California State Auditor

BUREAU OF STATE AUDITS

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

March 2004
2003-130

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CALIFORNIA STATE AUDITOR

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March 16, 2004 2003-130

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 the California Department of Corrections' (department) plans to build a new condemned-inmate complex at California State Prison, San Quentin (San Quentin). This report concludes that the department's current condemned-inmate facilities at San Quentin do not meet many of the department's design standards for maximum-security facilities, increasing the risk of escape and posing potential safety concerns to both staff and inmates. Accordingly, the department requested and received spending authority of $220 million to build a new condemned-inmate complex at San Quentin, which the department estimates will be completed by 2007.

In analyzing where it should house its male condemned population, the department considered certain existing prison facilities but concluded that most of them would not be appropriate, due primarily to their remoteness from metropolitan areas. However, the department's analysis did not consider all alternatives, including the possibility of building the new complex at other locations. Additionally, the department's analysis did not consider all relevant factors, such as annual operating and maintenance costs. Because the department's analysis was incomplete, we can conclude neither that San Quentin is the best location for the new condemned-inmate complex nor that a better location exists. Nonetheless, benefits and drawbacks exist for both the continued use of San Quentin as a prison and its reuse for other purposes. Benefits for continuing to house the condemned-inmate population at San Quentin include, among other things, providing a timely solution to San Quentin's condemned-inmate housing problem. However, in committing to build a new complex to house male condemned inmates at San Quentin, the State will forgo the opportunity to help Marin County address certain needs.

Respectfully submitted,

Elaine M. Howle

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State Auditor

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SUMMARY

Audit Highlights . . .

Our review of the California Department of Corrections' (department) plans to build a new condemned-inmate complex at San Quentin revealed:

- ☑ ***Current condemned-inmate facilites at San Quentin do not meet many of the department's standards for maximum-security facilities.***
- ☑ ***The department received spending authority of $220 million to build a new condemned-inmate complex and estimates completion by 2007.***
- ☑ ***The department's analysis of where it should house its male condemned population did not consider all feasible locations and relevant costs.***
- ☑ ***Because the department's analysis was incomplete, we can conclude neither that San Quentin is the best location for the new condemned-inmate facility nor that a better location exists.***
- ☑ ***Benefits and drawbacks exist for both the continued use of San Quentin as a prison and its reuse for other purposes.***

RESULTS IN BRIEF

The California Department of Corrections (department) houses, in three separate facilities at California State Prison, San Quentin (San Quentin), male inmates who have been sentenced to death (condemned inmates). However, the facilities at San Quentin that house condemned inmates do not meet many of the department's design standards for maximum-security facilities, increasing the escape risk for these inmates and posing potential safety concerns to both staff and inmates. Accordingly, the department requested and received spending authority of $220 million in its fiscal year 2003–04 budget to build a new condemned-inmate complex at San Quentin that will likely meet the department's foreseeable needs. The department plans to continue using San Quentin's existing facilities for the prison's other inmates, including minimum-security and newly-sentenced or resentenced inmates from the San Francisco Bay Area.

The planned complex for condemned inmates follows the prototype design the department has used for many of its maximum-security prisons. The department is currently in the process of identifying the project's environmental impacts and estimates that it will complete the complex by 2007. The department based its cost estimate for the complex on its previous experiences in building the same prototype design at other locations.

In analyzing where to house its male condemned inmates, the department considered certain existing prison facilities but concluded that most of them would not be appropriate, due primarily to their remoteness from metropolitan areas. However, the department's analysis did not consider all alternatives, including the possibility of building the new complex at other locations. Additionally, the department's analysis of the potential costs of moving condemned inmates to other locations did not consider all relevant factors, such as annual operating and maintenance costs. Personnel costs are the most significant operating costs for San Quentin. When we compared San Quentin to an alternative location that the department considered—California State Prison, Sacramento—we found that San Quentin's

location causes it to face higher personnel costs. However, because the department's analysis was incomplete, we can conclude neither that San Quentin is the best location for the new condemned-inmate complex nor that a better location exists.

Benefits and drawbacks exist for both the continued use of San Quentin as a prison and its reuse for other purposes. Benefits for continuing to house the condemned inmates at San Quentin include providing a timely solution to San Quentin's condemned-inmate housing problem, preserving the unique training and experience of San Quentin staff, and ensuring that condemned inmates are kept in close proximity of the California Supreme Court and the majority of defense attorneys who represent condemned inmates. However, in committing to build a new complex to house male condemned inmates at San Quentin, the State will forgo the opportunity to help Marin County address certain needs. Relocating San Quentin's activities elsewhere and allowing Marin County to develop the property would provide an opportunity for the State to help Marin County address some of its housing and transportation concerns. However, even though the State might realize lower annual operating and maintenance costs if it moved San Quentin's activities to another location, the costs to relocate the San Quentin activities may exceed the proceeds the State would receive from selling the San Quentin property by as much as $337 million. Additionally, if the State moved the condemned inmates to an existing maximum-security facility, it would likely displace other inmates—adding to the department's reported shortage of maximum-security beds. Moreover, for the department to be able to relocate its condemned inmates, the Legislature would have to change the current law that requires most male condemned inmates to be housed at San Quentin, and the department would have to overcome any opposition from other communities to such a move.

RECOMMENDATIONS

If the Legislature decides that it wants a more complete analysis regarding the optimal location for housing male condemned inmates, it should consider these actions:

- Require the department to assess the costs and benefits of relocating the condemned-inmate complex to each of the current prison locations possessing either adequate available

land for such a facility or an existing adequate facility, including in its assessment the relative importance and costs associated with each site's remoteness.

- Require the department to analyze the estimated annual operating and maintenance costs of a new condemned-inmate complex at other locations with adequate available land or facilities, compared to those it expects to incur at San Quentin.

In the future, the department should include all feasible alternatives and appropriate costs when it analyzes locations for any new prison facilities.

AGENCY COMMENTS

The department generally agrees with the findings of the report. It adds that it believes the report validates the Legislature's decision to build a condemned-inmate complex at San Quentin to correct a serious safety and security situation and that the department can build the complex successfully. ■

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INTRODUCTION

THE CALIFORNIA DEPARTMENT OF CORRECTIONS

Established in 1944, the California Department of Corrections (department) operates California's prison system, which houses more than 161,000 inmates. The department is part of California's Youth and Adult Correctional Agency, which provides communication, coordination, and budget and policy direction. Under the agency, two departments incarcerate adult and youthful offenders, and two boards and one commission serve other functions related to corrections.

With an annual budget of about $5.3 billion, the department's mission is to control, care for, and treat men and women convicted of serious crimes or admitted to the State's civil narcotics program. The department organizes its functions into four programs: the Institution Program, the Health Care Services Program, the Community Correctional Program, and the Central Administration Program. Within the Institution Program are 32 operating correctional institutions, or prisons; of these, 11 have reception centers, which provide short-term housing to process, classify, and evaluate incoming inmates. The department expects a 33rd institution, Delano II, to be operational by April 2005. Figure 1 on the following page presents a map of the department's prison locations. The Institution Program is also responsible for 11 community correctional facilities. The Health Care Services Program provides mandated health care to California's inmates.

