly visible from both the surrounding developed area and the water.
- It is probable that a full environmental impact report would be required and that the amount of disturbance, coupled with the view issue will extend the development time and may, in fact, defeat development of this site.

Source: Criminal Justice Institute, Inc.

Figure 4

Possible Locations for Two-Story Condemned Inmate Complex at San Quentin State Prison



Source: Criminal Justice Institute, Inc. Photograph: <http://maps.yahoo.com>.

the prison into account, according to a land appraisal performed by our consultant, the current 40-acre site for the proposed CIC has an estimated market value of \$45.3 million. However, if this site was offered for sale for other potential uses, such as for a residential community, and was prepared specifically for those purposes, our consultant estimates that the market value would be as much as \$55.6 million.

Our consultant also valued the site for potential redevelopment with alternative uses. Under this scenario, our consultant expanded the amount of land that would be sold to 57.1 acres, which includes the prison staff housing to the north of the proposed CIC

site. The alternative redevelopment scenarios considered are based on the report titled *Preliminary Analysis of Potential Reuse and Relocation of San Quentin Prison*, prepared by the Department of General Services in 2001. Although this report focused on the potential uses of the entire San Quentin property, our consultant determined that the 40- to 57.1-acre parcel, if permitted for proposed redevelopment for both residential and commercial uses, would have an estimated value of between \$83.7 million and \$117.9 million. The amounts for the various sales scenarios are shown in Table 12. Appendix D contains details on the appraisal of the parcel.

Table 12
Value of Condemned Inmate Complex Site as of May 1, 2008

CONDITION		REVENUE GENERATED
40-Acre Condemned Inmate Complex (CIC) Site		
Market value	As-is	\$45,300,000
Market value	As if no negative factors*	55,600,000
57.1-Acre CIC Site (if Developed)†		
Residential community	As if entitled‡	83,700,000
Transit center	As if entitled‡	91,600,000
New town	As if entitled‡	117,900,000

Source: Criminal Justice Institute, Inc.

* This assumes that the land is in sellable condition and negative factors have been mitigated. This is a hypothetical land value, as the land currently has some negative factors.

† These values are hypothetical, as the land is not entitled for such purposes at this time. Additionally, the 57.1-acre CIC site is the western portion of the much larger San Quentin redevelopment plan.

‡ As if entitled gives the value of a piece of land or a property if it were zoned or permitted for a use other than the one for which it is currently approved/authorized.

As previously discussed, the cost estimates prepared by our consultant show that it would cost substantially more to build a CIC at a prison other than San Quentin. However, the added cost could be partially offset by the proceeds from selling this parcel of land. For example, as shown earlier in Table 10, the total cost of a stacked CIC at Donovan exceeds the cost at San Quentin by approximately \$368 million. On the other hand, as shown in Table 12, depending on how the land was to be developed, the increase in costs could be partially offset by selling the land at San Quentin.

Although Donovan Is the Least Costly of the Alternatives Considered, the Most Suitable Site Has Recently Been Chosen for a Health Care Facility

As shown earlier in Table 10, of the three alternative locations considered by our consultant, Donovan is the least expensive site on which to build and operate a CIC. However, competing demands and certain physical characteristics of the available land could hinder Corrections' ability to build a CIC at Donovan. Specifically, although our consultant identified two parcels of land at Donovan, one of which he believes is more suitable, that could accommodate the CIC, the Receiver has recently selected Donovan as a location for one of its planned health care facilities. On June 16, 2008, the Receiver stated that it intends to use the more suitable parcel of land for the health care facility at Donovan.

If the more desirable parcel of land was available for the CIC, our consultant estimates that it would cost approximately \$1.97 billion, or \$368 million more, to build and operate a stacked facility similar to that proposed at the San Quentin site. This is approximately \$61.8 million and \$69.9 million less than a stacked facility would cost at Solano and Sacramento, respectively. Table 13 shows the estimated cost of constructing and operating a stacked and a two-story CIC on the more desirable parcel of land at Donovan over a 20-year period. Our consultant did not attempt to estimate the cost to build and operate a CIC at the alternative location at Donovan because he questioned whether the land could accommodate a two-story facility and stated that it was also doubtful that the land could be developed for a stacked CIC.

As previously discussed, the primary reason that the cost to construct and operate a CIC at Donovan is higher than at the currently proposed site at San Quentin is that construction cannot begin at any other location until there is a change in state law, which, with few exceptions, currently requires condemned inmates to be housed at San Quentin. Additionally, Corrections would have to prepare an EIR and design documents for Donovan before any construction could begin.

Donovan opened in 1987 and covers 780 acres. It is located approximately 20 miles southeast of downtown San Diego and two miles north of the U.S./Mexican border. The primary mission of Donovan is to provide housing and supervision for level I, III, and IV inmates. As of March 2008 Donovan housed 4,610 inmates, more than double its designed bed space capacity of 2,208.

Table 13

**Estimated Cost of Building and Operating the Condemned Inmate Complex
at R. J. Donovan Correctional Facility**

COMPONENT	STACKED DESIGN	TWO-STORY DESIGN
Capital project costs	\$312,712,984	\$317,573,778
Sunk costs*	18,965,760	18,965,760
Subtotals	\$331,678,744	\$336,539,538
Transition/activation costs†	\$13,740,969	\$13,740,969
Net new 20-year operating costs‡	1,198,650,497	1,198,650,497
Subtotals	\$1,544,070,210	\$1,548,931,004
Increases in project costs due to projected construction start dates	\$425,140,429	\$427,917,498
Totals	\$1,969,210,639	\$1,976,848,502

Sources: Our consultant's analysis of the costs related to each site, and information obtained from the California Department of Corrections and Rehabilitation (Corrections).

- * According to Corrections, as of November 13, 2007, it had expended approximately \$19 million for professional fees related to the currently proposed condemned inmate complex (CIC) at San Quentin State Prison. These costs are included in the capital project costs for this project. Because these costs have already been incurred, they are included as sunk costs at each of the other alternate sites.
- † Transition/activation costs are certain types of nonconstruction costs associated with opening any new prison and include recruiting, hiring, and training of new staff and moving condemned inmates from their current location to the new facility.
- ‡ These amounts represent costs that are specifically related to a new CIC, or net new operating costs, including the costs of paying salaries and benefits for new CIC staff and the costs of major repairs or replacements.

The more desirable location for a CIC at Donovan, known as the "east parcel," encompasses a large, relatively flat, and easily developable area that could accommodate eight two-story 180-degree buildings covering approximately 50 acres or, as shown in Figure 5 on the following page, four 180-degree stacked buildings on approximately 30 acres.¹² Our consultant also noted that development on the east parcel would have little impact on existing on-site facilities and would provide separation from all surrounding development.

Although it would cost more to build and operate a CIC at Donovan because construction could not begin for several years, our consultant estimates that capital costs, excluding the sunk costs—money already spent on the proposed San Quentin CIC—and net of increases in project costs due to a projected later start, would be \$48.6 million less than the same costs at San Quentin, given the same start date.

¹² Corrections' current plan is to build only three stacked housing units for a total of 768 cells at San Quentin, and the cost estimates shown in tables 10, 11, 13, 14, and 15 show the estimated costs for the same number of cells for the alternatives to Corrections' current proposal. We also asked our consultant to evaluate each site for its suitability for four stacked or eight two-story housing units. As discussed in Chapter 1, our consultant recommends that Corrections build an additional stacked housing unit in order to avoid double-ceiling condemned inmates.

Figure 5

Possible Locations for a Stacked Condemned Inmate Complex at R.J. Donovan Correctional Facility



Source: Criminal Justice Institute, Inc. Photograph: <http://maps.yahoo.com>.

According to our consultant, the lower costs result from a significant reduction in site work and construction costs. For instance, our consultant estimated that site work costs would be \$25.7 million less at Donovan than at San Quentin. He attributes this reduction primarily to lower site work and grading costs and a lower cost to upgrade off-site utilities.

Because of the competing demands for the east parcel, our consultant identified a second parcel, termed the “northwest parcel,” as a possible location for the CIC. However, our consultant noted that the northwest parcel would require extensive modifications of the basic 180-degree configuration because of limited space and the triangular layout of the site. The site is bordered on one side by a steep drop-off and on the other side by the property line. Extensive

grading would also be required to fill the existing ravine on the site. In fact, our consultant questions whether the stacked design could be effectively adapted to the site, given the additional space needed for access roads, parking, and support facilities. Our consultant also concluded that the northwest parcel could not accommodate a two-story CIC because of the limited space and the configuration of the site.

The Solano Site Is a Viable Location for the New CIC

In terms of physical characteristics, Solano appears to be another possible site for a new CIC. However, as with the other locations reviewed by our consultant, the cost to build the CIC at Solano would be higher than his estimate for San Quentin. Specifically, our consultant estimates that it would cost approximately \$2 billion, or more than \$429 million more, to build and operate a stacked facility at Solano. Table 14 shows the estimated cost of constructing and operating a stacked and a two-story CIC at Solano over a 20-year period.

Table 14
**Estimated Cost of Building and Operating the Condemned Inmate Complex
at California State Prison, Solano**

COMPONENT	STACKED DESIGN	TWO-STORY DESIGN
Capital project costs	\$354,162,793	\$379,806,136
Sunk costs*	18,965,760	18,965,760
Subtotals	\$373,128,553	\$398,771,896
Transition/activation costs†	\$11,341,605	\$11,341,605
Net new 20-year operating costs‡	1,198,650,497	1,198,650,497
Subtotals	\$1,583,120,655	\$1,608,763,998
Increases in project costs due to projected construction start dates	\$447,937,202	\$462,587,760
Totals	\$2,031,057,857	\$2,071,351,758

Sources: Our consultant's analysis of the costs related to each site, and information obtained from the California Department of Corrections and Rehabilitation (Corrections).

* According to Corrections, as of November 13, 2007, it had expended approximately \$19 million for professional fees related to the currently proposed condemned inmate complex (CIC) at San Quentin State Prison. These costs are included in the capital project costs for this project. Because these costs have already been incurred, they are included as sunk costs at each of the other alternative sites.

† Transition/activation costs are certain types of nonconstruction costs associated with opening any new prison and include recruiting, hiring, and training of new staff and moving condemned inmates from their current location to the new facility.

‡ These amounts represent costs that are specifically related to a new CIC, or net new operating costs, including the costs of paying salaries and benefits for new CIC staff and the costs of major repairs or replacements.

As with Donovan, the higher cost is largely due to factors that would delay construction at this location for several years—the need to complete an EIR, create design documents, and seek a change in state law—thereby increasing the costs associated with the project.

Solano is located in Vacaville and occupies 146 acres. When the prison opened in 1984, it was administered by the warden of the California Medical Facility. However, in 1992, the two prisons were separated administratively and a warden was assigned to each prison. Solano is designed as a medium-security institution to provide housing for general-population inmates. As of March 2008 Solano housed 5,604 inmates, more than double its designed bed space capacity of 2,610.

Our consultant identified an area to the west of the two existing prisons as a potential site for the new CIC and analyzed the site relative to its ability to accommodate either the stacked or the two-story 180-degree design. Figure 6 illustrates the possible location and configuration of four stacked 180-degree housing units.¹³

According to our consultant, the site can easily accommodate the same stacked configuration originally designed for the San Quentin site. He noted that adequate space is available for parking and any necessary support buildings. Additionally, our consultant determined that the site would accommodate the overall 30-acre footprint without requiring any special grading requirements. Further, the CIC would be buffered from existing residential development by the two existing prisons. However, our consultant notes that the Receiver is interested in a different parcel of land at Solano for a health care facility. Developing both a CIC and a health care facility would overtax existing utility systems, resulting in additional development costs.

Our consultant also determined that the same site provides sufficient space for the construction of eight two-story housing units. Specifically, although additional grading may be required, the site can accommodate the approximately 50-acre footprint of the two-story prototype. As with the stacked configuration, the site is buffered from the existing residential development. Further, compared to the stacked design, the two-story design would be less visible from adjacent roads and development. However, the same

¹³ Although Corrections' current plan is to build only three stacked housing units at San Quentin, we asked our consultant to evaluate each site for its suitability for four stacked or eight two-story housing units. As discussed in Chapter 1, our consultant recommends Corrections build an additional stacked housing unit in order to avoid double-ceiling condemned inmates.

