

# California Department of Corrections and Rehabilitation

## It Fails to Track and Use Data That Would Allow It to More Effectively Monitor and Manage Its Operations

REPORT NUMBER 2009-107.1, SEPTEMBER 2009

### *California Department of Corrections and Rehabilitation's and California Prison Health Care Services' responses as of November 2009*

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

- Review the current cost to house inmates; stratify the costs by their security level, age, gender, or any other relevant category tracked by Corrections; and determine the reasons for any significant cost variations among such levels and categories.
- Determine the number of inmates Corrections has sent to other states and calculate the State's cost and impact on Corrections' budget.
- Analyze Corrections' budget to determine the amounts allocated to vocational training, rehabilitation, and education programs.
- For a sample of institutions offering vocational training, rehabilitation, and education programs, review Corrections' system for determining the number of instructors and custody staff needed for inmates to participate in these programs. If such staffing is inadequate, determine if any inmates have been denied access to these programs.
- To the extent possible, determine the costs for incarceration under the three strikes law. At a minimum, determine the incarceration cost for each of the following three scenarios:
  - The third strike was not a serious and violent felony.
  - One or more of the strikes was committed as a juvenile.
  - Multiple strikes were committed during one criminal offense.
- Calculate annual overtime pay since 2002 for Corrections' employees, including correctional officers and custody staff, and investigate the reasons for significant fluctuations.

### **Audit Highlights . . .**

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

- » *While Corrections' expenditures have increased by almost 32 percent in the last three years, the inmate population has decreased by 1 percent during the same period.*
- » *Corrections' ability to determine the influence that factors such as overcrowding, vacant positions, escalating overtime costs, and aging inmates have on the cost of operations is limited because of a lack of information.*
- » *The cost of housing an inmate out of state in fiscal year 2007–08 was less per inmate than the amount Corrections spent to house inmates in some of its institutions.*
- » *Overtime is so prevalent that of the almost 28,000 correctional officers paid in fiscal year 2007–08, more than 8,400 earned pay in excess of the top pay rate for officers two ranks above a correctional officer.*
- » *Over the next 14 years, the difference between providing new correctional officers with enhanced retirement benefits as opposed to the retirement benefits many other state workers receive, will cost the State an additional \$1 billion.*

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- » *Nearly 25 percent of the inmate population is incarcerated under the three strikes law. We estimated that the increase in sentence length due to the three strikes law will cost the State an additional \$19.2 billion over the duration of the incarceration of this population.*
- » *Although Corrections' budget for academic and vocational programs totaled more than \$208 million for fiscal year 2008–09, it is unable to assess the success of its programs.*
- » *California Prison Health Care Services' ability to transition to using telemedicine is impeded by a manual scheduling system and limited technology.*

- Review the number of vacant positions during the last five years and determine whether they affect the annual overtime costs and whether filling vacancies would save Corrections money.
- Determine the extent to which Corrections currently uses and plans to use telemedicine. Further, determine if by using telemedicine Corrections is reducing inmate medical and custody costs and the cost to transport and guard inmates outside the prison environment.

In a subsequent report we plan to provide additional information on several of the subjects we were asked to review, including the size and additional costs of specific portions of the population of inmates sentenced under the three strikes law. We also plan to provide additional information on medical specialty visits similar to the types of consultations that California Prison Health Care Services (Health Care Services) is currently providing through its use of telemedicine and their associated costs. Finally, we plan to provide additional information related to vacant positions.

**Finding #1: Corrections cannot determine the impact of inmate characteristics on incarceration costs.**

Although Corrections spent more than \$8 billion in fiscal year 2007–08 to incarcerate inmates in various security levels at its 33 institutions, it did not track costs by individual inmate or by specific inmate populations such as security level or age. While Corrections' accounting records identify cost categories at each institution related to inmate housing, health care, and program costs, Corrections does not specifically track the costs of institution characteristics such as the physical design or the presence of specialized units that increase costs, and therefore its ability to compare the costs to operate one institution versus another is limited. At the time of our audit, Corrections was in the process of developing a new automated solution that will allow for statewide data analysis, according to the chief of its Program Support Unit, and may be used to analyze various characteristics related to the operation of an institution. According to the project advisor, the new system will replace the assignment and scheduling systems currently used by the institutions and was initially scheduled to be implemented by June 2009 but has been delayed after testing revealed that the system was not complete and fully ready.