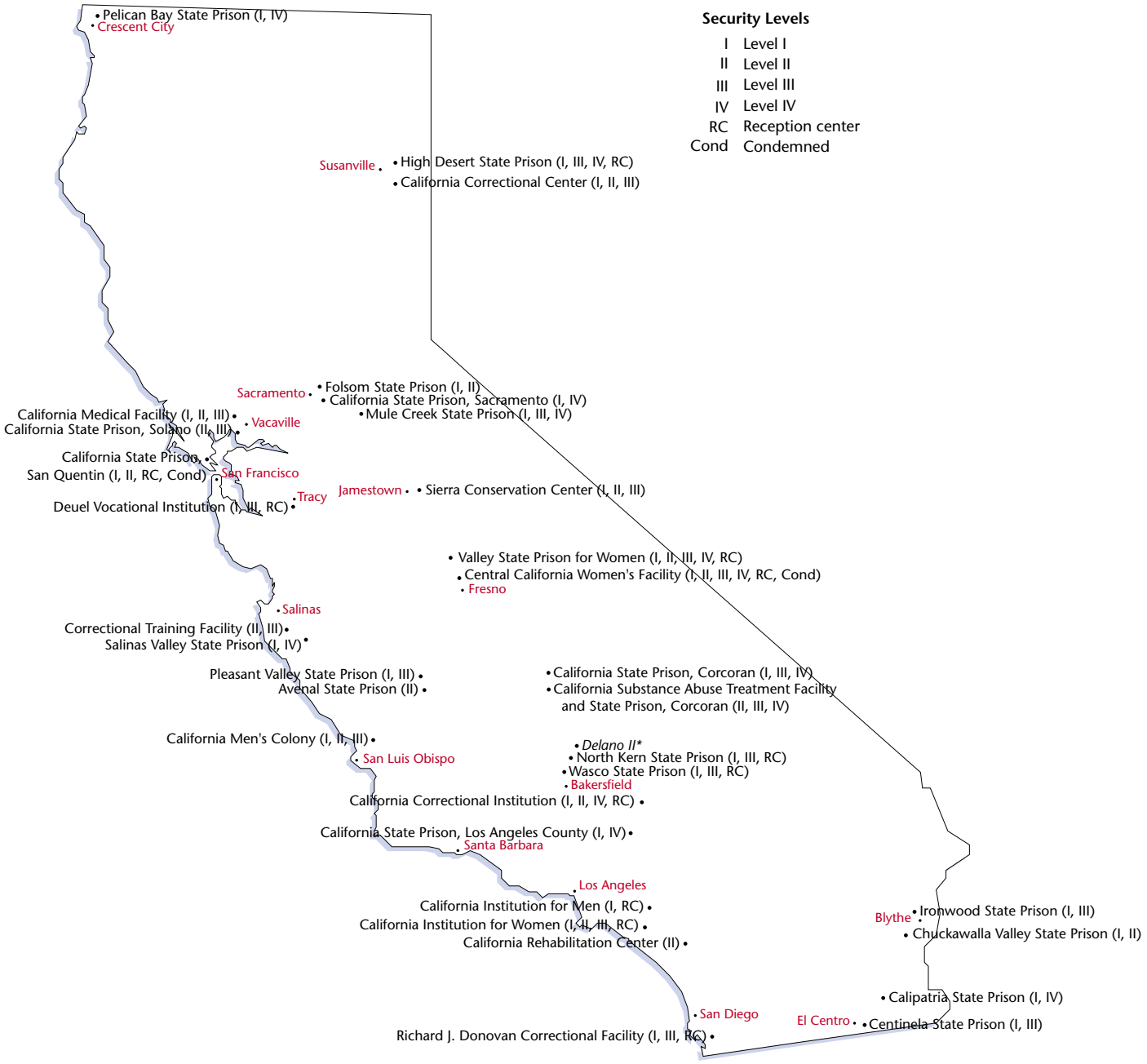
Housing for Different Security Levels

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

The department assigns different security levels to inmates within its prisons, based on its assessment of the inmates' behavior and other factors. It then houses inmates in facilities designed for their respective levels. Security levels range from I to IV, with level I being the minimum-security level and level IV the maximum-security level. Additionally, the department has security housing units that are designed to house the most violent and dangerous inmates. Finally, the department classifies all inmates who have been sentenced to death as condemned inmates. It houses male condemned inmates at California State Prison, San Quentin (San Quentin), and female condemned inmates at Central California Women's Facility in Chowchilla.

FIGURE 1

California Prison Locations



Note: The department also has security housing units, which have the highest security and controls, at the California Correctional Institution; California State Prison, Corcoran; Pelican Bay State Prison; and Valley State Prison for Women. Additionally, the department recently deactivated the Northern California Women's Facility, located in Stockton.

* Delano II is scheduled to be operational in fiscal year 2004–05.

As of January 2004 San Quentin housed 605 male condemned inmates, and the Central California Women's Facility housed 15 female condemned inmates.

As a result of a consent decree that the United States District Court of the Northern District of California approved, the department also segregates its condemned inmates into different levels. The decree requires the department to classify condemned inmates generally into two grades: A and B. Grade A inmates are condemned inmates who do not have a high potential for violence or escape and who have demonstrated good behavior and an ability to get along safely and peaceably with other inmates and staff. Grade B inmates are condemned inmates who either have a high potential for escape or violence or are serious disciplinary or management cases. Included are those inmates with a history of escape, in-prison assault, gang affiliation, introduction of contraband, or weapons possession. The decree further establishes a process by which the department classifies the condemned inmates into the two grades and periodically reevaluates the classification.

In addition to housing more than 600 condemned inmates, San Quentin also houses inmates of other security levels. As of January 2004 it housed approximately 260 level I and 1,640 level II inmates, as well as about 320 other inmates who were under administrative segregation as discipline problems. San Quentin uses its level I and II inmates to help operate the prison, having them do work such as food preparation. In addition, it housed approximately 2,610 inmates at the department's reception center for 17 counties in and around the San Francisco Bay Area (Bay Area). Inmates at the reception center either have been recently sentenced to a prison term or have had their parole revoked and are being returned to custody. The department assesses the reception center inmates to determine the appropriate security classification and to decide at which prison they will serve their sentence.

Housing of Condemned Inmates at San Quentin

All men sentenced to death in California are sent to San Quentin to fulfill their sentence. Today, the department uses three different facilities at San Quentin to house the more than 600 male condemned inmates of whom it has custody, as Table 1 on the following page indicates. Each condemned inmate has his own cell within these facilities. (See Figure 2 on page 9 for an aerial view of San Quentin.) The original death row facility, located atop

San Quentin's North Block facility, built in 1934, occupies the building's entire sixth floor. The department refers to this facility as North Segregation. The facility can house 68 condemned inmates and as of January 2004 was filled to capacity. The department houses only its most cooperative grade A condemned inmates in North Segregation because its design provides the most freedom of movement within the three facilities' housing and exercise areas. These inmates have access to an exercise yard on the building's roof.