Figure 6

Possible Location for a Stacked Condemned Inmate Complex at California State Prison, Solano



Source: Criminal Justice Institute, Inc. Photograph: <http://maps.yahoo.com>.

concerns exist regarding the Receiver's plans and the possible effect on the utility system. Figure 7 on the following page illustrates the location and configuration of eight two-story 180-degree housing units.

Our consultant estimates that capital costs for a stacked facility at Solano, excluding the sunk costs and net of increases in project costs due to a later projected start date, would have been \$7.2 million less than these costs at San Quentin, given the same start date. Although, as shown in Appendix C, Table C, the estimated cost for site work at Solano is more than at San Quentin because of improvements to the city of Vacaville's sanitary sewer system and mitigation/removal of a landfill on the site, our consultant attributes the overall reduction in capital costs to a \$14 million reduction in construction costs, primarily due to the elimination of replacement construction required at the San Quentin site and a reduction in market factors.

Figure 7

Possible Location for a Two-Story Condemned Inmate Complex at California State Prison, Solano



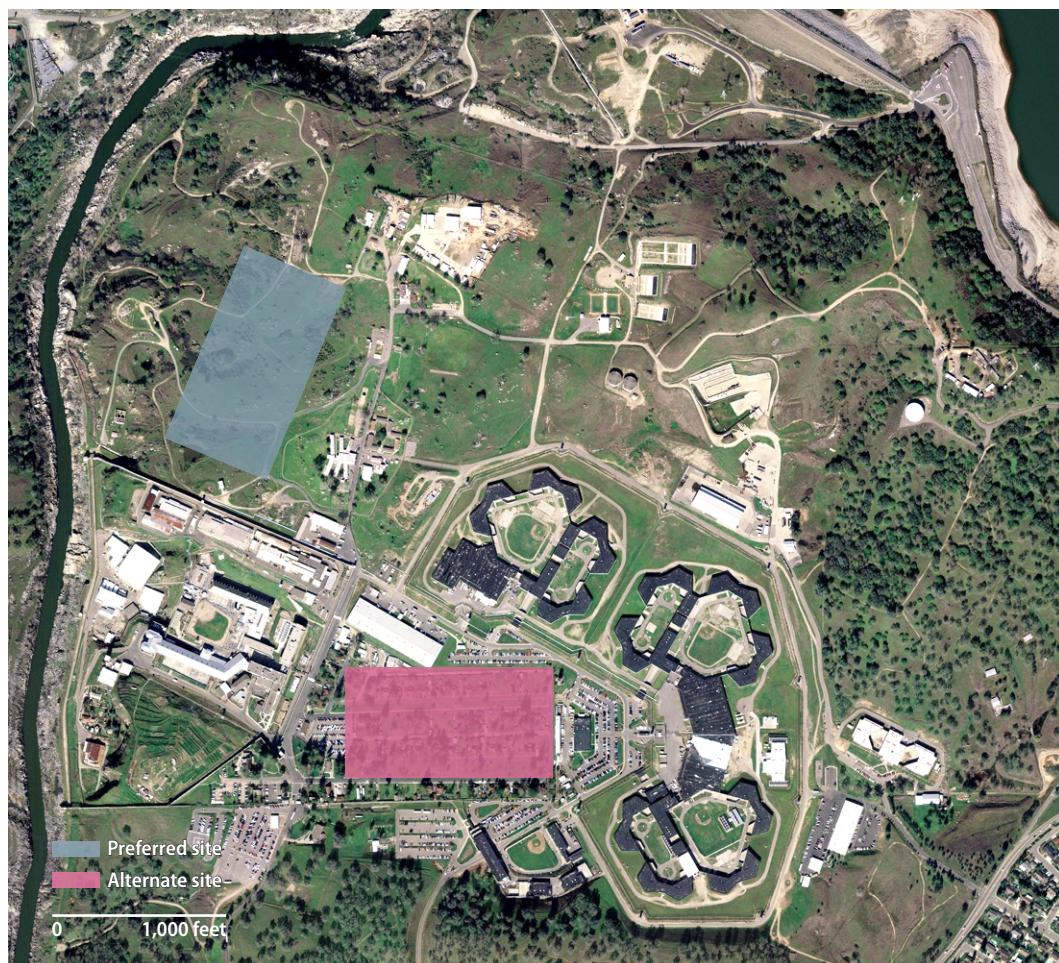
Source: Criminal Justice Institute, Inc. Photograph: <http://maps.yahoo.com>.

Building a CIC at the California State Prison, Sacramento, Is Another Possible Alternative to San Quentin

Based on our consultant's analysis, Sacramento's site characteristics appear suitable for building a CIC. Our consultant identified two possible sites at Sacramento that could accommodate the new CIC. However, the Receiver has identified Sacramento as a possible location for the construction of a long-term health care facility. This may limit the sites available to Corrections at Sacramento. As shown in Figure 8, the preferred site is a 50-acre parcel of land north of the California State Prison, Folsom (Old Folsom). Our consultant favors this site because, among other things, the other site is currently occupied by staff housing.

Figure 8

Possible Sites for a New Condemned Inmate Complex at California State Prison, Sacramento



Source: Criminal Justice Institute, Inc. Photograph: <http://maps.yahoo.com>.

Although our consultant believes Sacramento has a workable site for the CIC, it would cost more to build and operate a CIC there than at the currently proposed CIC at San Quentin because, as with the other alternative prison locations, construction cannot begin until an EIR and design documents are completed, and none of this work can begin until the state law requiring that male condemned inmates be incarcerated at San Quentin is changed. The resulting cost adjustments for the projected construction start of February 2014 would significantly increase the cost of the project. Our consultant estimates that it would cost more than \$2 billion, or \$437.6 million more than at San Quentin, to build and operate a stacked facility at the Sacramento site. Table 15 on the following page shows the estimated cost for constructing and operating a stacked and a two-story CIC at Sacramento over a 20-year period.

Table 15
**Estimated Cost of Building and Operating the Condemned Inmate Complex
 at California State Prison, Sacramento**

	STACKED DESIGN	TWO-STORY DESIGN
Capital project costs	\$359,117,655	\$390,076,299
Sunk costs*	18,965,760	18,965,760
Subtotals	\$378,083,415	\$409,042,059
Transition/activation costs†	\$11,562,446	\$11,562,446
Net new 20-year operating costs‡	1,198,650,497	1,198,650,497
Subtotals	\$1,588,296,358	\$1,619,255,002
Increases in project costs due to projected construction start dates	\$450,849,408	\$468,536,700
Totals	\$2,039,145,766	\$2,087,791,702

Sources: Our consultant's analysis of the costs related to each site, and information obtained from the California Department of Corrections and Rehabilitation (Corrections).

* According to Corrections, as of November 13, 2007, it had expended approximately \$19 million for professional fees related to the currently proposed condemned inmate complex (CIC) at San Quentin State Prison. These costs are included in the capital project costs for this project. Because these costs have already been incurred, they are included as sunk costs at each of the other alternative sites.

† Transition/activation costs are certain types of nonconstruction costs associated with opening any new prison and include recruiting, hiring, and training of new staff and moving condemned inmates from their current location to the new facility.

‡ These amounts represent costs that are specifically related to a new CIC, or net new operating costs, including the costs of paying salaries and benefits for new CIC staff and the costs of major repairs or replacements.

Sacramento is located adjacent to Old Folsom, and when it first opened in 1986, it was called New Folsom. Originally, Sacramento was administered by the Old Folsom warden. However, in October 1992 its name was changed to California State Prison, Sacramento, and it was administered as a separate prison with its own warden. The facility, which covers 1,200 acres, houses level IV inmates serving long sentences as well as those that have proven to be management problems at other institutions. The institution also serves as the medical hub for prisons in Northern California, providing a variety of medical services. It currently has an outpatient housing unit and correctional treatment center. As of March 2008 Sacramento housed 3,222 inmates, or 59 percent more than its designed bed space capacity of 2,031.

Our consultant focused his analysis on the preferred site for the stacked design based on the following advantages over the alternate site:

- Separation from surrounding development.
- Good buffers, including the river gorge, a new highway and dam, and steep terrain to the east.

- Opportunity to develop separate access and parking from the new bypass to the north, thereby lessening the impact on existing facilities.
- Limited impact on existing on-site facilities.

Additionally, as illustrated in Figure 9, the available space at the preferred site can easily accommodate four housing units built using the stacked design. Sufficient space is also available for any necessary support buildings.¹⁴

Figure 9

Preferred Location for a Stacked Condemned Inmate Complex at California State Prison, Sacramento



Source: Criminal Justice Institute, Inc. Photograph: <http://maps.yahoo.com>.

¹⁴ Although Corrections' current plan is to build only three stacked housing units at San Quentin, we asked our consultant to evaluate each site for its suitability for four stacked or eight two-story housing units. As discussed in Chapter 1, our consultant recommends Corrections build an additional stacked housing unit in order to avoid double-ceiling condemned inmates.

Our consultant noted the same advantages for building a two-story CIC at the preferred site rather than the alternate site and, as with the stacked design, concluded that the existing space is sufficient to build eight two-story housing units and any necessary support buildings. Figure 10 shows the two-story configuration at the preferred site.

Figure 10
Preferred Location for a Two-Story Condemned Inmate Complex at California State Prison, Sacramento



Source: Criminal Justice Institute, Inc. Photograph: <http://maps.yahoo.com>.

Our consultant estimates that capital costs for a stacked facility at Sacramento, excluding the sunk costs and net of increases in project costs due to a later projected start, would have been \$2.2 million less than the same costs at San Quentin if both projects were to start at the same time.

Building One or More Additional Housing Units to Increase Capacity at the Alternate Sites Would Further Increase Costs

As discussed in Chapter 1, our consultant estimates that it would cost approximately \$64.1 million to build a fourth stacked housing unit at the currently proposed site at San Quentin if the unit was built at the same time as the proposed CIC. Our consultant also noted that the additional cost would increase to \$92.6 million if Corrections waited five years to build the fourth unit, due primarily to the delay in construction. Based on our consultant's estimate of an increase in the condemned inmate population of 18 inmates per year, adding an additional 256 cells to the CIC would allow Corrections to single-cell the condemned inmates until 2028. At that time, if Corrections began double-ceiling its grade A condemned inmates, the CIC would reach its capacity during 2030.

Our consultant estimated that the cost of constructing an additional 256 cells at the other locations is \$47.5 million for one stacked housing unit and \$46 million for two two-story units, assuming a construction start date of November 1, 2008. However, when adjusted for a more realistic start date of February 1, 2014, the costs for constructing the additional 256 cells at the other locations are estimated to be \$66.3 million for the stacked configuration and \$64.2 million for the two-story configuration.

Community and Political Resistance May Exist to Building the CIC Outside of San Quentin

Another potential impact of building the CIC outside of San Quentin is the potential for community and political resistance. In accordance with state law, each prison must establish a citizens' advisory committee (advisory committee) from the surrounding community to address any concerns about the prison. To determine the community impact of building a CIC at any of the three proposed alternate sites, we contacted each of the chairs of the advisory committees for Solano, Sacramento, and Donovan. The chairs from both Solano and Sacramento responded. The chair of the Solano advisory committee stated that an increase in the number of inmates at Solano would result in exceeding infrastructure capabilities for water and sewer. He also stated that anti-death-penalty demonstrations would disrupt traffic and would require law enforcement resources that would exceed the availability of local resources. The chair of the Sacramento advisory committee cited concerns with public safety and an increased workload for the city's police department.

The chairs of the Sacramento and Solano citizens' advisory committees expressed concerns over building the CIC in their communities.

We also received comments from the mayor of the city of Folsom and a member of the Sacramento County Board of Supervisors, the county in which the prison is located. Both expressed concerns with building a CIC in their community. The mayor expressed concerns about adverse impacts to neighborhood safety and increased demands on police and fire personnel. In addition, the Folsom City Council passed a resolution in 2005 opposing moving death row to Sacramento. Further, the representative from the Sacramento County Board of Supervisors stated that access to the prison is limited to a two-lane road immediately adjacent to residential subdivisions, and the impacts on those residents by media and protestors would be extremely adverse.

Although the State Could Avoid Paying Operating Costs by Postponing Construction of a New CIC, Other Factors Need to Be Considered

Although the State would avoid paying approximately \$93.2 million in operating costs, or an average of \$18.6 million a year, if it delayed construction of a CIC at San Quentin for five years, there are unquantifiable costs associated with such a delay. As discussed in Chapter 1, there will be significant ongoing costs to operate the new CIC at San Quentin. In fact, as shown in Table 16, Corrections will incur almost \$214 million in additional (net new) staffing costs during the first five full years of operating the new CIC.