We recommended that in order to help it assess the effect of policy changes and manage operations in a cost-effective manner, Corrections should ensure that its new data system will address its current lack of data available for statewide analysis, specifically data related to identifying the custody staffing cost by inmate characteristics such as security level, age, and custody designations. We further recommended that if the implementation of this new system continues to be delayed or if Corrections determines that the new system will not effectively replace the current assignment and scheduling systems used by the institutions, it should improve its existing data related to custody staffing levels and use the data to identify the related costs of various inmate populations.

***Corrections' Action: Pending.***

In its 60-day response, Corrections stated that to meet the requirements of the recommendation, it will need to fully implement its new Business Information System, a phase of the new Strategic Offender Management System, and a statistical analysis package with an external reporting component to analyze the data from the new systems. Currently, it expects the Business Information System to be fully deployed by June 2010, and expects the Strategic Offender Management System to be fully deployed by June 2012. Despite the somewhat lengthy time frame for the deployment of these new systems, Corrections indicates that it does not intend to develop a method to utilize existing information as it would be duplicative of the other information systems. However, until Corrections has finished implementing its new data systems and performed this suggested analysis, we are unable to assess their success in addressing this recommendation.

**Finding #2: Corrections' overtime costs for custody staff have increased significantly over the last five years.**

Corrections spent \$431 million on overtime for custody staff in fiscal year 2007–08, and these overtime costs have risen significantly over the last five years. This increase in overtime costs was caused by various factors including salary increases, vacant positions, and the need for additional guarding for increased medical care required by the receiver. However, the cost to recruit and train new correctional officers, combined with the significant increases in the cost of benefits in recent years has made hiring a new correctional officer slightly more expensive than paying overtime to those currently employed by Corrections. Some of the increase in overtime costs may also be related to the way in which hours worked were classified in the past. Corrections' implemented labor agreement allowed leave credit to be counted as time worked when calculating the amount of overtime an officer earns. For example, a correctional officer could hypothetically take 40 hours of leave during his or her regularly scheduled work period, then work an eight-hour shift in a previously unscheduled period and be paid for the eight hours at the overtime rate. In February 2009 state law was added specifying the way in which overtime is calculated, removing leave of any kind from being considered in determining the total hours worked and thus when overtime hours commence. However, state law leaves open the possibility for future labor agreements to override these provisions.

A state law effective August 2003 requires Corrections to establish a standardized overtime limit for correctional officers, not to exceed 80 hours each month. However, the law also indicates that the State is not relieved of any obligation under a memorandum of understanding relating to hours of work, overtime, or alternative work schedules. The current implemented labor agreement for correctional officers dated September 2007 allows them to exceed the 80-hour overtime limit in certain circumstances. Additionally, a Corrections' policy memorandum dated February 2008 requires each institution to track and immediately report all instances in which the 80-hour overtime limit is exceeded and states that the institution is responsible for limiting the instances in which the 80-hour overtime limit has been or will be exceeded to operational needs or emergencies. During the course of our analysis of the overtime hours worked by correctional officers, we found errors in the overtime data. Specifically, we found that personnel specialists at some institutions improperly keyed retroactive overtime salary adjustments as new overtime payments. Although we have no reason to believe they were not paid the proper amounts, by coding the adjustments improperly, Corrections' payroll data misrepresented the nature of the overtime worked, inadvertently inflating the number of overtime hours it indicated correctional officers had worked, and deflating the average hourly amount it indicated that they received for working those hours. After removing these adjustments, we determined that over 4,700 correctional officers were each paid for more than 80 hours of overtime in at least one month during fiscal year 2007–08. Employees working such a high number of overtime hours causes concern regarding the safety of officers, supervisors, and inmates.

To ensure that the State is maximizing the use of funds spent on incarcerating inmates, we recommended that Corrections communicate to the Department of Personnel Administration the cost of allowing any type of leave to be counted as time worked for the purposes of computing overtime compensation. Additionally, in an effort to more closely align its operations with state law, make

certain that inmates are provided with an adequate level of supervision, and protect the health and safety of employees; we also recommended that Corrections encourage the Department of Personnel Administration to not agree to provisions in bargaining unit agreements that permit any type of leave to be counted as time worked for the purpose of computing overtime compensation.

We also recommended that Corrections encourage the Department of Personnel Administration to negotiate a reduction in the amount of voluntary overtime a correctional officer is allowed to work in future collective bargaining unit agreements in order to reduce the likelihood that involuntary overtime will cause them to work more than 80 hours of overtime in total during a month. Further, we recommended that Corrections should better ensure that it prevents the instances in which correctional officers work beyond the voluntary overtime limit in a pay period.

Finally, to ensure that overtime hours are accurately reported, we recommended that Corrections provide training to its personnel specialists to ensure they properly classify retroactive overtime salary adjustments according to the *Payroll Procedures Manual*.