TABLE 1

Capacity of Existing Facilities for Male Condemned Inmates and Date Built

Facility	Capacity	Condemned Inmates (January 2004)	Date Built
East Block	521	442	1930
Adjustment Center	102	94	1960
North Segregation	68	68	1934
Totals	**691**	**604**	

Note: San Quentin also houses one condemned inmate in its medical facility due to a permanent disability.

Most condemned inmates are housed in San Quentin's East Block facility, built in 1930. The East Block facility is a five-story housing unit that houses primarily grade A condemned inmates but also less violent grade B condemned inmates who cannot be housed in the Adjustment Center (which we discuss next) due to space limitations. The East Block facility can house up to 521 inmates and as of January 2004 held 442 condemned inmates. Inmates housed in the East Block facility use six exercise yards that are located adjacent to the facility, between the building and San Francisco Bay.

Finally, the most violent grade B condemned inmates are housed in a facility that the department refers to as the Adjustment Center, built in 1960. The Adjustment Center is a three-story facility that has 102 cells. It was designed as San Quentin's administrative-segregation unit, to house inmates with discipline problems. Inmates in the Adjustment Center use exercise yards located between the Adjustment Center and the North Segregation facility. As of January 2004 the Adjustment Center housed 94 condemned inmates.

FIGURE 2

Aerial View of Existing San Quentin Facilities

ENTITIES INVOLVED WITH CONDEMNED INMATES

In addition to the department, several other entities are involved with condemned inmates during their imprisonment. These entities are involved in the legal process associated with the condemned inmates' cases. Table 2 identifies these entities and briefly describes their role. Each of these entities is located or has staff in the Bay Area, located near San Quentin.

TABLE 2

Entities Involved With Condemned-Inmate Litigation

Entity	Role
Office of the Attorney General	Responsible for representing the State in postjudgment capital litigation in state and federal court.
Office of the State Public Defender	Represents condemned inmates in matters before the California Supreme Court and the United States Supreme Court.
Habeas Corpus Resource Center	Represents condemned inmates in habeas corpus litigation and also recruits eligible attorneys to represent condemned inmates. "Habeas corpus litigation" is litigation that a person who objects to his own or another's detention or imprisonment files with a court.
California Appellate Project	Assists attorneys whom the California Supreme Court has appointed to represent condemned inmates on their appeals and related habeas corpus proceedings. Also assists condemned inmates who have not yet had counsel appointed.
California Supreme Court	Hears and decides automatic appeals and habeas corpus matters arising out of death sentences. Appoints qualified attorneys to represent condemned inmates in litigation before the court.

BACKGROUND ON THE DEATH PENALTY

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 death or life imprisonment for first-degree murder. Aside from minor changes to the Penal Code, the alternative punishments for first-degree murder and the procedure for imposing death remained constant for 100 years.

Then in 1972 both the California Supreme Court and the United States Supreme Court struck down the death penalty. The California Supreme Court found that the death-penalty law violated the state constitutional provision against cruel and unusual punishment. As a result, California took its then-current population of 107 condemned inmates off death row and resentenced them. Soon after, the United States Supreme Court also struck down the death penalty. Its decision required states to provide standards for determining the sentence in capital cases or to define more narrowly the crimes for which states could impose a death sentence. Accordingly, California opted in 1973 to enact a law that made the death penalty mandatory in certain cases under certain circumstances. In late 1976, however, the California Supreme Court found the State's mandatory death-penalty statute to be unconstitutional. California soon enacted a new statutory procedure for imposing death-penalty sentences, which the courts have consistently upheld as constitutional.

FINANCING OF PRISON PROJECTS

The State typically finances new prison construction projects by issuing lease-revenue or general obligation 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 condemned-inmate complex at San Quentin. In prison construction projects funded by lease-revenue bonds, the department 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, the department then contracts out the project's construction. Once construction is complete, the public works board leases the site and facility back to the department for a fee equal to the amount needed to pay for the debt service on the lease-revenue bonds and associated administrative expenses. Leases can be for periods up to 35 years, although 20 to 25 years is typical;

however, the lease term cannot exceed the prison facilities' useful life. The lease term for the new condemned-inmate complex will not be determined until the State sells the bonds. As the State Administrative Manual prescribes, the department is not obligated to make lease payments until the department occupies the new complex. At that time, lease payments are appropriated from the State's General Fund.

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (audit committee) asked the Bureau of State Audits to evaluate the department's plans to build a new condemned-inmate complex at San Quentin. Further, the audit committee asked us to determine whether, in developing its plans, the department had considered all relevant factors. The audit committee asked us to review and assess the department's methodologies and assumptions in determining that construction of a new $220 million complex to house male condemned inmates at San Quentin is an appropriate investment for the State and whether the department's estimate is reasonable and based on adequate support and analysis. In addition, the audit committee asked us, to the extent possible, to compare San Quentin's costs to those of California State Prison, Sacramento, in areas such as operating costs, maintenance costs, and capital costs to construct or modify a facility to house condemned inmates. Last, the audit committee asked us to review the relative benefits associated with constructing a new condemned-inmate complex at San Quentin as identified by the department and other sources, and to contrast these with the benefits that could be derived by using the site for alternative purposes, such as transportation, housing, and other regional and state needs as identified by the Department of General Services (General Services) or other sources.

To understand the department's determination that it needs different facilities, we reviewed the laws, regulations, and department policies and guidelines related to the department's housing of condemned inmates. We also toured all three facilities that the department uses to house condemned inmates at San Quentin as well as the designated location of the planned condemned-inmate complex. Additionally, we interviewed the San Quentin warden[1] and representatives

[1] On February 19, 2004, after we had completed our fieldwork, the governor appointed the San Quentin warden as the department director. In this report, we refer to her as the warden.

from the Office of the Attorney General, the Office of the State Public Defender, the California Supreme Court, the Habeas Corpus Resource Center, and the California Appellate Project to obtain their perspectives on the need for different facilities. We reviewed support for certain reported conditions at San Quentin, such as reports of assault and battery incidents and workers' compensation claims, to help understand the extent of these conditions. Furthermore, we attempted to identify national standards for the design of maximum-security or condemned-inmate facilities.

In evaluating the department's plans for the condemned-inmate complex and the sufficiency of the related analysis it prepared, we interviewed staff from the department's facilities management division. We reviewed the department's cost model for constructing the complex and met with the department's consultant that developed the cost model to understand the methodologies and assumptions used. For each major component of the planned project, we determined whether the department could support the estimate it had made for the component's cost. To determine the reasonableness of its past estimates, we compared the department's estimated costs for constructing the California Substance Abuse Treatment Facility and State Prison, Corcoran (Corcoran), and Salinas Valley State Prison to the actual costs the department incurred for these prisons. Corcoran and Salinas Valley State Prison were the most recently constructed prisons that include the type of facilities that construction of the condemned-inmate complex at San Quentin will include. Additionally, we reviewed the experience of the consultant—Kitchell CEM—with designing and constructing correctional and other public facilities.

We reviewed the department's analysis relating to the planned complex's ability to accommodate future growth in the number of condemned inmates. To assist us in evaluating the department's analysis, we obtained the log that San Quentin maintains of condemned inmates entering and leaving its facilities. Additionally, we reviewed pertinent laws and court decisions related to the department's ability to house condemned inmates two to a cell, and we interviewed the entities involved in the legal cases of condemned inmates for their views on this topic. Furthermore, we obtained the department's projections of future inmate populations and maximum-security beds statewide to determine the amount of space the department expects to have available for these inmates.