Table 16
Net Cost Avoidance Realized by Delaying Construction of the Condemned Inmate Complex for Five Years

FISCAL YEAR	STAFFING COSTS AVOIDED	ESTIMATED COST OF DELAY	NET AVOIDANCE
2008–09	\$0	(\$4,842,045)	(\$4,842,045)
2009–10	0	(21,680,798)	(21,680,798)
2010–11	0	(22,985,301)	(22,985,301)
2011–12	39,497,192	(23,081,993)	16,415,199
2012–13	41,077,080	(23,087,568)	17,989,512
2013–14	42,720,163	(23,088,777)	19,631,386
2014–15	44,428,970	(1,947,137)	42,481,833
2015–16	46,206,129	(26,084)	46,180,045
2016–17	0	(27,127)	(27,127)
Totals	\$213,929,534	(\$120,766,830)	\$93,162,704

Source: Criminal Justice Institute, Inc.

According to our consultant, these costs are for the new staff that San Quentin expects to hire if the new CIC is built. Therefore, if the decision were made to postpone building the CIC, San Quentin would not incur these costs. However, as discussed previously, because of the inherent escalation in construction costs, the CIC will cost substantially more to build in the future. For example, postponing construction of the CIC at the currently proposed site at San Quentin for five years would result in construction beginning in November 2013, as previously discussed. Assuming it takes 24 months from the date construction begins to complete the CIC, it would not open until November 2015. As shown in Table 16, this delay would add approximately \$120.8 million to the cost of the CIC. Yet at the same time, San Quentin would avoid having to spend nearly \$214 million in new staffing costs if Corrections waited five years to build the CIC, for a net avoidance of \$93.2 million. This estimate is computed based on regular pay for the additional staff to be hired, and therefore assumes a sufficient number of correctional officers to minimize overtime.

However, when considering whether to delay construction of the CIC, other factors need to be taken into account. Specifically, according to our consultant's projections of the condemned inmate population, in 2010 the number of condemned inmates will exceed the capacity of the facilities currently used to house them. Consequently, Corrections will need to find additional space for condemned inmates at that time. Expanding to other housing units at San Quentin would likely result in the displacement of noncondemned inmates, which, given the overcrowding that currently exists in Corrections' prison system, may prove difficult.

Additionally, in its fiscal year 2003–04 budget change proposal (BCP) requesting funding for a new CIC, Corrections stated that because of the crowded facilities, inadequate physical plant security, and lack of service space at San Quentin, the condemned population represents a severe threat to the safety and security of other inmates, staff, and the citizens of California. Corrections went on to note that the condemned inmates are a violent and predatory population and represent an extreme escape threat because the facilities where they are currently housed are not designed or equipped for a population that, without question, is made up of the inmates most motivated to escape using force. Corrections also acknowledged that the existing condemned inmate facilities make it extremely difficult to manage the inmates from a custody and security perspective, requiring more staff than maximum-security facilities built using newer designs. Finally, Corrections noted that the growing population of condemned inmates has reached a crisis point and currently exceeds San Quentin's ability to safely house them in accordance with correctional standards and court mandates.

Both Corrections and our consultant believe that the current buildings do not meet many of Corrections' current standards for maximum-security facilities, and our consultant also concluded that there is an increased risk of escape and a heightened risk of harm to both staff and inmates. For example, moving condemned inmates on a daily basis up and down the five-tier East Block, with its narrow passageways and poor sight lines, compromises the safety of both inmates and staff. Therefore, while postponing construction of the new CIC for five years would result in a cost avoidance of \$93.2 million, this dollar amount has to be weighed against the potential costs and risks associated with continuing to house the condemned inmates in what our consultant and Corrections consider to be outdated and inadequate facilities, which were never designed to confine condemned inmates.

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

Date: July 29, 2008

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For questions regarding the contents of this report, please contact
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Appendix A

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION'S EXPLANATION FOR CHANGES IN CONDEMNED INMATE COMPLEX COSTS

Table A shows the material changes in costs for various components of the proposed condemned inmate complex (CIC) at San Quentin State Prison. Specifically, the table shows the material differences between the California Department of Corrections and Rehabilitation's (Corrections) original \$220 million budget and the current \$356 million proposal. We defined as material any change—increase or decrease—that totaled \$5 million or more. As a result, these numbers do not correspond with the numbers in Table 3 of the report, which identifies all changes. We asked Corrections' officials to identify the reasons for each of these changes. Their explanations are provided in Table A.

Table A
Corrections' Reasons for Material Changes in Cost Estimates to Construct a New Condemned Inmate Complex

COMPONENT AND ITEM DESCRIPTION	DIFFERENCE IN COST	AGENCY RESPONSE
Site Demolition and Grading		
Site grading and soil stabilization	\$14,123,855	The original cost model assumed that average soil conditions existed on the site, requiring general site grading with soils under building pads overexcavated/recompacted to a depth of about 3 feet below finish grade. Following completion of a detailed geotechnical investigation, it was determined that unclassified soils and bay muds existed under most of the site. Because of the depth of these poor soils below existing grade, the geotechnical consultant recommended that the most economical method to deal with these unstable soils is to remove them and replace them with material excavated from Dairy Hill, a 30- to 40-foot-high sandstone rock hill located on about one-third of the proposed site. Under some building pads, excavations to depths of 15 to 20 feet are planned, with extensive dewatering measures in place to prevent migration of sea water into the excavation.
		Additional site costs that will be incurred but were not in the original budget include removal of Dairy Hill. Material from Dairy Hill will be removed, crushed, and reused as general site fill or in excavations where poor soils existed. Excess Dairy Hill material will be hauled into an abandoned rock quarry located on the San Quentin site. To prevent settlement in the recreation yards and under roadways because of poor soil conditions, soil piers spaced at approximately 8 to 10 feet on center will be installed in selected areas to prevent settlement of sidewalks and roads throughout the site. In the middle of the asphalt paved recreation yards, the soils will undergo deep dynamic compaction to prevent settling.
Utility demolition	(6,451,527)	The estimated cost to demolish existing above- and below-ground utilities was less than budgeted.
Building demolition	(6,482,757)	The estimated cost to demolish the existing buildings and other site improvements was less than budgeted.
Hazardous material cleanup	(8,986,158)	When the original budget was prepared, it was assumed that there would be a substantial amount of hazardous material cleanup due to the existence of an abandoned wastewater treatment plant, very old buildings that would need to be demolished, and a recycling center and several old maintenance buildings. After a thorough hazardous materials investigation, it was found that very little hazardous material existed.

continued on next page

COMPONENT AND ITEM DESCRIPTION	DIFFERENCE IN COST	AGENCY RESPONSE
Site Utilities		
Electrical supply and distribution	\$8,352,378	The electrical system consists of tapping into an existing electrical supply to the prison and extending a 12-kilovolt distribution system to area transformers that service one or more buildings. The original budget was not sufficient to cover the distance from the power supply to the condemned inmate complex (CIC) and assumed that emergency power would be supplied from the existing generation system and that a new generator would not be required. Based on the final building loads and capacity of the existing generation system, Corrections determined that a new standalone electrical generator would be required.
Roads, paving, and parking	5,126,494	The original budget was based on a standard amount of asphalt paving that would be required for a typical level IV (maximum-security) prison. The biggest increase in this category was for paving of the 4 recreational yards that encompass approximately 75 percent of the 14.5 acres of asphalt paving that will be installed on this project. The entire recreation yards will be paved based on the yard layout, activities that occur in the yards, weather, and cleanliness. Because of the poor soil conditions, the geotechnical engineer recommended from 12 to 16.5 inches of aggregate base topped by up to 3.5 inches of asphalt should be placed on all areas to be paved.
Housing and Guard Towers		
180-degree stacked housing units	48,541,333	The original cost model assumed that Corrections would utilize its standard 180-degree housing unit, which is a two-story building with a total of 128 ground-floor and mezzanine cells. The standard 180-degree housing unit is approximately 52,000 square feet and constructed of precast interior and exterior walls, slab on grade floor with conventional spread footing foundation. Due to site constraints specific to the San Quentin site, Corrections decided to utilize the 180-degree housing design but to stack one housing unit on top of another. Although stacked, each housing unit is designed to operate completely independently for security reasons. This security requirement resulted in the need for elevators, dumbwaiters, and additional access and egress stairways that were not in the original 180-degree housing design or in the budget. Because of the size, configuration, and weight of this structure, the structural engineer of record reported that this housing could not be of precast construction but would have to be poured in place, resulting in a significant increase in the cost of the structure.
		In addition, the soil conditions at San Quentin required that 3 of the 4 housing units be constructed on a pile foundation instead of a conventional spread footing. The structure needed to be completely redesigned because of the stacked configuration, method of construction, weight, soil conditions, and seismic requirements that added substantial cost to the building beyond what was originally budgeted. In addition, the entire building, including individual housing pods and subpods, was heated/ventilated using one large air-handling unit requiring multiple dampers and associated controls for temperature control and smoke/gas evacuation.
		Because of community concerns identified during the environmental impact phase, the exterior of the housing units were redesigned to give the structure a more aesthetically pleasing appearance from both Sir Frances Drake Blvd. and the Commuter Ferry. Outside the traditional concrete exterior wall, an entirely new facade was designed consisting of fretted glazing, stucco, and metal siding. This new exterior was not included in the original budget.
Secure Support Buildings		
Yard walls, catwalks, and small management yards	9,647,290	Security and operational requirements and procedures for a CIC are based on how Corrections and the correctional staff at San Quentin plan to operate the facility. This category increased in cost due to the extensive number of yard gun posts around the recreation yards, elevated catwalk/gun runs for emergency response, and the total number of small management yards. No small management yards (which are high-security wire mesh enclosures with plumbing fixtures) were included in the original budget. Because of Corrections' new classification system for the condemned inmates (grades A through E), it was determined that up to 70 small management yards would be required to provide the mandated daily exercise time for the inmates.

COMPONENT AND ITEM DESCRIPTION	DIFFERENCE IN COST	AGENCY RESPONSE
Program facility support services	\$5,576,255	The original budget for the program facility support services (PFSS) buildings (one in each yard) was based on constructing a total of 32,492 square feet. In the final architectural program and building design, the size of the building increased by approximately 5,200 square feet. The added space included inmate records in one of the PFSS buildings and enlarged health service satellites in both PFSS buildings.
Correctional Treatment Center		
Correctional treatment center	13,117,890	The original cost model budgeted a correctional treatment center (CTC) with 33,373 square feet at a cost of approximately \$12,675,055. Based on requirements from the San Quentin medical staff and revised operational requirements, it was determined that many of the medical functions (pharmacy, dialysis, etc.) that were provided at other on-site facilities would be relocated to the new CTC. This new requirement added approximately 8,400 square feet to the size of the structure, which increased the cost of the building.
Central health services	(5,065,860)	When the original cost model and budget were developed, it was unknown what medical facilities would be required. Following programming, it was determined that a 24-bed CTC would be constructed. The central health services building that was included in the cost model was not required.
Nonsecure Support Buildings		
Warehouse	7,888,090	A warehouse was not included in the original cost model, based on initial planning information received from the San Quentin staff. It was later determined that the existing warehouse space was at capacity and that a new warehouse would be required to store goods and materials to support the new CIC.
Inmate programs building	(7,841,450)	Based on the type and classification of condemned inmates, it was determined by Corrections during the programming phase that an inmate programs building was not required.

Source: Bureau of State Audits' review of the California Department of Corrections and Rehabilitation's (Corrections) original and revised cost estimates and information provided by Corrections explaining the reasons for the cost increases/decreases.

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Appendix B

DETAILED METHODOLOGY FOR DETERMINING ALTERNATE SITES

As discussed in the Scope and Methodology and in Chapter 2, we used a two-pronged approach to narrow down our list of proposed alternate sites. We began by identifying all prisons in the State with level IV 180-degree housing units, because the California Penal Code requires the California Department of Corrections and Rehabilitation (Corrections) to evaluate these prisons for suitability before relocating the identified condemned inmate complex (CIC). We also developed a list of all prisons within two hours' drive time of the San Francisco Bay Area (Bay Area) or Los Angeles to address the concerns of stakeholders involved with condemned inmates. Once we had identified these two groups of prisons, we evaluated them separately, using the following criteria:

Level IV 180-degree facilities were evaluated through surveys of the individual prisons and a conversation with the California Prison Healthcare Receivership's (Receiver) correctional experts, based on the following criteria:

- Availability of land for construction of a new CIC.
- Proximity to a major urban area (including airports, freeways, and public transportation).
- Proximity to hospitals and mental health facilities.
- Proximity to state and federal courts.¹⁵
- Accessibility for inmates with disabilities.
- Presence of outdoor exercise units.
- Ability of the Receiver's office to recruit and retain clinicians.

