

# California Department of Corrections and Rehabilitation

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

### REPORT NUMBER 2009-107.2, ISSUED MAY 2010

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

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

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

In the report, the California State Auditor (state auditor) made the following recommendations to the California Department of Corrections and Rehabilitation (Corrections) and Health Care Services. The state auditor's determination regarding the current status of recommendations is based on Corrections' and Health Care Services' responses to the state auditor as of May 2011.

#### **Recommendation 1.1.a—See pages 31—33 of the audit report for information on the related finding.**

To address the erroneous sentencing information and inappropriately assigned convictions in its data system, Corrections should complete its cleanup of data that will be transferred into the new system, ensuring that this review includes a detailed evaluation of convictions that have been assigned outdated sentencing information as well as deleting erroneous sentencing information, before it begins using its new data system.

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

In August 2011 Corrections stated that the conversion activities to migrate data will be part of the module in the Strategic Offender Management System (SOMS) that will not be implemented until 2012. Corrections stated that the Case Records unit has staff reviewing various tables in preparation for the data conversion effort for the sentence calculation module of SOMS. The Case Records unit also has staff reviewing specific cases as identified by the state auditor.

**Recommendation 1.1.b—See pages 31—33 of the audit report for information on the related finding.**

To address the erroneous sentencing information and inappropriately assigned convictions in its data system, Corrections should create a schedule for regular checks of the accuracy of existing sentencing information, as well as the accuracy with which sentencing information has been assigned to convictions.

***Corrections' Action: Partially implemented.***

In its six-month response, Corrections had reviewed and updated its procedures for adding or altering sentencing information in its Offender Based Information System. However, we noted that this response failed to completely address the recommendation. Specifically, Corrections did not address the evaluation of the accuracy of existing sentencing information as we recommended. As of its one-year response and additional inquiry in August 2011, Corrections did not provide any additional information or documentation related to our concerns.

**Recommendation 2.1—See pages 40—43 of the audit report for information on the related finding.**

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

***Health Care Services' Action: Fully implemented.***

Health Care Services provided a copy of the emergency regulations for the new medical parole process, which were approved and adopted in April 2011. According to Health Care Services, as of April 2011, it had identified 38 potential candidates for medical parole and reported that it was working to provide these cases to the Board of Parole Hearings for consideration.

**Recommendation 2.2—See pages 43 and 44 of the audit report for information on the related finding.**

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

***Health Care Services' Action: Fully implemented.***

Health Care Services stated that it has developed various reports that link volume data with paid claims so that high volume and high cost specialty and hospital data can be analyzed. Health Care Services provided copies of a sample from these reports and provided its Utilization Management Monthly Cost Report for February 2011.

**Recommendation 2.3.a—See page 44 of the audit report for information on the related finding.**

To determine whether the additional expansion of telemedicine is cost-effective within the California correctional system, Health Care Services should identify and collect the data it needs to estimate the savings of additional telemedicine through an analysis of the cost of specialty care visits currently provided outside of the institution that could be replaced with telemedicine.

***Health Care Services' Action: Partially implemented.***

Health Care Services indicated that its Office of Telemedicine Services and Utilization Management have developed a report to track and measure the percentage of telemedicine visits compared to offsite consultations. Health Care Services provided a sample of some of the information compiled. Health Care Services indicated that its third-party administrator is currently testing and modifying reports tracking initial and follow-up for specialist visits. Additionally, Health Care Services stated that its contracted network health care provider is currently recruiting for provider specialists and that trending and analysis will be produced once data is gathered for a minimum of six months.

**Recommendation 2.3.b—See pages 44—46 of the audit report for information on the related finding.**

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

***Health Care Services' Action: Pending.***

Health Care Services stated that to incentivize telemedicine, provider rate structures are the same for telemedicine and in-person visits and as telemedicine visits increase, and improves access to health care, improvements in public safety and decreases in travel and custody costs for off-site specialty visits and follow-ups should result. Cost avoidance outcomes are to be determined by a health care access team and will be reflected in decreased transportation and guarding costs. As noted in the previous recommendation, trending and analysis will be produced once data is gathered for a minimum of six months.

**Recommendation 3.1—See pages 51 and 52 of the audit report for information on the related finding.**

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

***Corrections' Action: Fully implemented.***

Corrections stated that it completed the design and development of all Human Resource functions in its Enterprise Resource Solution, the same system as the State Controller's Office uses and that this automated system includes a strong position maintenance module that will improve the accuracy of position information. Corrections also stated that it has completed various efforts to improve its position data, including reconciling position data with the State Controller's Office data, completing data cleansing activities, establishing a baseline position data set, and developing processes to ensure ongoing maintenance of position data. Corrections also stated that it is monitoring compliance and these efforts are ongoing. In August 2011 Corrections provided its monthly discrepancy summary for the months of February through August 2011 demonstrating its efforts to correct and reduce the number of discrepancies and continuous effort to reconcile budget information with the State Controller's Office.

**Recommendation 3.2—See pages 52 and 53 of the audit report for information on the related finding.**

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

***Health Care Services' Action: Pending.***

In its six-month response, Health Care Services stated that it is participating in a joint effort with Corrections to assess medical guarding and transportation staffing, as well as the use of overtime to ensure custody staffing needs are addressed. In its one-year response, Health Care Services noted that its efforts have been delayed because it is waiting on Corrections to complete its portion of the effort. Health Care Services also stated that further review of staffing will be addressed in subsequent follow-up assessments in the next fiscal year.

**Recommendation 3.3—See pages 55—58 of the audit report for information on the related finding.**

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

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

In May 2011 Corrections stated that it plans to conduct an annual review of the average usage and accrual rates for various leave categories and that it had collected the data and is in the process of reviewing the data. In August 2011 Corrections provided a summary of the data collected for fiscal year 2010–11. Corrections' one-year response also stated that it is currently working to replace the relief methodology with a ratio driven formula and that the new formula will ensure staffing levels are adequate to allow custody staff to use the leave balances they earn. Corrections indicated that it anticipates completing the methodology update by December 2011.

**Recommendation 3.4.a—See pages 59—63 of the audit report for information on the related finding.**

To better communicate to policy makers the annual cost of incarceration, and to provide a more accurate estimate of expenditures associated with changes in the large leave balances of custody staff—many of whom require relief coverage when they are absent—Corrections should provide a calculation of the annual increase or decrease in its liability for the leave balances of custody staff to better explain the cause of changes in expenditures to the relevant legislative policy and fiscal committees.

***Corrections' Action: No action taken.***

Corrections references its previous discussion regarding efforts to replace its staffing formula that will ensure adequate staffing levels to allow custody staff to use the leave they earn. However, in no way does this action communicate to the relevant legislative policy and fiscal committees the amount, or increase or decrease in Corrections' liability for custody staff leave balances, as we recommended.

**Recommendation 3.4.b—See pages 59—63 of the audit report for information on the related finding.**

To better communicate to policy makers the annual cost of incarceration, and to provide a more accurate estimate of expenditures associated with changes in the large leave balances of custody staff—many of whom require relief coverage when they are absent—Corrections should provide an estimate of the annual cost of leave balances likely to be paid for retiring custody staff to the relevant legislative policy and fiscal committees.

***Corrections' Action: No action taken.***

Corrections states that due to a number of factors influencing retirement decisions, it is difficult to accurately estimate the annual cost of leave balances paid out to retiring custody staff. As a result, it does not intend to provide any further response to this recommendation.