We also reviewed the department's analyses studying the feasibility of housing condemned inmates at other locations. We determined whether the department had considered all relevant factors in determining the feasibility of other locations, and we evaluated its basis for reaching its conclusions.

To compare the costs associated with housing male condemned inmates at California State Prison, Sacramento, to those at San Quentin, we reviewed any relevant estimates and analyses that the department had prepared. In addition, we identified the most significant costs of operating and maintaining San Quentin and compared relevant factors affecting these costs to those of California State Prison, Sacramento. As part of this effort, we reviewed labor statistics to determine the differences in relevant labor costs between the areas in which the two prisons are located.

To understand the benefits and drawbacks of relocating San Quentin's activities, we interviewed representatives from Marin County and reviewed its *San Quentin Vision Plan*. We also interviewed staff from General Services and reviewed a report it had prepared in 2001, studying the potential reuses of the San Quentin property. However, we did not attempt to validate the information the report contained. Finally, we considered the benefits and drawbacks associated with the State's decision to maintain condemned inmates at San Quentin. ■

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CHAPTER 1

The Department Is Proceeding With Its Plans to Construct a New Condemned-Inmate Complex, but It Did Not Include All Alternatives in Deciding Where to Locate the Complex

CHAPTER SUMMARY

The California Department of Corrections (department) houses, in three separate facilities at California State Prison, San Quentin (San Quentin), male inmates who have been sentenced to death (condemned inmates). However, these buildings do not meet many of the department's current design standards for maximum-security facilities. As a result, they increase the escape risk for these inmates and pose potential safety concerns for both staff and inmates. Accordingly, the department requested and received spending authority of $220 million in its fiscal year 2003–04 budget to build a new condemned-inmate complex at San Quentin that will likely meet the department's foreseeable needs. The department plans to build facilities that follow the prototype design the department has used for many of its maximum-security prisons. The department is currently in the process of identifying the project's environmental impacts and estimates completion of the facility by 2007.

The department based its cost estimate for the complex on its previous experiences building facilities using the same prototype design at other locations. However, in analyzing where it should house its male condemned inmates, the department did not include all alternatives, including the possibility of building the new complex at other locations. Additionally, the department's analysis of the potential costs of moving condemned inmates to other locations did not consider all relevant factors, such as annual operating and maintenance costs. Personnel costs are the most significant operating costs for San Quentin. When we compared San Quentin to an alternative location that the department considered, California State Prison, Sacramento, we found that San Quentin's location causes it to face higher personnel costs.

THE DEPARTMENT HOUSES MALE CONDEMNED INMATES IN FACILITIES THAT DO NOT MEET MANY OF ITS MAXIMUM-SECURITY STANDARDS

The department believes that the three housing units at San Quentin are not designed for, nor are they conducive to, providing the appropriate controls, separation, and security the condemned inmates require. Due to their sentence, the department considers these inmates the most motivated to use force to escape. The deputy director of the department's facilities management division states that the department has been attempting to develop a solution to these issues for more than 10 years but, until the recent approval of the construction of the new condemned-inmate complex at San Quentin, had experienced little success.

Although we found that no national standards exist for the type of housing best suited for maximum-security or condemned inmates, the department has developed design criteria that guide those responsible for designing new prison projects and provide design standards to promote better prison construction. The three facilities in which the department currently houses condemned inmates do not meet many of the standards established in the department's design criteria guidelines. Specifically, the facilities are inconsistent with the standard design that all of the department's maximum-security facilities follow, do not have all the components of an adequate security perimeter, and do not ensure that inmates from one facility do not mix with inmates from other facilities. Additionally, the facilities pose potential safety risks to both staff and inmates because of their design.

California Prisons Using 180 Housing Units

- California Correctional Institution
- California State Prison, Corcoran
- California State Prison, Sacramento
- California Substance Abuse Treatment Facility and State Prison, Corcoran
- High Desert State Prison
- Pelican Bay State Prison
- Salinas Valley State Prison

The department has seven prisons that currently use a prototype design facility the department calls the 180 housing unit—referring to its semicircular, 180-degree shape. The department includes this design in its guidelines as an appropriate facility for level IV—or maximum-security—inmates, providing the highest degree of control over inmates. The department determined that the 180 housing unit allows it to segregate the inmates into smaller, manageable, and compatible groups to avoid confrontations; the design also provides staff the ability to better control inmates' movement. Therefore, the department has concluded that the 180 housing unit is the most appropriate type of facility to house its male condemned inmates.

The current condemned-inmate facilities at San Quentin do not have all the elements of an effective security perimeter, which diminishes the department's ability to prevent escapes.

The current condemned-inmate facilities at San Quentin do not have all of the components of an adequate security perimeter, increasing the risk that escapes could occur. The department's design guidelines call for an electrified fence for all new prisons with a security classification of level II and higher. Such a fence serves as a lethal barrier to assist in preventing escapes. However, San Quentin does not have an electrified fence surrounding its existing facilities. The department concluded that the space and topography surrounding the existing San Quentin facilities will not support the installation of this type of fence. In addition, to provide a clear line of sight and additional margin of safety, the department's design guidelines stipulate a minimum clearance of 50 feet between the inner perimeter fence and the nearest point of any building. The department refers to this area as "no man's land." Because the security perimeter of the main facilities at San Quentin are the exterior walls of its housing units, it does not have this element of a security perimeter. The design guidelines also call for the design of new level II, III, and IV prisons that allow for the future installation of an electronic detection system that can detect unauthorized human movement within the no man's land. Because San Quentin does not have a no man's land for its existing facilities, it could not accommodate the addition of an electronic detection system if the department determined one was necessary. Without all the elements of an effective security perimeter, the department diminishes its ability to prevent inmate escapes.

San Quentin's warden[2] contends that nowhere else in the country is a wall used as a perimeter to secure condemned inmates, as is the case at San Quentin. She points out that California has the largest condemned inmate population in the United States and that in the event of a major earthquake, the perimeter at San Quentin may not be sufficient to ensure the security of the condemned population. The exercise yards of the East Block facility are of particular concern. As shown in Figure 3 on the following page, these exercise yards are located outside of the security perimeter—the exterior wall of the East Block facility. This configuration poses a risk of escape. According to the warden, between 300 and 400 condemned inmates are in these exercise yards each day, creating opportunities for escape. As can be seen in Figure 3, the only barrier between the inmates in the exercise yards and San Francisco Bay is a 12-foot masonry block wall lined with razor wire.

[2] On February 19, 2004, after we had completed our fieldwork, the governor appointed the San Quentin warden as the department director. In this report, we refer to her as the warden.

FIGURE 3

View of the East Block Exercise Yards

Although no condemned inmates have ever escaped from San Quentin, instances of attempted escapes demonstrate the risk. In one case, two condemned inmates hid in a partially concealed part of an East Block facility exercise yard as officers recalled inmates into their cells. The hiding inmates went undetected until another inmate advised an officer of the situation. In another example, inmates housed in the Adjustment Center created a hole in a chain-link fence separating the exercise yard from the Adjustment Center. According to the warden, the inmates were planning to overtake the officer at the Adjustment Center's door and then take control of the facility, but the attempt was averted when an alert officer noticed that a ball bouncing off the fence sounded different than usual and discovered the hole.