Through this analysis, we determined that one facility met enough of the above criteria to merit further consideration: California State Prison, Sacramento.

¹⁵ No reported California State or federal court decision has held that inmates' constitutional right of access to the courts is violated as result of an inmate's geographic proximity to a courthouse. However, we determined the proximity of sites to courts per the audit request.

Facilities that are within two hours of the Bay Area or Los Angeles were evaluated through surveys of individual prisons and a conversation with the Receiver's correctional experts based on the following criteria:

- Availability of land for construction of a new CIC (most of these locations are not maximum-security prisons, and therefore existing facilities would not be appropriate for housing condemned inmates).
- Proximity to hospitals and mental health facilities.
- Proximity to state and federal courts.
- Ability of the Receiver's office to recruit and retain clinicians.

We did not review these sites for accessibility for disabled inmates or the existence of outdoor exercise units because these would be included in a newly built self-contained CIC (based on the current design proposed by Corrections). Through this analysis, we determined that four facilities met enough of these criteria to merit further consideration: Deuel Vocational Institution (Deuel) in Tracy; California Institution for Men (Institution for Men) in Chino; R. J. Donovan Correctional Facility in San Diego; and California State Prison, Solano. After discussions with our consultant, we agreed that both Deuel and Institution for Men would not be appropriate locations because they do not permanently house level IV inmates, and the transition to housing condemned inmates could pose a challenge. Prisons that currently house some level IV inmates would require less training for existing staff, and therefore staff training costs and other costs would be reduced. These prisons would also require less transition time.

Table B shows the process of elimination that yielded our four proposed alternate sites.

Table B
Matrix Used to Determine Suitable Alternative Locations for the Condemned Inmate Complex

DEPARTMENT OF CORRECTIONS AND REHABILITATION		RECEIVER/PLATA		COLEMAN		ARMSTRONG		KEENAN		PRISON LAW OFFICE		AUDIT REQUEST		PRISON LAW OFFICE, STATE PUBLIC DEFENDER, CALIFORNIA APPELLATE PROJECT	
LAND AVAILABLE FOR CONSTRUCTION OF CONDEMNED INMATE COMPLEX	ABILITY TO RECRUIT AND RETAIN ADEQUATE CLINICAL STAFF	ACCESS TO MENTAL HEALTH CARE	ACCESS TO ACT FACILITIES/CARE CELLS	AMERICANS WITH DISABILITIES ACT FACILITIES/S CELLS	OUTDOOR EXERCISE FACILITIES	ACCESSIBLE VIA PUBLIC TRANSPORTATION	AVAILABLE	NEAR STATE OR FEDERAL COURTHOUSE	NEAR MAJOR URBAN AREA	NEAR STATE OR FEDERAL COURTHOUSE	NEAR MAJOR URBAN AREA	NEAR COMMERCIAL AIRPORT	NEAR FREEWAY	NEAR STATE OR FEDERAL COURTHOUSE	NEAR MAJOR URBAN AREA
Level IV 180-Degree Facilities (Per California Penal Code § 3600)															
California Correctional Institution	Y	N	Y	N	Y	N	Y	N	Y	N	Y	N	Y	Y	Y
California State Prison, Corcoran	N	N	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	N	Y
California State Prison, Sacramento*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
High Desert State Prison	Y	N	Y	Y	Y	N	Y	N	Y	N	N	N	Y	N	Y
Kern Valley State Prison	N	N	Y	Y	Y	N	Y	Y	Y	N	Y	N	Y	N	Y
Pelican Bay State Prison	Y	N	Y	N	Y	N	Y	Y	Y	N	N	N	Y	N	Y
California Substance Abuse Treatment Facility and State Prison	N	N	Y	Y	Y	N	Y	Y	Y	N	Y	N	Y	N	Y
Salinas Valley State Prison	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	N	Y
Sites Chosen for Their Proximity to the San Francisco Bay Area and Los Angeles															
California Institution for Men	Y	Y	Y	Y	†	†	Y	Y	Y	Y	Y	Y	Y	Y	Y
California State Prison, Los Angeles County	N	Y	Y	Y	†	†	N	Y	Y	Y	Y	Y	Y	Y	Y
California State Prison, Solano, and Correctional Medical Facility*	Y	Y	Y	Y	†	†	Y	Y	Y	Y	Y	Y	Y	Y	Y
Deuel Vocational Institution	Y	Y	Y	Y	†	†	Y	Y	Y	Y	Y	Y	Y	Y	Y
R.J. Donovan Correctional Facility*	Y	Y	Y	Y	†	†	N	Y	Y	Y	Y	Y	Y	Y	Y
Mule Creek State Prison	N	Y	Y	Y	†	†	N	Y	Y	Y	Y	Y	Y	Y	Y
San Quentin State Prison*	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

continued on next page

DEPARTMENT OF CORRECTIONS AND REHABILITATION	RECEIVER/PLATA	COLEMAN	ARMSTRONG	KEENAN	PRISON LAW OFFICE	AUDIT REQUEST	PRISON LAW OFFICE, STATE PUBLIC DEFENDER, CALIFORNIA APPELLATE PROJECT						
							ABILITY TO RECRUIT AND RETAIN OF CONDEMNED INMATE COMPLEX	ABILITY TO RECRUIT AND RETAIN OF CONDEMNED INMATE COMPLEX	ACCESS TO AMERICANS WITH DISABILITIES ACT FACILITIES/ACT CELLS	OUTDOOR EXERCISE FACILITIES AVAILABLE	NEAR STATE OR FEDERAL COURTHOUSE	NEAR STATE OR FEDERAL COURTHOUSE	NEAR STATE OR FEDERAL COURTHOUSE
Sites Not Considered for Relocation of Condemned Inmates Due to Lack of Health Care Staff in Surrounding Communities for Recruiting Purposes													
Avenal State Prison	Y	N	N	N	NA	NA	NA	NA	NA	NA			
California Correctional Center	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			
California Institution for Women	N	N	NA	NA	NA	NA	NA	NA	NA	NA			
California Men's Colony	N	N	NA	NA	NA	NA	NA	NA	NA	NA			
California Rehabilitation Center	N	N	NA	NA	NA	NA	NA	NA	NA	NA			
Calipatria State Prison	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			
Centinela State Prison	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			
Central California Women's Facility	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			
Chukawalla Valley State Prison	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			
Correctional Training Facility	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			
Folsom State Prison	N	N	NA	NA	NA	NA	NA	NA	NA	NA			
High Desert State Prison	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			
Ironwood State Prison	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			
North Kern State Prison	N	N	NA	NA	NA	NA	NA	NA	NA	NA			
Pleasant Valley State Prison	N	N	NA	NA	NA	NA	NA	NA	NA	NA			
Sierra Conservation Center	N	N	NA	NA	NA	NA	NA	NA	NA	NA			
Valley State Prison for Women	N	N	NA	NA	NA	NA	NA	NA	NA	NA			
Wasco State Prison	Y	N	NA	NA	NA	NA	NA	NA	NA	NA			

Sources: Documents obtained from and discussions with the California Department of Corrections and Rehabilitation, the California Prison Healthcare Receivership's custody experts, community representatives, and other stakeholders.

NA=Not Applicable.

* Prisons selected to evaluate the costs associated with building a condemned inmate complex.

† Undetermined.

Appendix C

DETAILED COMPARISON OF THE COSTS TO BUILD A CONDEMNED INMATE COMPLEX AT ALTERNATE SITES

Table C on page 86 provides a side-by-side comparison of the costs associated with building a stacked condemned inmate complex (CIC) at the Department of Corrections and Rehabilitation's (Corrections) currently proposed site at San Quentin State Prison (San Quentin) to eight alternatives. Specifically, using Corrections' currently proposed stacked CIC at San Quentin as a basis for comparison, the table shows the differences in component costs associated with building a two-story CIC at the currently proposed San Quentin site; building a stacked CIC at an alternate site on the San Quentin property; and building a two-story and stacked CIC at California State Prison, Sacramento; R. J. Donovan Correctional Facility (Donovan); and California State Prison, Solano.

The capital costs, transition and activation costs, and 20-year operating costs noted in the top portion of the table assume that construction at all sites could begin November 1, 2008, and that construction could be complete by November 1, 2010. This provides a similar basis of comparison, as it places all of the alternatives on an equal cost footing. Because the alternatives would not all start at the same time, however, we provide cost adjustments for the projected start dates in the lower portion of the table.

The costs associated with the currently proposed stacked CIC at San Quentin reflect the total costs for each component, while the costs associated with the alternatives are displayed as the differences in costs when compared to the current proposal. For example, our consultant estimates that the site work associated with building a stacked CIC at the currently proposed San Quentin site would be \$63.1 million. In contrast, our consultant estimates that the site work associated with building a two-story CIC at the currently proposed site at San Quentin would cost \$16.7 million more than the stacked design. Similarly, the site work associated with building a stacked CIC at an alternate site at San Quentin is estimated to cost \$6 million less than Corrections' current proposal. The total variance is included in the four subtotal lines and at the bottom of Table C to allow for cross-comparison of the alternatives to the current proposal. The total variance is the amount by which the cost of each project is projected to exceed the cost of the current proposal. For example, the stacked CIC design at Donovan is estimated to cost \$367.7 million more than the current proposal at San Quentin.

As shown in the table, capital costs include site work, construction, equipment, professional fees, and sunk costs, which are costs previously incurred on the proposed San Quentin CIC project. The costs for site work include such activities as demolishing existing structures as necessary, grading the site, and stabilizing soils. Construction costs include the cost of building structures, such as the condemned inmate housing units, and equipment costs are for various items necessary for the CIC such as kitchen and laundry equipment. Professional fees include payments for services such as architectural design and project management.

When comparing the total cost of the currently proposed CIC project to each alternative, sunk costs must be considered. According to Corrections, as of November 13, 2007, it had spent approximately \$19 million for professional services including design, program management, construction management, and other project-related costs. These costs are part of the \$40.5 million shown for professional fees for the currently proposed San Quentin stacked CIC. In order to account for these past expenditures, we included them as sunk costs for each alternative location, as one of the costs of building a CIC would be the \$19 million that Corrections has already paid for professional fees for the proposed San Quentin CIC. As shown in the table, the only alternative that would receive any benefit from the \$19 million that Corrections has already spent is the one for a stacked CIC located at an alternate site at San Quentin. Because the stacked CIC has already been designed and working drawings exist, professional fees associated with building the stacked CIC at the alternate site at San Quentin are estimated to be \$10.8 million less than the current proposal. However, the \$19 million that has already been spent must be added to the cost of building a stacked CIC at the alternative site at San Quentin in the form of sunk costs. Thus, the net costs of the professional fees at the alternative site are approximately \$8.2 million more than in the current proposal once the sunk costs are added to professional fees.

As shown in Table C, the most significant increase in the estimated costs of CICs at locations other than San Quentin is due to extending the construction start dates to February 2014. As discussed in Chapter 1, an escalation factor is applied to construction estimates to account for the price of construction materials and services at a future point in time. The projected start date for the currently proposed stacked CIC at San Quentin is November 2008, and the capital project cost escalation associated with this start date is identified separately for the purpose of comparison to the other alternatives. Because escalation is a function of capital project costs, the estimated escalation costs differ across the alternatives. These costs are calculated using an 8 percent escalation rate for 2008 and 6 percent for future years,

compounded annually to the start date of construction and the expected midpoint of construction, which for each alternative is estimated to be 12 months from the date that construction starts.

Transition and activation costs are certain types of nonconstruction costs associated with opening any new prison and include the recruiting, hiring, and training of new staff and moving condemned inmates from their current location to the new facility. According to our consultant, if the CIC is constructed at a location other than San Quentin, transition and activation costs are estimated to increase by \$4.5 million because Corrections would need to hire and train more staff at these locations than it would at San Quentin. As noted in Table C, the cost of moving the condemned inmates is also projected to be higher if the CIC is built at a location other than San Quentin. Further, extending the project start date is expected to increase the transition and activation costs to adjust for increases in staff pay and benefits in the future.