***Corrections' Action: Partial corrective action taken.***

In its 60-day response, Corrections stated that it will partner with the Department of Personnel Administration on an ongoing basis to ensure the department's intent of not exceeding the current provisions, and that it is committed to future memorandums of understanding that require an employee to physically work more than 40 hours in a pay period/work week. However, Corrections did not address the portion of our recommendation regarding communicating the cost of allowing any type of leave to be counted as time worked. We are concerned that without stakeholders understanding the cost component, they may not fully understand the impact when negotiating future memorandums of understanding.

In addition, Corrections also stated that in future negotiations, its office of labor relations will recommend to stakeholders that a memo be sent to the Department of Personnel Administration recommending a reduction in the work period overtime cap to 60 hours, in an attempt to ensure that the Corrections stays within the 80 hour limit.

Finally, Corrections stated that it will provide direction to institution personnel offices via a memorandum regarding the proper procedure for coding salary adjustments and that it intended to circulate this memo by December 2009. Additionally, Corrections planned to provide reminders and supplemental training during a monthly conference call scheduled to occur in December 2009 as well as a Personnel Information Bulletin, distributed via e-mail during the same time period.

**Finding #3: Although Corrections budgeted more than \$200 million for academic and vocational inmate programs in fiscal year 2008–09, it lacks a staffing plan based on inmate needs.**

In reviewing the adequacy of staffing for Corrections' education and vocational programs, we found that it does not have a current staffing plan based on inmate needs. According to the acting superintendent of the Office of Correctional Education (acting superintendent), Corrections does not have a staffing plan for allocating teachers and instructors based on inmates needs. Instead, she indicated that teacher and instructor positions are initially allocated in the institution's activation package when the institution is first opened. She stated that an institution can augment their staffing plans through a budget change proposal, when an institution changes missions, or because of overcrowding. When we asked Corrections why it has not developed a staffing plan based on inmate needs, the acting superintendent stated that Corrections recognizes that the current staffing packages for rehabilitative programs are not based on inmate needs and the need for change has become apparent as Corrections has begun to deactivate gymnasiums and other nontraditional beds and has lost teachers and other program staff due to these reductions.

We recommended that Corrections develop a staffing plan that allocates teacher and instructor positions at each institution based on the program needs of its inmate population to ensure that it is addressing the program needs of its inmate population in the most cost-effective manner.

***Corrections' Action: Pending.***

In its 60-day response, Corrections stated that as a result of significant budget reductions, it is revising the way in which it provides educational services. As part of these changes, Corrections is developing a plan that allocates educational staff based on the target population of each institution using assessments of the risk of recidivism, criminogenic need, including adult basic education test scores, and the length of time left to serve. Further, Corrections states that it will work with the administration and Legislature to develop an ongoing process to tie education funding to inmate need, pending funding availability.

**Finding #4: Corrections does not currently track individual inmate participation in education programs and therefore cannot assess program effectiveness or compliance with state law.**

During our review of Corrections' administration of its education and vocational programs, we found that while Corrections collects aggregate data, such as the total number of inmates participating in a program and the total number of inmates who successfully complete a program, it does not maintain data for individual inmate's participation in education programs once the inmate leaves the institution. As a result, Corrections cannot demonstrate whether or not inmates have been denied access to programs. When inmates are assigned to a program that is full, they are placed on a waiting list, and while awaiting placement they are usually placed in a work assignment. Corrections told us that it does not maintain historical waiting list or program assignment data. It also stated that it maintains data on program assignments as long as an inmate remains at an institution, but that once an inmate leaves the institution—by being paroled or transferred to another institution, for example—the program participation data are not kept. Therefore, Corrections cannot determine the length of time inmates are on a waiting list for a program, whether inmates are paroled before being assigned to a program, whether inmates are assigned to the programs their assessments indicated they should attend, or the length of time inmates are in programs. Additionally, because Corrections does not maintain historical waiting list and program assignment data for individual inmates, it does not have sufficient data to determine whether it has made literacy programs available to at least 60 percent of eligible inmates in the state prison system, in compliance with state law.

Finally, we found that Corrections' policy regarding education programs is outdated and does not align with state laws regarding prison literacy. State law requires Corrections to implement literacy programs in every state prison designed to ensure that upon parole, inmates are able to achieve a ninth-grade reading level and to make these programs available to at least 60 percent of eligible inmates. Corrections' policy states that the warden is responsible for ensuring that inmates who are reading below the sixth-grade reading level are assigned to adult basic education and that the warden shall make every effort to assign 15 percent of the inmate population to academic education. Despite the differences between Corrections' policy and state law, it appears that Corrections' programs are more closely aligned with state law. Nevertheless, because Corrections has not updated its policy regarding adult education programs since 1993, staff may not be clear on the relevant requirements that should be met.