Furthermore, the existing facilities at San Quentin do not provide the autonomy needed to control condemned inmates adequately. The design guidelines discuss the need to maintain autonomy so that inmates from one facility do not mix with inmates from another. This is important because many gangs and factions exist within the prison population, and if these groups were allowed to intermingle, violence would likely result.

The department's design guidelines also call for prison design that allows control of inmate movement to and from all prison areas. Without adequate control of inmate movement, the risk of escape or violence increases. However, the existing facilities at San Quentin do not provide these features.

Officers must escort condemned inmates through areas of the prison that are populated by other inmates, presenting opportunities for attacks and violence.

Because of a lack of space in the facilities the department currently uses to house condemned inmates at San Quentin, officers must escort the inmates to other prison areas to receive required services. However, the location of the current condemned-inmate facilities makes it necessary for officers to escort condemned inmates through areas of the prison that are populated by other inmates. San Quentin's other inmate populations include level I and II as well as reception center inmates. According to the warden, other inmates despise many condemned inmates due to factors such as their crime or gang affiliation. Therefore, transporting condemned inmates through areas populated by the other inmates presents opportunities for attacks and violence. For example, a reception center inmate recently assaulted a condemned inmate whom the warden stated other inmates perceive as being the impetus for the "three strikes" law as an officer was transporting him to another location within the prison.

Despite the fact that officers are escorting condemned inmates through areas containing other inmates, the rate of reported violent incidents at San Quentin involving condemned inmates has been lower than the rate in the maximum-security prisons we reviewed. The department tracks information about assault and battery incidents from reports that its prison staff complete. It reports this information in rates per 100 inmates. As Table 3 on the following page indicates, from 2000 through 2002 the department's assault and battery rate statewide ranged from 4.6 to 4.8 incidents per 100 inmates. The incident rate among condemned inmates at San Quentin was generally lower than this overall rate, except in 2000.

Additionally, as Table 4 on the following page shows, the incident rate for condemned inmates at San Quentin was lower in 2002 than for the other seven prisons that currently use the 180 housing units to house maximum-security inmates. These seven prisons also have inmates at levels other than level IV, but the department does not report incidents by level. Thus, we were unable to compare the incident rate for condemned inmates to those of just level IV inmates at the seven prisons.

TABLE 3

Reported Assaults and Batteries for Condemned Inmates at San Quentin and for the Department Overall

Year	Condemned Inmates		Overall Department Rate Per 100 Inmates
	Number of Incidents	Rate Per 100 Inmates	
2002	11	1.9	4.6
2001	14	2.5	4.6
2000	37	6.8	4.8

Source: Department's annual reports and San Quentin's staff.

Nonetheless, San Quentin's correctional captain states that the numbers in Table 4 do not tell the complete story. He states that although rates of assault and battery at other prisons are higher than at San Quentin, the statistics do not consider the difference in populations between condemned and other inmates. He further states that this comparison does not consider that in most level IV prisons, inmates are able to move outside their cells unescorted, whereas in the condemned facilities, inmates are restrained and escorted by two or three officers during all movements. In addition, the correctional captain states that the implementation of a 2001 bill, which allows San Quentin to transfer up to 15 problem inmates to California State Prison,

TABLE 4

Assault and Battery Incidents Reported in 2002 by Level IV Facilities That Use 180 Housing Units and by San Quentin for Its Condemned Inmates

Institution	Number of Assault and Battery Incidents	Rate Per 100 Inmates
California State Prison, Sacramento	390	13.2
Pelican Bay State Prison	426	13.1
Salinas Valley State Prison	417	9.9
High Desert State Prison	317	8.2
California State Prison, Corcoran	319	6.6
California Correctional Institution	236	4.5
California Substance Abuse Treatment Facility and State Prison, Corcoran	217	3.4
San Quentin's condemned inmates*	**11**	**1.9**

Source: Department's annual report of incidents for 2002 and San Quentin's staff.

* The department's annual reports on incidents do not isolate incidents for condemned inmates, so San Quentin's staff provided that information.

Sacramento, has had a chilling effect on the condemned population because the inmates' opportunities to participate in programs would likely be reduced if they were transferred. However, he believes that the deterring effect of the legislation may eventually erode and that the impact of the threat of moving problem inmates may lessen.

The facilities that San Quentin currently uses to house condemned inmates—particularly the East Block facility—present potential safety risks to both staff and inmates because of their design. The East Block is a five-story facility that has cells along a long corridor, as Figure 4 shows. Each cell has an open cell-front design, which refers to the woven metal screening that makes up the front of the cell. Each cell is approximately 4 feet by 10 feet, or 40 square feet. The warden believes that the facility, which has no elevator and thus requires using stairs to move between the five stories, results in increased workers' compensation claims. Additionally, escorting condemned inmates up and down the stairs in the East Block facility has become more of a challenge as the condemned inmates' average age increases over time. Furthermore, evacuating the five-story East Block facility during an emergency such as a fire could be problematic. The East Block facility houses more than 500 inmates, including more than 400 who are condemned, and evacuating that many inmates while maintaining appropriate custody controls would be difficult.

FIGURE 4

View Inside the East Block Facility

Workers' Compensation Costs as a Percentage of Payroll

Institution	*Fiscal Year 2002–03*
High Desert State Prison	10.42%
California State Prison, Sacramento	7.05
Pelican Bay State Prison	6.88
California Correctional Institution	6.66
California State Prison, Corcoran	5.91
San Quentin	**5.77**
Departmentwide	5.76
California Substance Abuse Treatment Facility and State Prison, Corcoran	5.46
Salinas Valley State Prison	5.42

Source: California Department of Personnel Administration.

We reviewed the workers' compensation costs for San Quentin as a whole and did not find them disproportionate compared to those for other level IV prisons currently using 180 housing units and for the department overall. Specifically, five of the seven prisons that currently use 180 housing units had higher workers' compensation costs, expressed as a percentage of payroll for fiscal year 2002–03, than did San Quentin. Indeed, San Quentin's rate was virtually the same as the department's overall rate.

Nonetheless, San Quentin's correctional captain maintains that the facilities that house the condemned inmates are hazardous for staff. He believes that injuries to staff resulting in workers' compensation costs occur at a higher rate and are more severe in the facilities for condemned inmates, especially the Adjustment Center due to the nature of the inmates housed there, than they would be if San Quentin housed these inmates in facilities with a modern design, such as the 180 housing unit facility. In addition, he pointed out that other factors beside the facilities' design and condition contribute to workers' compensation costs, such as the availability of health care at reasonable costs and the institution's mission. For example, he stated that High Desert State Prison and Pelican Bay State Prison are in remote regions of the State and may lack the availability of managed health care providers, thereby increasing medical costs related to workers' compensation claims.

Another concern is that officers in the East Block facility cannot visually observe all inmate cells from the gun rails, which are locations where armed officers patrol the housing facility. An officer standing on the gun rail cannot observe inmates located in the first-floor cells. As a result, other officers must go to these cells in order to observe those inmates. This could put the officers at risk. For example, because of the open cell-front design, inmates can throw items at officers as they pass by.