Finally, if construction of a CIC started at the same time at all alternative locations and sites, the 20-year operating costs would be equal for all locations. However, as discussed in Chapter 2, extending the project start date is expected to increase the operating costs, due to increases in staff pay and benefits in the future. These increases are noted in Table C as project cost increases due to projected start dates.

Table C
Detailed Comparison of Differences in the Estimated Costs of Alternatives to the California Department of Corrections and Rehabilitation's Current Proposal

COST COMPONENT	SAN QUENTIN STATE PRISON		CALIFORNIA STATE PRISON, SACRAMENTO		R.J. DONOVAN CORRECTIONAL FACILITY		CALIFORNIA STATE PRISON, SOLANO	
	CURRENT PROPOSAL		VARIANCE FROM CURRENTLY PROPOSED SITE: STACKED DESIGN					
	CURRENTLY PROPOSED SITE: STACKED DESIGN*	TWO-STORY DESIGN	ALTERNATE SITE: STACKED DESIGN	TWO-STORY DESIGN	STACKED DESIGN	TWO-STORY DESIGN	STACKED DESIGN	TWO-STORY DESIGN
Project Costs[†]								
Capital Costs								
Site work	\$63,120,203	\$16,732,952	(\$5,996,739)	\$48,105,542	\$15,389,726	(\$15,246,121)	(\$25,688,965)	\$37,951,073
Construction	250,577,174	9,169,822	-	(20,957,146)	(15,317,888)	(20,957,647)	(14,781,957)	\$9,775,028 (14,032,147)
Equipment	7,157,577	-	-	344,898	(246,712)	(1,049,569)	(1,140,036)	147,368 (342,096)
Professional fees	40,491,678	5,072,287	(10,767,553)	1,236,373	(2,054,103)	(6,519,517)	(7,022,690)	137,732 (2,584,624)
Sunk costs [‡]	-	18,965,760	18,965,760	18,965,760	18,965,760	18,965,760	18,965,760	18,965,760
Subtotals	\$361,346,632[§]	\$49,940,821	\$2,201,468	\$47,695,427	\$16,736,783	(\$24,807,094)	(\$29,667,888)	\$37,725,264 \$11,781,921
Transition and Activation Costs								
Staff costs for training and condemned inmate complex (CIC) activation	\$5,970,887	-	-	\$4,465,514	\$4,465,514	\$4,465,514	\$4,465,514	\$4,465,514
Moving inmates	815,445	-	-	310,600	310,600	2,489,123	2,489,123	89,759
Subtotals	\$6,785,332	-	-	\$4,776,114	\$4,776,114	\$6,954,637	\$6,954,637	\$4,555,273 \$4,555,273
20-Year Operating Costs								
Staff	\$1,176,150,497	-	-	-	-	-	-	-
Major repairs and replacements	22,500,000	-	-	-	-	-	-	-
Subtotals	\$1,198,650,497	-	-	-	-	-	-	-
Increases in Project Costs Due to Projected Construction Start Dates[#]								
Escalation of capital costs ^{**}	\$34,201,909	\$56,032,081	\$70,487,850	\$192,544,458	\$174,857,166	\$151,122,320	\$148,345,251	\$186,676,913 \$172,026,355
Increases in transition and activation costs	553,765	413,483	562,887	3,707,795	3,707,795	4,510,731	4,510,731	3,626,400 3,626,400
Increases in net new 20-year operating costs	-	32,268,468	125,664,105	237,528,773	237,528,773	237,528,773	237,528,773	237,528,773 237,528,773
Subtotals	\$34,755,674	\$88,714,032	\$196,714,842	\$433,781,026	\$416,093,734	\$393,161,824	\$390,384,755	\$427,832,086 \$413,181,528
Total Variances	-	\$138,654,853	\$198,916,310	\$486,252,567	\$437,606,631	\$375,309,367	\$367,671,504	\$469,812,623 \$429,518,722
Total Project Costs	\$1,601,539,135^{††}	\$1,740,193,988	\$1,800,455,445	\$2,087,791,702	\$2,039,145,766	\$1,976,848,502	\$1,969,210,639	\$2,071,351,758 \$2,031,057,857

Source: Our consultant's analysis of the costs related to each site, and information obtained from the California Department of Corrections and Rehabilitation (Corrections).

* In the stacked design, the two-story housing units are stacked one on top of the other, resulting in four stories.

† The project costs are estimated assuming that construction of a 768-cell condemned inmate complex (CIC) would start on November 1, 2008, which provides a similar basis of comparison across all alternatives.

‡ According to Corrections, as of November 13, 2007, it had expended approximately \$19 million for professional services related to the currently proposed CIC at San Quentin State Prison (San Quentin). Thus, these costs are included in the site-specific costs for the current proposal. Because these costs have already been incurred, they are included as sunk costs at each of the other alternative locations, as one of the costs of building the CIC at these alternative locations would be to forego the benefit of the expenditures for professional services that have already been provided at the currently proposed site.

§ Total capital project costs for the currently proposed CIC at San Quentin are \$361,346,632 plus \$34,201,909 in escalation costs, for a total of \$395,548,541.

|| These amounts represent costs that are specifically related to a new CIC or net new operating costs, including the costs of paying salaries and benefits for new CIC staff and the costs of major repairs or replacements. # The increases in project costs are to account for the projected construction start dates anticipated for each alternative. At San Quentin construction of the two-story design at the currently proposed site is projected to start August 1, 2010, while the stacked design at the alternate site is projected to start February 1, 2014, for the other designs and locations.

** An escalation factor is applied to construction estimates to account for the price of construction materials and services at a future point in time. The projected start date for the currently proposed stacked CIC at San Quentin is November 1, 2008, and the escalation cost associated with this start date is identified separately for the purpose of comparison to the other alternatives.

†† Total does not match the \$1,601,539,134 reported in Chapter 1 due to rounding.

Appendix D

VALUATION OF THE PROPOSED CONDEMNED INMATE COMPLEX SITE

One economic benefit of building the condemned inmate complex (CIC) at a site other than San Quentin State Prison (San Quentin) is that the currently proposed 40 acres of CIC land would then be available for other purposes. According to a valuation our consultant had prepared, the current 40-acre site for the proposed CIC has an estimated market value of \$45.3 million. If this site were offered for sale for other future potential uses and the land were prepared for that purpose, the estimated market value would rise to \$55.6 million. However, the \$45.3 million figure represents the value of the CIC land as it currently is.

Our consultant also obtained a valuation of the site that included the potential for certain redevelopment, assuming that the land were entitled—zoned or permitted for some purpose other than its current use—for such redevelopment. The site valued for this purpose is larger, at 57.1 acres, and includes the San Quentin staff residential homes to the north of the CIC site. The alternative redevelopment scenarios considered are based on the *Preliminary Analysis of Potential Reuse and Relocation of San Quentin Prison*, prepared by the Department of General Services in 2001. If the land were entitled for both residential and commercial uses, the estimated bulk value would be between \$83.7 million and \$117.9 million. The full amounts are indicated in Table D.

Table D
Value of Condemned Inmate Complex Site as of May 1, 2008

	CONDITION	REVENUE GENERATED
40-Acre Condemned Inmate Complex (CIC) Site		
Market value	As-is	\$45,300,000
Market value	As if no negative factors*	55,600,000
57.1-Acre CIC Site (if Developed)[†]		
Residential community	As if entitled [‡]	83,700,000
Transit center	As if entitled [‡]	91,600,000
New town	As if entitled [‡]	117,900,000

Source: Criminal Justice Institute, Inc.

* This assumes that the land is in sellable condition and negative factors have been mitigated. This is a hypothetical land value, as the land currently has some negative factors.

† These values are hypothetical, as the land is not entitled for such purposes at this time. Additionally, the 57.1-acre condemned inmate complex site is the western portion of the much larger San Quentin State Prison redevelopment plan.

‡ As if entitled gives the value of a piece of land or property if it were zoned or permitted for a use other than the one for which it is currently approved/authorized.

A high-level summary of the property appraisal provided to our consultant appears in the following pages, including photographs of the site.



SAN QUENTIN STATE PRISON – WESTERN LAND

40.0 Acres of Underlying SQSP Land Proposed for Development of the Condemned Inmate Complex Project, and for Redevelopment of 57.1 Acres via Alternative Land Use Scenarios –

Located South of Sir Francis Drake Boulevard,
In the Sphere of Influence (SOI) of the City of Larkspur,
Unincorporated Marin County, California.
CBRE File No. 08-231SF-0452



Restricted Appraisal Report

Prepared for:

Mr. George M. Camp
Co-President
CRIMINAL JUSTICE INSTITUTE, INC.
213 Court Street, 6th Floor
Middletown, Connecticut 06457

VALUATION & ADVISORY SERVICES

CBRE
CB RICHARD ELLIS





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May 15, 2008

Mr. George M. Camp
Co-President
CRIMINAL JUSTICE INSTITUTE, INC.
213 Court Street, 6th Floor
Middletown, Connecticut 06457

RE: Appraisal of **San Quentin State Prison – Western Land**
40.0 Acres of Underlying SQSP Land Proposed for Development
Of the Condemned Inmate Complex Project, and for
Redevelopment of 57.1 Acres via Alternative Land Use Scenarios –

Located South of Sir Francis Drake Boulevard,
In the Sphere of Influence (SOI) of the City of Larkspur,
Unincorporated Marin County, California.
CBRE File No. 08-231SF-0452

Dear Mr. Camp:

At your request and authorization, CB Richard Ellis (CBRE) has prepared an appraisal of the market value of the referenced property. Our analysis is presented in the following Restricted Appraisal Report.

This appraisal report has been developed for the Criminal Justice Institute's project with the California Bureau of State Audits (BSA) regarding the "Assessment of Costs and Evaluation of the Benefits of Locating Condemned Inmate Housing at Different Sites" (BSA-C-040-2008).

PROPERTY TO BE APPRAISED

The property to be appraised is the approximately 40.0-acre project site located on the southwestern portion of the existing San Quentin State Prison (SQSP) property, as identified by the Draft Environmental Impact Report (EIR) entitled "San Quentin State Prison Condemned Inmate Complex Project", by environmental consultant EDAW, Inc. dated, September 27, 2004. The 40.0-Acre site is proposed for development of the Condemned Inmate Complex (C.I.C.) project. The project site also currently has a minimum security inmate complex (known as "The Ranch") and related facilities on site. The historical school building would be reutilized, and the 57 single-family homes would remain to the north of the C.I.C. site.





In addition, we have appraised the subject via alternative redevelopment scenarios which are based on information provided in the *Preliminary Analysis of Potential Reuse and Relocation of San Quentin Prison*, by the Department of General Services, State of California, dated June 1, 2001. The 57.1 Acres included in Alternate Valuation Scenarios 1, 2 and 3 are the subject portion of the much larger prospective SQSP redevelopment plan, which encompasses approximately 273 Acres out of the entire 430 Acres of San Quentin property. Alternate 1 – Residential Community contains primarily low residential uses as planned. Alternate 2 – Transit Center and Alternate 3 – New Town include applicable residential, commercial and shoreline zoned land for the subject portions of this plan, but the actual employment center, transit center, parking garage, and other commercial uses are located to the east of the subject site. The alternate land use scenarios are appraised "as if entitled" for proposed uses. Since the land is not currently entitled for these alternate uses, these values are considered to be hypothetical.

VALUATION SCENARIOS

We have identified five major valuation scenarios for the subject property:

1. Current value of the approximately 40.0 gross acres of the SQSP (C.I.C.) project site "as is".
2. Current value of the project site "as if no negative factors" affected the site.
3. Current value of the project site "as if no negative factors" affected the site, and entitlements (by the appropriate governmental authorities) for the site were in place for the three alternate redevelopment scenarios proposed, summarized as follows:

Alternate 1 - Residential Community: For the subject portion, development with low-density residential.

Alternate 2 - Transit Village: For the subject portion, development with low-medium and moderate density residential.

Alternate 3 - New Town: For the subject portion, development with moderate density residential and mixed-use high density residential with ancillary commercial/retail and public uses. .