We recommended that Corrections track, maintain, and use historical program assignment and waiting list data by inmate to allow it to determine its compliance with state law and the efficacy of its programs in reducing recidivism. We also recommended that Corrections update its adult education program policies to ensure that staff are aware of the relevant requirements that should be met related to prison literacy.

***Corrections' Action: Pending.***

In its 60-day response, Corrections stated that it is in the process of developing a number of items that will address this issue, including phases of the Strategic Offender Management System, a risk assessment tool, and a statistical analysis tool. Corrections expects completion of the risk assessment and statistical analysis tools by June 2010 and expects the relevant portions of the Strategic Offender Management System will be deployed at the institutions in June 2012. However, until this system is implemented, we are unable to assess Corrections' success in addressing this recommendation.

In addition, Corrections stated that it will review all policies and procedures to ensure they are up to date and address Penal Code 2053.1, which relates to prison literacy. However, Corrections did not provide a time frame for this task and indicates that resources for updating policies and regulations are dependent upon funding availability.

**Finding #5: Health Care Services has limited information regarding the cost-effectiveness of telemedicine consultations.**

In 2006 a federal court appointed a receiver to provide leadership and executive management over the California prison medical health care system. The receiver uses the name Health Care Services to describe the organization he oversees. Health Care Services currently uses telemedicine—two-way video conferencing between an inmate and a health care provider—to furnish some medical specialty care to inmates housed in the adult institutions run by Corrections. Although Health Care Services has expanded the use of telemedicine in the last three years, according to the federal receiver's *Turnaround Plan of Action* and the *Telemedicine Project Charter*, insufficient telemedicine infrastructure exists to support the plan to vastly expand the telemedicine program.

The use of telemedicine reduces the costs to transport and guard inmates who otherwise may need to be taken out of the institution to visit medical specialty care providers. However, Health Care Services has gathered only limited data related to the cost savings of using telemedicine. Also, Health Care Services has limited information available regarding the effectiveness of telemedicine use. The expansion of telemedicine is in its early stages and although the receiver planned to transition additional medical care to telemedicine, progress in doing so has been impeded by a manual scheduling system and limited technology. Without systemwide improvements, it is unlikely that significant amounts of additional care could be provided via this delivery method. A 2008 review of the telemedicine program, which Health Care Services contracted with a consultant to provide, identified numerous shortcomings and recommended significant revisions to program management policies, existing hardware and technology, and related human resources.

We recommended that Health Care Services review the effectiveness of telemedicine consultations to better understand how to use telemedicine to minimize costs. In addition, we recommended that Health Care Services perform a more comprehensive comparison between the cost of using telemedicine and the cost of traditional consultations, beyond the guarding and transportation costs, so that it can make informed decisions regarding the cost-effectiveness of using telemedicine. We further recommended Health Care Services increase the use of the telemedicine system by continuing to move forward on its initiative to expand the use of telemedicine in Corrections' institutions, implement the recommendations that it has adopted from the consultant's review of telemedicine capabilities, and maintain a focus on developing and improving its computer systems to increase the efficiency of using telemedicine.

*Health Care Services' Action: Partial corrective action taken.*

In its 60-day response, Health Care Services stated that it is currently carrying out a project to increase telemedicine in selected institutions that will provide it with information on how to better use telemedicine. Specifically, Health Care Services stated that the project will evaluate the need for additional services and identify and address needed resources and existing barriers. However, it did not provide us with information on how this initiative will address its understanding of the effectiveness of telemedicine consultations or provide information on how to use telemedicine to minimize costs. Health Care Services also indicated that it will be performing an analysis on telemedicine costs, and that a discussion with management regarding the analysis will be scheduled soon. It did not indicate what cost aspects the analysis would address but estimated that it would complete this analysis by June 2010.

Health Care Services also indicated that it will continue to implement the recommendations from the consultant's review of its telemedicine capabilities and expects to complete its efforts by March 1, 2011. Also, Health Care Services stated that its efforts to implement an interim scheduling system, which it expects to be completed by the end of February 2010, has been incrementally expanded and improved, but did not provide any specifics regarding what it has accomplished in this area. Finally, it stated that it is continuing in its efforts to implement a Health Care Scheduling System, which it expects to complete by December 2011, and that the Scheduling System team is working to incorporate telemedicine requirements into phases of the project scheduled to be deployed after the summer of 2010.