ENTITIES INVOLVED WITH CONDEMNED INMATES EXPRESSED THE NEED FOR IMPROVED VISITATION AREAS

In addition to the warden's concerns regarding the current facilities that house condemned inmates at San Quentin, the entities that are involved with condemned inmates voiced concerns that the current facilities are not adequate. Although the department does not allow them into the housing areas at San Quentin, and therefore they cannot comment on them, several of these entities expressed concerns relating to the visiting areas. The Habeas Corpus Resource Center (resource center) represents condemned inmates in habeas corpus litigation and also recruits eligible attorneys to represent these inmates. According to its director, the resource center has serious concerns about the adequacy of the visiting facilities for condemned inmates. Due to space limitations at San Quentin, the department currently limits attorney visits to 90 minutes, and part of this time can be spent waiting for an inmate to be transported to the visiting facilities. The director of the resource center stated that adequate access to condemned inmates is at a critical juncture and is a significant problem that needs to be addressed. The director said that the department has told the resource center that the new condemned-inmate complex, discussed later in this chapter, would address the issue by providing the needed space.

Due to space limitations at San Quentin, the department currently limits attorney visits to 90 minutes.

The executive director of the California Appellate Project (appellate project) shared similar concerns regarding visiting space for condemned inmates at San Quentin. The appellate project assists attorneys whom the California Supreme Court has appointed to represent condemned inmates in their appeals and related habeas corpus proceedings. It also assists condemned inmates for whom the courts have not yet appointed counsel. According to the appellate project's executive director, the current visiting space at San Quentin is not fully adequate. The appellate project is particularly concerned with the limited space for expert testing of condemned inmates. For example, the United States Supreme Court recently held that it is unconstitutional to execute an inmate who is mentally retarded. The executive director stated that a defense counsel may need to have an expert test an inmate's mental capacity. This type of testing requires private space, which currently is very limited at San Quentin. The appellate project's executive director stated that this problem could be alleviated fairly readily by constructing one additional large room for such testing. However, although this may address the concerns about visiting space, it would not address the concerns about inmate housing.

A representative of the Office of the State Public Defender, which also represents condemned inmates, agreed that the current visiting facilities could be improved.

According to its representative, the California Supreme Court would be concerned if adequate space or visitation time were not available for defense attorneys to visit condemned inmates and discuss their cases.

Additionally, we spoke to a representative of the California Supreme Court about San Quentin's current facilities. The representative stated that he was aware that concerns had been raised over the current facilities at San Quentin, and he said that the court would be concerned if adequate space or visitation time were not available for defense attorneys to visit condemned clients and discuss their cases. We also spoke to the state capital case coordinator for the Office of the Attorney General, who said that his organization does not have a stake in San Quentin's current facilities because its staff do not normally need to visit condemned inmates in handling the State's side of the appellate litigation.

THE DEPARTMENT HAS BEGUN THE PROCESS TO CONSTRUCT A NEW CONDEMNED-INMATE COMPLEX

As part of its fiscal year 2003–04 budget, the department requested $220 million to construct new facilities at San Quentin in order to house and provide programs to the condemned inmates. The proposal describes a complex that consists of maximum-security housing units, which would contain approximately 1,000 cells. Additionally, the proposal includes space for support activities and programs such as religious services, a legal library, visiting space, exercise yards, a medical facility, and a lethal electrified fence. According to the department, these proposed facilities would provide the necessary support services, medical treatment and support, and exercise space to meet the condemned inmates' needs and to comply with certain court-imposed requirements. The department plans to continue using the existing facilities for other inmates once the new condemned-inmate complex is complete. According to the San Quentin warden, the existing facilities are sufficient, with continued maintenance, to house the reception center and level I and II populations. Figure 5 provides an aerial view of San Quentin and identifies the planned location of the new complex.

The Legislature approved an appropriation for $220 million in the department's fiscal year 2003–04 budget for preliminary plans, working drawings, and construction of a

FIGURE 5

Aerial View of Location of Future San Quentin Facilities

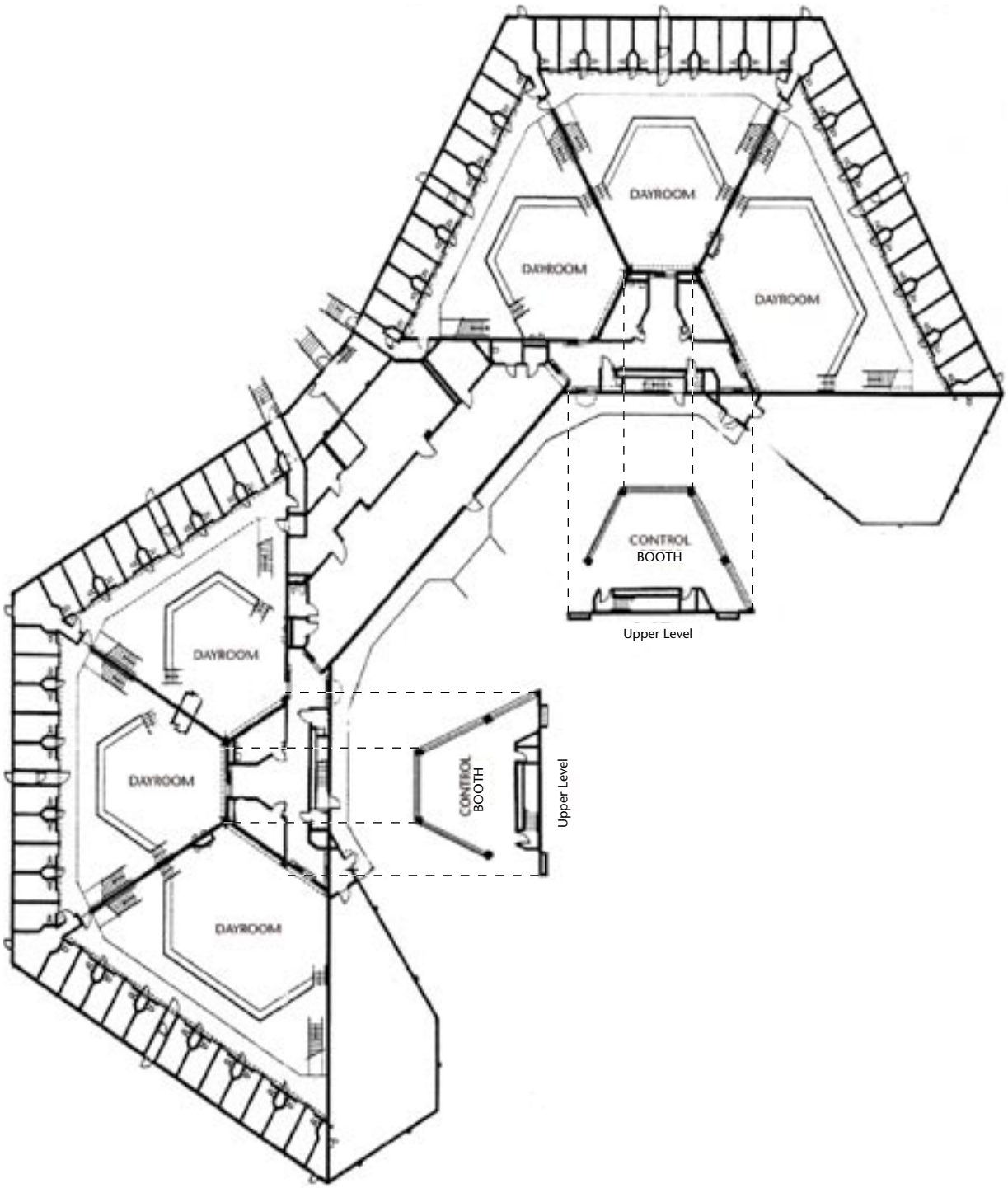
condemned-inmate complex at San Quentin. The governor approved the State's fiscal year 2003-04 budget in August 2003, authorizing the funds for the condemned-inmate complex.