Value of the SQSP (C.I.C.) Project Site – "As Is"

The Basic Assumptions for the valuation scenario for the C.I.C. project site "as is" are as follows:

- The C.I.C. site "as is" is for a land value, as if vacant, i.e. current improvements on site would be demolished.
- The 57 homes on the site must be retained under the "as is" scenario since they are currently utilized by employees of SQSP. The area underlying the homes will be excluded from the site valuation – resulting in an area appraised of approximately 40.0 acres.
- Current value with all physical features, environmental impacts, etc. as currently affect the site; the SQSP operations continue on the bulk of the site to the east.
- The project site is considered net and clear of any environmental contamination or remediation required for redevelopment.



- The school, which has a historical designation, must be retained on the site, but it is assumed that it would be re-utilized for public/museum/office types of uses, and could potentially be relocated.
- It is assumed that the land could be sold to other users, i.e. private and public, but the current development rights remain the same "as is".

Value of C.I.C. Project Site – “As If No Negative Factors”

The Basic Assumptions for the valuation scenario for the C.I.C. project site "as if no negative factors" are as follows:

- This is a current value, but as if there were no negative factors, such as environmental impacts, etc. as currently affect the site, i.e. both on-site and off-site (this includes removal of the shooting range). However, this valuation scenario assumes that the SQSP operations continue on the bulk of the site to the east. The physical features of the C.I.C. site remain "as is"; the entire site may be redeveloped.
- This is a hypothetical value, as this condition does not currently exist.
- The school, which has a historical designation, must be retained on the site, but it is assumed that it would be re-utilized for public/museum/office types of uses, and could potentially be relocated.
- The 57 homes and "The Ranch" on the site are not required to be retained as they are part of an alternative redevelopment site.
- The current western entry to the SQSP grounds would be relocated off this site, as this is a negative factor. However, the southern portion of the project site, adjacent to the shoreline, would have roadway easements allowing truck and other commercial traffic to the western side of the SQSP facility.
- It is assumed that the land could be sold to other users, i.e. private and public.
- The site contains the current potential development rights, with the potential of acquiring additional building rights for a medium density (i.e. "transit village") type of development.

Value of Project Site – “As If No Negative Factors – And Entitled”

The Basic Assumptions for the valuation scenario "as if no negative factors – and entitled" for alternate land uses (i.e. for redevelopment) are as follows:

- This is a current value, but as if there were no negative factors, such as environmental impacts, etc. as currently affect the site, i.e. both on-site and off-site (this includes removal of the shooting range). However, this valuation scenario assumes that the SQSP operations continue on the bulk of the site to the east. The physical features of the site remain "as is"; the entire site may be redeveloped.
- This is a hypothetical value, as this condition does not currently exist.
- The land area for the project site, as if entitled with the alternate land uses, is estimated to be approximately 57.1 acres.
- The school, which has a historical designation, must be retained on the site, but it is assumed that it would be re-utilized for public/museum/office types of uses, and could potentially be relocated.
- The 57 homes and "The Ranch" on the site are not required to be retained as they are part of an alternative redevelopment site.

- 
- The project site is considered net and clear of any environmental contamination or remediation required for redevelopment.
 - The current western entry to the SQSP grounds would be relocated off this site, as this is a negative factor. However, the southern portion of the project site, adjacent to the shoreline, would have roadway easements allowing truck and other commercial traffic to the western side of the SQSP facility.
 - It is assumed that the land could be sold to other users, i.e. private and public.
 - The site is assumed to currently have entitlements in place by the appropriate governmental authorities, for the three alternate redevelopment scenarios proposed, summarized as follows:

Alternate 1 - Residential Community: For the subject portion, development with low-density residential.

Alternate 2 - Transit Village: For the subject portion, development with low-medium and moderate density residential.

Alternate 3 - New Town: For the subject portion, development with moderate density residential and mixed-use high density residential with ancillary commercial/retail and public uses.

APPRAISAL INFORMATION

This appraisal sets forth the most pertinent data gathered, the techniques employed, and the reasoning leading to the opinion of value. The analyses, opinions and conclusions were developed based on, and this report has been prepared in conformance with, our interpretation of the guidelines and recommendations set forth in the Uniform Standards of Professional Appraisal Practice (USPAP), and the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

Property Rights Appraised

The interest appraised represents the fee simple estate.

Purpose of the Appraisal

The purpose of the appraisal is to estimate the market value of the subject underlying land and provide consulting services, as necessary, subsequent to the appraisal.

Intended Use & User of Report

This appraisal has been developed for the Criminal Justice Institute's project with the California Bureau of State Audits (BSA) regarding the "Assessment of Costs and Evaluation of the Benefits of Locating Condemned Inmate Housing at Different Sites".



INTRODUCTION

Property Name	San Quentin State Prison Facility - Western Land	
Project Type	Western SQSP Land Proposed for Development of the Condemned Inmate Complex Project, and for Redevelopment via Alternative Land Use Scenarios	
Location	Western Portion of SQSP, South of Sir Francis Drake Boulevard, in the Sphere of Influence (SOI) of the City of Larkspur, in unincorporated Marin County, California	
Assessor's Parcel Number	Bulk of Marin County Assessor's Parcel 018-154-015	
Property History:		
Current Owner:	State of California	
Current Asking Price:	Not being marketed	
Previous Sale Date:	Not available	
Previous Sale Price:	Not available	
Other Sales - Past 3 Years:	None	
Property Rights Appraised	Fee Simple Estate	
Date of Value:	May 1, 2008	
Dates of Inspection	March 28, 2008 and May 1, 2008	
Date of Report:	May 15, 2008	
Special Appraisal Instructions:	None	
Land Area Appraised:		
Western SQSP (C.I.C.) Land	40.0 Acres	1,742,400 SF
Alternate Scenario Redevelopment Land	57.1 Acres	2,487,300 SF
Exposure Time Information:		
Comparable Sales Data:	3-12 Months	9.0 Months
National Investor Survey:	1-12 Months	6.8 Months
Local Market Professionals:	6-18 Months	12.0 Months
Estimated Exposure Time:		
Western SQSP (C.I.C.) Land	12 Months or Less	
Alternate Scenario Redevelopment Land	12 Months or Less	
Estimated Marketing Time:		
Western SQSP (C.I.C.) Land	12 Months or Less	
Alternate Scenario Redevelopment Land	12 Months or Less	

Compiled by CBRE

Highest & Best Use

SQSP Land (40.0 Acres) - As If Vacant: For continued ownership by the State of California for the San Quentin State Prison, the Highest and Best Use is for continued prison operations, with any development, such as the Condemned Inmate Complex, to be approved by the State and the Department of Corrections and Rehabilitation.

Alternate Redevelopment Scenarios (57.1 Acres) - As If Vacant: For privatization of the subject lands, the Highest and Best Use is to obtain Entitlements and Zoning Approval for All Potential Developments as Proposed:

Alternate 1 - Residential Community: For the subject portion, development with low-density residential.

Alternate 2 - Transit Village: For the subject portion, development with low-medium and moderate density residential.

Alternate 3 - New Town: For the subject portion, development with moderate density residential and mixed-use high density residential with ancillary commercial/retail and public uses.

The alternate valuation scenarios are based on information provided in the Preliminary Analysis of Potential Reuse and Relocation of San Quentin Prison, by the Department of General Services, State of California, dated June 1, 2001.

Terms and Definitions

The current economic definition of market value agreed upon by agencies that regulate federal financial institutions in the U.S. (and used herein) is as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their own best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.¹

Scope of Work

The scope of the assignment relates to the extent and manner in which research is conducted, data is gathered and analysis is applied, all based upon the following problem-identifying factors stated elsewhere in this report:

- Client
- Intended use
- Intended user
- Type of opinion
- Effective date of opinion
- Relevant characteristics about the subject
- Assignment conditions

¹ Office of Comptroller of the Currency (OCC), 12 CFR Part 34, Subpart C – Appraisals, 34.42 (g); Office of Thrift Supervision (OTS), 12 CFR 564.2 (g); Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 4th ed. (Chicago: Appraisal Institute, 2002), 177-178. This is also compatible with the RTC, FDIC, FRS and NCUA definitions of market value as well as the example referenced in the *Uniform Standards of Professional Appraisal Practice* (USPAP).



This is a Restricted Appraisal Report that is intended to comply with the reporting requirements set forth under Standards Rule 2-2(c) of the Uniform Standards of Professional Appraisal Practice for a Restricted Appraisal Report. As such, it presents no discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion(s) of value. However, we have utilized an 'expanded' version of a Restricted Appraisal Report, that not only states the conclusions made, but briefly summarizes the analyses and valuation processes performed. Supporting documentation concerning the data, reasoning, and analyses has been retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated herein.

Extent to Which the Property is Identified

CBRE collected the relevant information about the subject from the owner (or representatives), public records and through an inspection of the subject. The property was legally identified through its draft environmental report, assessor's records, and information provided by the client. Economic characteristics of the subject were identified via an analysis of market absorption data, land market data and sales, and economic data.

Extent to Which the Property is Inspected

CBRE inspected the subject property, as well as its surrounding environs, on March 28 and May 1, 2008.

Type and Extent of the Data Researched

CBRE reviewed the micro and/or macro market environments with respect to physical and economic factors relevant to the valuation process. This process included interviews with regional and/or local market participants, available published data, and other various resources. CBRE also conducted regional and/or local research with respect to applicable tax data, zoning requirements, draft environmental impact report, proposed redevelopment plans, flood zone status, demographics, income and expense data, and comparable listing, sale and rental information.

Type and Extent of Analysis Applied

CBRE analyzed the data gathered through the use of appropriate and accepted appraisal methodology to arrive at a probable value indication via each applicable approach to value. Approaches to value used include the Sales Comparison Approach, and a subdivision approach to estimate the hypothetical (bulk) values of the alternative valuation scenarios. CBRE then correlated and reconciled the results into a reasonable and defensible value conclusion, as defined herein. A reasonable exposure time and marketing time associated with the value estimate presented has also been concluded.

VALUE CONCLUSIONS

Based on the analyses contained within our files and stated in this report, the market values for the 40.0-Acre C.I.C. site "as is" and "as if no negative factors", and the hypothetical (bulk) values for the three alternate 57.1-Acre redevelopment scenarios "as if no negative factors" and "as if entitled", are presented as follows:



MARKET VALUE CONCLUSIONS**

Appraisal Premise	Land Status	Interest Appraised	Exposure	Date of Value	Value Conclusion
Existing Subject SQSP Land - 40.0 Acre Site:					
Market Value of SQSP Western (C.I.C.) Land	"As Is"	Fee Simple Estate	12 Months or Less	May 1, 2008	\$45,300,000
Market Value of SQSP Western (C.I.C.) Land*	"As If No Negative Factors"	Fee Simple Estate	12 Months or Less	May 1, 2008	\$55,600,000
Market (Bulk) Land Values - Hypothetical for					
Alternate Redevelopment Scenarios* - 57.1 Acre Site:					
Alternate 1 Land Uses: 'Residential Community'**	"As If Entitled"	Fee Simple Estate	12 Months or Less	May 1, 2008	\$83,700,000
Alternate 2 Land Uses: 'Transit Center'**	"As If Entitled"	Fee Simple Estate	12 Months or Less	May 1, 2008	\$91,600,000
Alternate 3 Land Uses: 'New Town'**	"As If Entitled"	Fee Simple Estate	12 Months or Less	May 1, 2008	\$117,900,000

* The land value for the 40.0-Acre C.I.C. site "as if no negative factors" is hypothetical, as the subject is currently affected by negative factors.

** The land values for Alternate Valuation Scenarios 1, 2 and 3 are hypothetical as the subject is not currently entitled for the proposed uses. In addition, the 57.1 Acres included in Alternate Valuation Scenarios 1, 2 and 3 are the subject portion of the much larger prospective SQSP redevelopment plan.

Estimated by CBRE



THE CONCLUDED MARKET VALUES ARE SUBJECT TO THE SPECIAL, HYPOTHETICAL AND EXTRAORDINARY ASSUMPTIONS REGARDING THE SUBJECT PROPERTY AS A WHOLE AND THE INDIVIDUAL VALUE COMPONENTS AS REPORTED HEREIN.

Being a Restricted Appraisal Report, the appraiser's opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's workfile.