The department's plans call for constructing a condemned-inmate complex on approximately 20 to 40 acres of the San Quentin site. Currently, this area, known as the Ranch, houses level I (minimum-security) inmates in wooden barracks-style facilities. The planned housing units will follow the prototype design that most of the department's maximum-security prisons use, the 180 housing unit. Figure 6 on the following page shows the layout of the lower level of a 180 housing unit. As we discussed earlier in this chapter, seven of the department's prisons that house maximum-security inmates already use this type of facility.

Each 180 housing unit has approximately 50,200 square feet of space and is divided into two sections separated by a common area. Each section contains three pods of cells, two of which have 20 cells and the third having 24. The cells are approximately 80 square feet each. Each pod has two levels, with half of the cells on the lower level and half on the upper level.

FIGURE 6

180 Housing Unit Lower Level Plan



Source: Department's design criteria guidelines.

The unit contains two secured, elevated control booths, each observing three pods. The front of each cell can be observed from its respective control booth. Figure 7 shows a view of cells from a control booth in a 180 housing unit. The control booths are equipped with control consoles that fully operate all cell doors and entry-exit doors. The department plans to construct eight of these housing units on the proposed site at San Quentin, for a total of 1,024 cells.

FIGURE 7

View of Cells From the Control Booth in a 180 Housing Unit

The department has concluded that the 180 housing unit offers the greatest degree of control, safety, and security among existing prison designs. The small 20- or 24-cell pods would permit the department to house small groups of compatible condemned inmates in the same area and to separate condemned inmates who are not compatible with one another. The department believes that the separation of incompatible condemned inmates into small units is a vital management tool that maximizes staff's ability to control the grade A condemned inmates and thereby limits the number that become grade B inmates. The 180 housing unit also allows the

department enhanced control over inmates because the officers in the control booth can observe each cell in the pods and can remotely open and close cell doors from the control booth.

In addition, the department determined that the 180 housing unit design offers greater efficiencies compared to San Quentin's current condemned-inmate facilities in terms of the number of officers that San Quentin will need to assign to the housing unit to supervise, feed, and escort the condemned inmates. According to a 2003 department analysis, the new complex would require 8 percent less staffing than would its existing facilities, assuming the current number of condemned inmates and existing housing requirements. The department estimated that this reduction in staff would result in annual savings of approximately $733,000. However, the department cautioned that it might not fully realize these personnel cost savings if new requirements related to supervising condemned inmates are imposed.

The department also plans to include in the condemned-inmate complex a correctional treatment center, which is a medical facility. This medical facility will be one of a network of 17 licensed medical facilities that the department is establishing statewide. The stand-alone facility will provide 24-hour licensed inpatient and outpatient health care to the entire San Quentin inmate population. The facility will also provide mental health services as part of the department's total mental health services delivery system.

The department stated that since the Legislature and governor approved the funding for the condemned-inmate complex, it has aggressively proceeded with project activities. The department requested and received State Public Works Board (public works board) approval to use interim financing for the projects and subsequently borrowed nearly $8.5 million from the State's Pooled Money Investment Board. The department also secured the public works board's approval and authorization for the execution of a construction agreement as well as for site and facility leases between the department and the public works board. Further, the department obtained authorization from the public works board for the sale of the bonds needed to finance the estimated $220 million project.

The department has initiated the project's environmental impact review process, which is expected to take about one year to complete.

Additionally, the department has initiated the environmental impact review process, which it expects will take approximately one year to complete. In anticipation of the approval of the

condemned-inmate complex and other projects, the department selected a consultant on June 30, 2003, to perform the environmental impact review. As part of this review, the department has held a public meeting to receive input on the review's scope and content. The department expects a draft environmental impact report to be released for public review and comment by June 2004. It has also selected consultants to provide the project design services, including site engineering and architectural design services. Upon completion of the design, the department would begin constructing the complex, and it estimates that the project will be complete in the summer of 2007.

THE DEPARTMENT BASED ITS COST ESTIMATE FOR THE NEW COMPLEX ON PREVIOUS EXPERIENCES

The department supported the $220 million in spending authority that it requested and received for the condemned-inmate complex with a $219.8 million cost estimate. The department together with its consultant developed the estimate primarily by drawing on experiences from previous projects. The department's key assumption is that the costs to build a 180 housing unit facility at San Quentin would be similar to the costs the department incurred building similar facilities in other locations. However, when circumstances were unique to San Quentin, the department developed its estimate using other methods. Table 5 on the following page presents the components of the department's $219.8 million estimate.

The department developed its cost estimate for the new complex's housing units using bids it received when building a prison at Corcoran.

The largest component is the construction of the housing units. The department arrived at this estimate by developing a cost per gross square foot, using the bids it received when it built a 180 housing unit at the California Substance Abuse Treatment Facility and State Prison, Corcoran (Corcoran). At the time the department completed its estimate in 2002, Corcoran, which opened in 1997, was the most recent maximum-security prison it had completed. The bids the department received for the housing component of the project resulted from a competitive-bidding process. The department adjusted the costs it experienced at Corcoran to account for inflation between 1995, when it received the bids for constructing the Corcoran housing, and 2000, from which point the department based the San Quentin estimate.

TABLE 5

Components of the Department's Cost Estimate for the New Condemned-Inmate Complex

Component	Description	Amount (in Thousands)
Housing	Housing units for inmates	$ 55,396
Project fees	Fees such as those for project design and management	28,924
On-site infrastructure	Items such as utilities, demolition, site remediation, and grading	28,296
Central support	Support facilities for the complex	16,691
Correctional treatment center	Medical facility for San Quentin	9,215*
Facility support	Support facilities for housing units	7,844
Programs	Facilities and space for providing programs to inmates	6,383
Equipment	Equipment for the new complex	4,913
Agency retained	Services provided by the State, such as equipment from the Prison Industry Authority	2,250
Perimeter security	Includes the electrified fence surrounding the complex	2,100
Off-site costs	Additional electrical service to serve new complex	400
Allowances and contingencies:		
Inflation factor	Used to reflect inflation during project	23,418
Contingencies	Allowances for unexpected items	21,320
Location allowance	Reflects higher costs expected in the San Francisco Bay Area	12,632
Total		**$219,782**

Source: Department's cost model for the condemned-inmate complex at San Quentin, dated November 1, 2002.