The report is for the sole use of the client; however, client may provide only complete, final copies of the appraisal report in its entirety (but not component parts) to third parties who shall review such reports in connection with loan underwriting or securitization efforts. Appraiser is not required to explain or testify as to appraisal results other than to respond to the client for routine and customary questions. Please note that our consent to allow an appraisal report prepared by CBRE or portions of such report, to become part of or be referenced in any public offering, the granting of such consent will be at our sole discretion and, if given, will be on condition that we will be provided with an Indemnification Agreement and/or Non-Reliance letter, in a form and content satisfactory to us, by a party satisfactory to us. We do consent to your submission of the reports to rating agencies, loan participants or your auditors in its entirety (but not component parts) without the need to provide us with an Indemnification Agreement and/or Non-Reliance letter.

It has been a pleasure to assist you in this assignment. If you have any questions concerning the analysis, or if CBRE can be of further service, please contact us.

Respectfully submitted,

CBRE - VALUATION & ADVISORY SERVICES

Roger M. Hodge, CRE, FRICS, MAI, CCIM, NCARB
Vice President
CA Certification No. AG021679

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Senior Managing Director
CA Certification No. AG025144

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Email: elizabeth.champagne@cbre.com

CERTIFICATION OF THE APPRAISAL

We certify to the best of our knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial and unbiased professional analyses, opinions, and conclusions.
3. We have no present or prospective interest in or bias with respect to the property that is the subject of this report and have no personal interest in or bias with respect to the parties involved with this assignment.
4. Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
5. Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal, such as the approval of a loan.
6. This appraisal assignment was not based upon a requested minimum valuation, a specific valuation, or the approval of a loan.
7. Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice of The Appraisal Foundation and the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
8. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
9. Roger M. Hodge, MAI and Elizabeth Champagne, MAI have completed the requirements of the continuing education program of the Appraisal Institute.
10. Roger M. Hodge, MAI and Elizabeth Champagne, MAI have made a personal inspection of the property that is the subject of this report.
11. No one provided professional assistance to the persons signing this report.
12. Roger M. Hodge, MAI and Elizabeth Champagne, MAI have extensive experience in the appraisal/review of similar property types.
13. Roger M. Hodge, MAI and Elizabeth Champagne, MAI are currently certified in the state where the subject is located.
14. Valuation and Advisory Services operates as an independent economic entity within CB Richard Ellis, Inc. Although other employees of CB Richard Ellis, Inc. divisions may be contacted as a part of our routine market research investigations, absolute client confidentiality and privacy are maintained at all times with regard to this assignment without conflict of interest.



Roger M. Hodge, CRE, FRICS, MAI, CCIM, NCARB
Vice President
CA Certification No. AG021679
(Expires December 22, 2008)



Elizabeth Champagne, MAI, MRICS
Senior Managing Director
CA Certification No. AG025144
(Expires November 17, 2008)



SAN QUENTIN STATE PRISON – WESTERN LANDRESTRICTED REPORT

SPECIAL, HYPOTHETICAL & EXTRAORDINARY ASSUMPTIONS/LIMITING CONDITIONS

1. A major assumption and underlying premise for valuation of the subject property is based on the hypothetical condition that the site is clean of any environmental hazards. Any remediation required for the underlying land is to be performed by the seller, i.e. the State of California and/or other parties, at their expense (i.e. with no expense to potential purchasers).
2. Per the request of the client, we have estimated the current land value "as is" of the underlying 40.0-Acre site on the far western portion of the San Quentin State Prison facility, which is proposed for development of the new Condemned Inmate Complex project. In addition, we have estimated the current value of alternative redevelopment scenarios for the subject land, based on planning studies performed by Marin County, which are summarized in the *Preliminary Analysis of Potential Reuse and Relocation of San Quentin Prison*, by the Department of General Services, State of California, dated June 1, 2001. Three primary alternative development scenarios are identified in this study for a larger development site, estimated to be 57.1 Acres. The land values for Alternate Valuation Scenarios 1, 2 and 3 are hypothetical as the subject is not currently entitled for the proposed uses.
3. The 57.1 Acres included in Alternate Valuation Scenarios 1, 2 and 3 are the subject portion of the much larger prospective SQSP redevelopment plan, which encompasses approximately 273 Acres out of the entire 430 Acres of San Quentin property. Alternate 2 – Transit Center and Alternate 3 – New Town include applicable residential, commercial and shoreline zoned land for the subject portions of this plan, but the actual employment center, transit center, parking garage, and other commercial uses are located to the east of the subject site.
4. Valuation of the various land parcels for the subject, in this appraisal, is based on a "blue top" condition. A "blue top" condition is based on entitlements being in place and areawide infrastructure in place (including roads, utilities, etc.); i.e. essentially raw land within the bounds of the subject property, but ready for development with building and site improvements.
5. The land absorption projections for the bulk sale analyses are based on market data of other competitive developments. We have made these based on our best analyses of current and projected future demand.
6. No title report or legal description was provided for the respective subject properties. We have based our observations and conclusions on the draft environmental impact report and other studies regarding the San Quentin State Prison facility provided the appraisers, public records, the physical inspection, client-provided data, and other sources. **IT IS STRONGLY RECOMMENDED THAT THE CLIENT/READER OBTAIN A CURRENT TITLE POLICY OUTLINING ALL EASEMENTS AND ENCROACHMENTS ON THE PROPERTY, IF ANY, BEFORE MAKING ANY BUSINESS DECISION REGARDING THE SUBJECT.**
7. Louis Ragozzino, P.E. with The Louis Berger Group, Inc. provided total land sizes for the subject land appraised, which we assume are accurate and are the basis of analysis in this report. Should the land areas change, we reserve the right to reconsider the conclusions of this appraisal report.
8. It is assumed that the subject land could be sold to other users, i.e. private and public.
9. Being a Restricted Appraisal Report, the appraiser's opinions and conclusions set forth in the report may not be understood properly without additional information in the appraiser's workfile.

July 2008

SAN QUENTIN STATE PRISON – WESTERN LAND

RESTRICTED REPORT

AERIAL PHOTOGRAPH OF SAN QUENTIN STATE PRISON**VIEW OF SUBJECT SITE – SAN QUENTIN STATE PRISON ON RIGHT**

SAN QUENTIN STATE PRISON – WESTERN LAND

RESTRICTED REPORT

AERIAL PHOTOGRAPH OF THE SUBJECT PROPERTY



40.0-ACRE C.I.C. SITE IN GREEN – LARGER AREA IS 57.1-ACRE ALTERNATE SITE

SAN QUENTIN STATE PRISON – WESTERN LAND

RESTRICTED REPORT

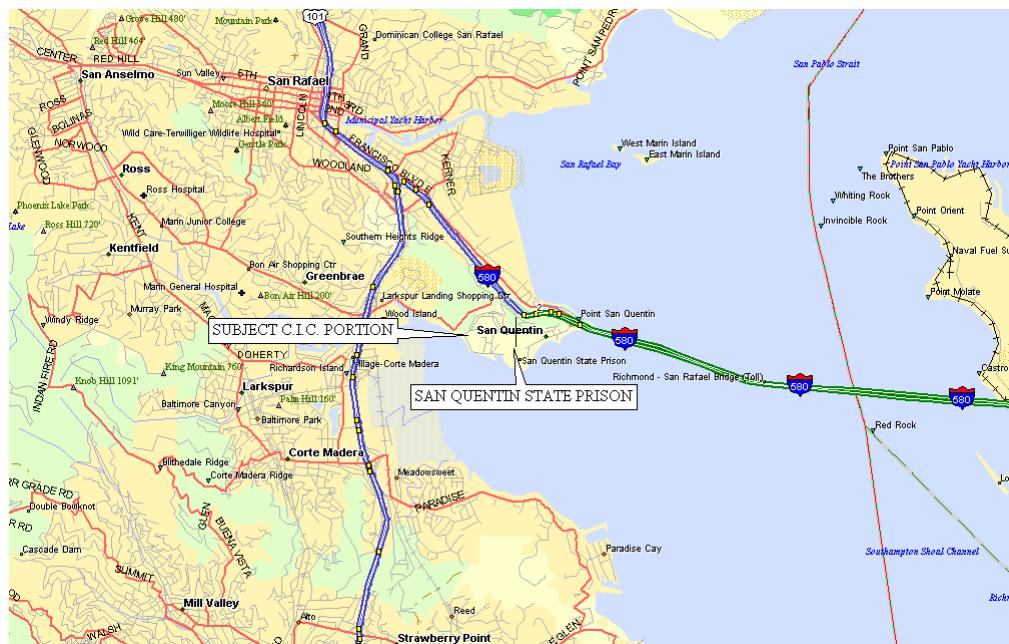
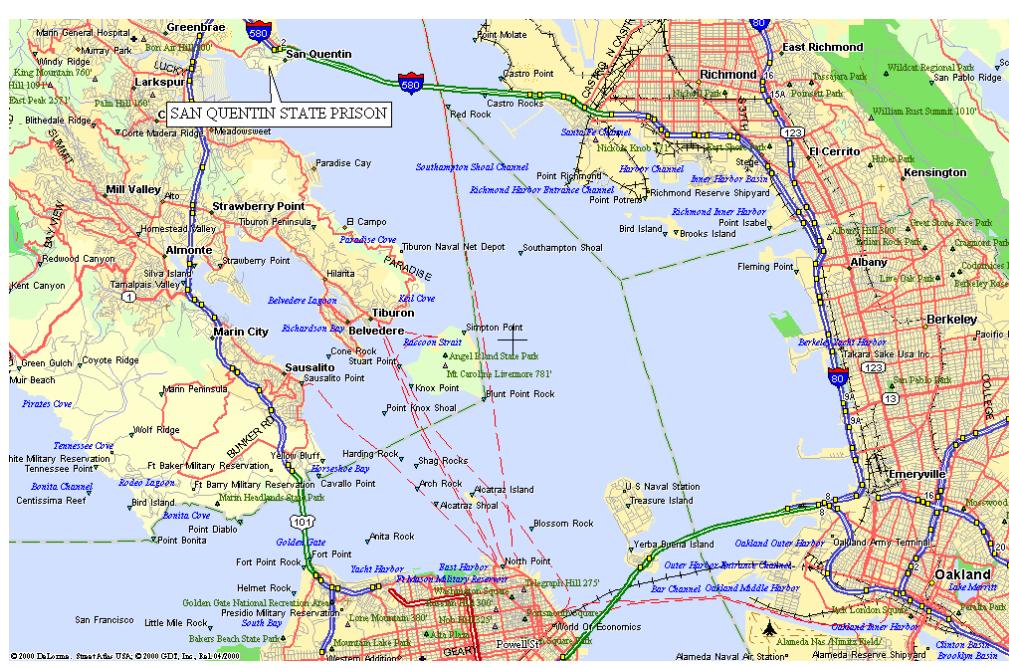
SUBJECT PHOTOGRAPHS



AERIAL VIEW OF THE POINT SAN QUENTIN AREA – SUBJECT IN CENTER



NORTH VIEW OF SAN QUENTIN FACILITY FROM THE WATERWAY TO THE SOUTH

SAN QUENTIN STATE PRISON – WESTERN LAND**RESTRICTED REPORT****MAPS OF SAN QUENTIN AREA IN MARIN COUNTY****MAP OF THE POINT SAN QUENTIN AREA EAST OF THE CITY OF LARKSPUR****MAP OF THE NORTHERN SAN FRANCISCO BAY**

(Agency response provided as text only.)

Department of Corrections and Rehabilitation

Memorandum

Date: June 2, 2008

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

Subject: RESPONSE TO THE BUREAU OF STATE AUDIT'S DRAFT REPORT ENTITLED CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION: BUILDING A CONDEMNED INMATE COMPLEX AT SAN QUENTIN MAY COST MORE THAN EXPECTED

This memorandum is prepared as the California Department of Corrections and Rehabilitation's (CDCR) response to the Bureau of State Audits' (BSA) draft report entitled *California Department of Corrections and Rehabilitation: Building a Condemned Inmate Complex at San Quentin May Cost More Than Expected*. The report evaluates the project plan and estimated costs associated with the construction and activation of a new condemned inmate housing complex at California State Prison, San Quentin (SQ). CDCR believes the construction cost analysis conducted by the consultant for BSA was thorough and reasonable. CDCR also appreciates the recognition that the cost differential is due in large part to CDCR's adherence to escalation protocols established annually for all State agencies.

Other construction cost-estimate differences from the original design, as the draft report points out, are the result of necessary design modifications to the project and related infrastructure of SQ in order to more accurately reflect the needs of CDCR's inmate population. For instance, the original cost model assumed a correction treatment center (CTC) would be constructed to service SQ's population, including the condemned. At the time the cost model was developed, it was unknown what other medical functions would be required and what additional population would be served. Based on the medical Receiver's construction efforts at SQ, the amount of medical space planned within the CTC has since been reduced. However, the costs remain about a third higher as construction costs have continued to escalate.

In addition to fiscal issues, one programmatic concern raised by BSA is CDCR's decision to double-cell certain condemned inmates and the risks associated to cohabit this population. The condemned inmate complex (CIC) project was programmed to double-cell certain inmates who are deemed "low risk." A segment of the CDCR condemned population, the Grade A inmates, have been co-mingling with other condemned inmates for years on the exercise yards. While incidents of violence between inmates do occur on these exercise yards, these incidents are no different than incidents that occur in facilities housing lower level offenders. In addition, certain condemned inmates have been assigned to assist with janitorial duties and participate in contact-visiting. These inmates have unrestrained contact with staff, inmates, and visitors which presents the same risks as double-celling the population.

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* California State Auditor's comments begin on page 109.

Elaine M. Howle
Page 2

- BSA correctly points out that CDCR is not the only state to have found that its condemned population may be safely double-celled. BSA's report mentions the Oklahoma Department of Corrections has successfully double-celled their condemned population. CDCR notes while Missouri and Ohio do not double-cell their population, their nonviolent condemned populations are housed in a general population environment, rather than an administrative segregation setting, which means the condemned inmates have routine nonrestrained access to staff and inmates. States such as Connecticut, Indiana, Kentucky, Montana, North Carolina, Nebraska, and Washington also allow unrestrained access between staff and nonproblematic condemned inmates. At least ten states allow the inmates to exercise in groups as does CDCR. While these states may elect not to double-cell, they afford their condemned inmates much of the same access to staff and one another as would CDCR.

- As mentioned, CDCR's housing policies do not prohibit double-celling inmates who have been sentenced to life without possibility of parole (LWOP). These inmates pose many of the same risks as the condemned population, but CDCR has been successful in managing those risks. Additionally, these inmates have court documents in their cells that may be as sensitive as inmates in the condemned population. Yet there is scant evidence in the recent past to suggest any of the CDCR LWOP inmates are more prone to harm their cell mates or have been harmed due to an inmate learning of the circumstances of their crime. CDCR has policies for separating predatory inmates from those who may require protective separation for reasons such as their commitment offense; those same practices are employed with the condemned population.

CDCR has considerable expertise in corrections and decades of experience in managing the largest condemned population in the United States. Based on this expertise, CDCR knows there is a population of condemned inmates who demonstrate little or no problematic behavior while in custody. These inmates are awaiting their appeal process and are focused on remaining disciplinary free as any incidents of violence would impact their appeal process. In managing this population, CDCR has existing procedures related to the programming restrictions based on inmate behavior, which is the Grade A and Grade B system mentioned in the report. The proposal by CDCR to further define the grading system and permit double-cell housing would further refine that policy.

- CDCR's population management strategies, including overcrowding protocols, are routinely reevaluated for appropriateness, and the State must balance the risks of safety and security against the costs and other impacts associated with those decisions. The construction of this new complex will add much-needed capacity to CDCR's housing capacity at a time when it is facing significant scrutiny by the federal courts. Also, while the BSA review reflects there is a one-time cost of constructing additional beds to single-cell all condemned inmates to mitigate risk, the audit does not account for the ongoing costs for staffing, maintenance, and utilities for additional beds and buildings should CDCR not double-cell the population.

- Another area of concern noted by BSA was the potential to exceed the capacity of the new complex within a relatively short time frame if CDCR were to single-cell the condemned population. The growth rate used of 18 inmates per year far exceeds actual historical growth figures. Additionally, in the event CDCR determines it cannot either double-cell as many inmates as projected or experiences excessive population growth of condemned inmates, the parcel where the complex is to be built has been sized for future expansion, including providing utility infrastructure capacity for a fourth unit as may be necessary.

Elaine M. Howle

Page 3

CDCR understands a secondary report in connection with the CIC project is scheduled for release by BSA in July 2008 and will provide supplemental information to this assessment, including another analysis of alternative sites which presumably will be similar to one conducted by BSA in 2004. CDCR would like to point out as it progresses with its construction plans authorized pursuant to Assembly Bill (AB) 900, and as the federal Receiver progresses with planned expansion and renovation of its medical care facilities to include the construction of 10,000 medical care beds at up to 7 existing facilities, the availability of land, and remaining infrastructure capacity, is extremely scarce. Any consideration of alternative sites must be cognizant of these increasing limitations. CDCR also respectfully points out a considerable amount of time and money has been spent designing a facility at the SQ location and any alternative site would require a complete redesign of the facility, with a new environmental study and the delay of several more years to get to the point CDCR is currently at with the proposed SQ CIC project. Construction delays of that magnitude will most certainly result in increased costs associated with the construction of a new condemned complex.

(7)

In anticipation this supplemental report may materially impact the responses to the BSA report, and risk further delays and increased costs to this project, CDCR respectfully requests the right to add additional commentary as it deems appropriate. In the interim, CDCR would like to thank BSA for its continued professionalism and guidance with CDCR's goal of meeting the housing needs for condemned inmates. Should you have any questions or concerns, please contact me at (916) 323-6001.

(Signed by: Matthew L. Cate)

MATTHEW L. CATE

Secretary

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE 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 with the numbers we placed in the margins of Corrections' response.

We believe Corrections' discussion of the interaction among condemned inmates on the exercise yard and between condemned inmates and staff is not a valid representation of the risks involved with double-celling two inmates in a confined space for extended periods of time. As indicated on pages 35 and 36 of the report, our consultant stated that he does not believe that Corrections can sufficiently mitigate the difficulties and risks inherent in double-celling condemned inmates, who, more than any other inmate group, have nothing to lose.

(1)

Corrections is correct that we note in the report that the Oklahoma Department of Corrections double-cells condemned inmates. However, as we state on page 35 of the report, of the 12 state departments of corrections that responded to our survey, 11 stated that they do not double-cell inmates because of concerns that these condemned inmates would be more prone to violence against correctional officers and fellow inmates. Also, while we did not survey these states, we appreciate Corrections pointing out that Missouri, Connecticut, Indiana, Kentucky, Montana, North Carolina, Nebraska, and Washington all chose not to double-cell their condemned inmates.

(2)

As we state on page 34 of the report, the experts we spoke with—the chief assistant state public defender and the executive directors of the California Appellate Project and the Habeas Corpus Resource Center—stated that double-celling condemned inmates raises serious concerns about maintaining confidentiality during the preparations to defend them. As an example, our legal counsel pointed out that a condemned inmate's cellmate may be motivated to read the sensitive court documents of the other condemned inmate in hopes of learning something about the case that he can potentially use in an attempt to improve the conditions of his incarceration.

(3)

While Corrections states that construction of the new condemned inmate complex (CIC) will add much needed housing capacity, much of that capacity will depend on double-celling. As we state

(4)

on page 31 of the report, based on our consultant's projected population growth, placing two condemned inmates in some cells will be necessary beginning in 2014, three years after the CIC is expected to open. Should Corrections' plan to double-cell its condemned inmates fail, we recognize that there will be ongoing staffing, maintenance, and utility costs if an additional housing unit is built. Therefore, if Corrections decides to go forward with building a fourth housing unit, it will need to develop a staffing plan and determine the ongoing costs for operating the additional unit, as this data was not made available for us to review.

- ⑤ We are curious as to why Corrections would criticize the growth rate we used of 18 condemned inmates per year since, as we state on page 31 of the report, Corrections estimated that the condemned inmate population would grow by 24 per year. On this same page, we state that our consultant believes that Corrections may have overestimated the population growth because its estimate did not take into account that in recent years fewer people have been sentenced to death. This change resulted in an average annual increase of 12 condemned inmates per year rather than the 24 estimated by Corrections. However, recognizing that this downturn could be short-lived, but that the annual average increase might not soon return to the earlier level, our consultant estimated that the male condemned inmate population would grow by 18 inmates per year, an amount significantly below Corrections' estimate.
- ⑥ We are pleased that the parcel Corrections has chosen as the site where the new CIC is to be built has been designed for future expansion. However, as we point out on page 37 of the report, the longer Corrections waits to build the fourth housing unit, the more expensive it will become.
- ⑦ We appreciate Corrections pointing out what it believes are the various factors that need to be taken into consideration in our analysis of the cost to build a CIC at alternative locations. Based on conversations with our consultant, each of these factors is being carefully considered in his analysis and cost projections.

(Agency response provided as text only.)

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

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

Dear Ms. Howle:

THE BUREAU OF STATE AUDITS' DRAFT REPORT ENTITLED CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION: ALTHOUGH THE COST TO CONSTRUCT A CONDEMNED INMATE COMPLEX AT SAN QUENTIN MAY EXCEED CURRENT ESTIMATES, THE COST OF THE ALTERNATIVE SITES MAY BE EVEN HIGHER DUE TO LATER START DATES

The California Department of Corrections and Rehabilitation submits this letter in response to the Bureau of State Audits' two-part report entitled ***California Department of Corrections and Rehabilitation: Although the Cost to Construct a Condemned Inmate Complex at San Quentin May Exceed Current Estimates, The Cost of Alternative Sites May Be Even Higher Due to Later Start Dates.*** We are pleased that the Bureau of State Audits agrees that our current plan to build the condemned inmate complex at the California State Prison, San Quentin the most prudent, cost-effective, and expedient option for constructing housing for our condemned population. (1)

We appreciate your recognition of California's need for a condemned inmate complex that meets current correctional standards for maximum-security facilities. As your report correctly notes, such a complex is necessary for the safety of inmates, staff, and the public.

Your report goes on to demonstrate why our current plan is now the best approach. You observe that alternative proposals--such as one to save costs by delaying construction, or another to disperse condemned inmates to other prisons throughout California--are infeasible or ineffectual. Similarly, moving the complex to an alternative site would be more costly, you observe, even when offset by the sale of San Quentin real estate. You write, "because a significant amount of work has been conducted to prepare for constructing a CIC at San Quentin, we found that Corrections' current proposal is the least expensive alternative that we considered." In short, our plan represents the most economical solution. (1)

The California Department of Corrections and Rehabilitation would like to thank the Bureau of State Audits for this report. We welcome your input and look forward to your future efforts to further our mission of providing safe and cost-effective housing and services for our prison population. Should you have any questions or concerns, please contact me at (916) 323-6001.

Sincerely,

(Signed by: Matthew L. Cate)

MATTHEW L. CATE
Secretary

* California State Auditor's comment appears on page 113.

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Comment

CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE 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 number below corresponds to the number we placed in the margin of Corrections' response.

Contrary to Corrections' assertion that our report demonstrates why the current plan to construct three buildings with stacked housing units is the best approach, we raise several concerns in the report regarding Corrections' plan. First, we noted that the costs to construct the condemned inmate complex (CIC) would exceed Corrections' most recent estimate by \$39.3 million. In addition, Corrections' estimates did not include \$7.3 million in transition and activation costs to open the CIC and did not include the additional costs to operate the new CIC. Also, we question the feasibility of Corrections' plan to double-cell up to two-thirds of the condemned inmates. As we state on pages 30 and 34 of our report, experts we spoke with and our consultant expressed concerns about staff safety, inmate safety, and the protection of confidential legal papers if condemned inmates are double-celled. Moreover, as discussed on page 31, if double-celling does not turn out to be a feasible approach, the CIC will reach its cell capacity in 2014, less than three years after it is scheduled to open.

(1)

In addition to the concerns noted above, on page 40 we state that Corrections did not consider alternatives to building a new CIC at San Quentin State Prison (San Quentin). Table 10 on page 49 shows that if construction were to begin at the same time, the capital costs to build the currently proposed stacked housing units would be less at each of the three alternative sites we identified. For example, as we stated on page 50, the capital costs of building a stacked CIC at R.J. Donovan Correctional Facility, excluding escalation costs, are nearly \$49 million less than those for the proposed facility at San Quentin.

However, building a CIC at an alternative site would involve various processes such as obtaining legislative approval, assessing the environmental impacts, and designing a new facility, all resulting in a later start date for construction. Therefore, although it would have been less expensive to construct a CIC at one of the alternative locations if construction began this fall, due to the later estimated start date, building a CIC at an alternate site would result in increased construction costs, increased costs to open the facility, and increased operating costs.

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
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