* The estimate for the correctional treatment center represents the costs of constructing the center. The department estimates the total cost of the center, which includes portions of the other components listed in the table—such as project fees, perimeter security, and allowances and contingencies—will amount to approximately $20 million.

The department also adjusted the cost for items that were not present in the Corcoran project costs. These items included the costs of a retherm kitchen (used to reheat chilled food) and modifications for providing additional space for disabled-access cells and for providing program space. For these items, the department based the estimates on its experiences in building different facilities. For example, the department added $4 per gross square foot to the cost of the housing units for additional space to provide programs such as religious services to condemned inmates based on bids it had received to build medium-security facilities at Corcoran.

The department compared the bids it received to provide program space in a medium-security facility designed for inmates who were under administrative segregation as discipline problems—for whom, like the condemned inmates, there are additional security concerns—to bids it received to build

program space in normal medium-security facilities. The department also adjusted the cost for certain material that the Prison Industry Authority formerly supplied—and thus in the Corcoran project was included in the agency retained figure—but no longer does; the department therefore included this material cost in the portion of the project it put out to bid. Table 6 illustrates the steps the department took to arrive at its estimate of the cost per gross square foot of the housing units for the planned complex. The department then multiplied this amount by the housing units' total square footage to obtain the total estimated costs.

TABLE 6

Department Cost Estimates for the Planned Complex's Housing Component

	Per Gross Square Foot								
Component	Corcoran Bid	Adjustment for Including a Retherm Kitchen	Inflation Adjustment to September 2000	Adjustment for Prison Industry Authority Materials	Adjustment for Increased Disabled-Access Facilities	Adjustment for Increased Program Space	San Quentin Estimated Cost	Total Square Footage of Housing Units	Total Costs
Housing	$111.12	$3.58	$13.76	$2.03*	$4.00	$4.00*	$138.49	400,000	$55,396,000

* Amounts include an adjustment for inflation.

We reviewed each of the components for which the department developed estimates and found that they generally fell within three categories: estimates based on the cost per gross square foot experienced in previous projects, estimates based on the department and consultant's knowledge and experience, and estimates for allowances and contingencies. The components based on cost per gross square foot estimates amounted to $95.2 million (43 percent) of the $219.8 million project. For these components, we reviewed the department's methodology for preparing its estimate and found that it had adequately supported substantially all of the costs. The department based these components' costs on the bids it had received during the construction of previously built prisons, such as Corcoran.

The second category of costs included estimates based on the department and consultant's knowledge and experience. These costs amounted to approximately $67.2 million (31 percent) of the $219.8 million project. The most significant amounts in this category were for project fees, such as project and construction management, amounting to $28.9 million; demolition and site remediation costs amounting to $18 million; and site grading and drainage costs amounting to $4 million.

The final category of costs relates to estimates for allowances and contingencies. This category amounted to $57.4 million of the $219.8 million project (26 percent) and included provisions for inflation, uncertainties that may exist in the estimating and construction processes, and location differences. The largest component is the $23.4 million the department added to compensate for inflation. In developing its project estimate, the department used amounts based on September 2000 costs. Because at the time of the estimate the department expected to receive bids from potential contractors in 2006, the department adjusted its estimated costs for the amount of inflation that it expected to occur between 2000 and 2006, using a construction cost index that the State Administrative Manual prescribed.

Construction and estimating contingencies accounted for $21.3 million of the department's estimate for the new condemned-inmate complex.

A second component in this category is composed of contingencies for construction and estimating. The department included a construction contingency of 5 percent of construction costs, adjusted for certain factors, so that it could proceed with the project with minimal interruption for small, nonscope changes or cost overruns. The State Administrative Manual provides that departments can include a construction contingency of up to 5 percent for construction of a new facility. The department also included an estimating contingency of 10 percent of construction costs. According to a representative of the consultant that worked on preparing the estimate, this contingency is intended to capture possible design and construction changes occurring after the department receives bids for the project and resulting in additional costs. He said that these could be due to code changes that affect design and construction; construction change orders that have to be incorporated into the design; and design changes needed to accommodate the condemned inmates' unique operational, functional, and security issues. For example, the department plans to modify some of the support space to allow for additional visiting space to accommodate the need for condemned inmates to visit frequently with their assigned defense counsel, but because it has not conducted the design phase, the department has not identified the specific costs involved. According to a representative from the Department of General Services, although it does not typically include estimating contingencies in its projects because the State Administrative Manual does not specifically provide for them, including them in private sector projects is common practice. He added that the State Administrative Manual does not prohibit

the department from including an estimating contingency in its estimate. Together, the construction and estimating contingencies amounted to $21.3 million.

The final component was an adjustment the department made to recognize the higher costs of constructing the facility in the San Francisco Bay Area (Bay Area). The department compared a construction cost index for Fresno, in the general vicinity of several of the department's previously built prisons, to the construction cost index for San Rafael, near San Quentin. This comparison showed that the costs in the area around San Quentin were approximately 10 percent higher. Therefore, the department increased its estimated construction costs by 10 percent, or $12.6 million.

Adding credence to the estimate is the fact that the consultant that worked on preparing the estimate for the department has significant experience in developing cost estimates and performing other program management functions for correctional and other public facilities. The consultant—Kitchell CEM—has assisted the department in the construction of 20 stand-alone prison facilities and various additions to existing prison facilities. It has worked with the department since 1982 as program manager to plan and control the department's growth in prison facilities. In addition to its work with the department, Kitchell CEM has worked with corrections departments in the states of Oregon, Washington, Arizona, Colorado, Iowa, Indiana, New York, and Delaware. Therefore, the firm appears to have a significant amount of experience from which to draw in assisting the department.

Cost overruns that the department incurred while building two prisons we reviewed did not exceed the contingency allowances for these projects.

To determine the reasonableness of the bids from the department's previously completed prisons, on which it based many of its estimated costs, we compared the actual amounts the department spent to construct prisons incorporating the 180 housing unit design at Corcoran and Salinas Valley State Prison to the bids that the department received. Corcoran and Salinas Valley State Prison were the most recently completed projects to include the 180 housing unit design. Although the department encountered circumstances in these projects that caused it to exceed the amount bid for certain components, these cost overruns did not exceed the contingency allowances that the department had included in its estimates. For example, the bid the department received to build inmate housing facilities at Corcoran was $64 million. However, the actual costs incurred to build these facilities amounted to approximately $66.9 million. Although

the actual costs exceeded the bid amount by $2.9 million (4.5 percent), this was within the 5 percent contingency amount that the department included in its estimate. Therefore, the bid amounts on which the department based its estimate for the planned San Quentin facility appear reasonable.

Nonetheless, we did note that amounts included in the department's cost estimates sometimes change. State law allows the public works board to approve additional costs of up to 20 percent of the original amount that the Legislature appropriates for a project, although the Legislature must be notified of amounts exceeding 10 percent. For the San Quentin condemned-inmate complex, if design modifications or delays occur that result in costs that exceed existing allowances and contingencies, the actual costs could exceed the department's estimate of $220 million by up to $22 million before the Legislature would be notified, and by up to $44 million without additional legislative approval.

THE PLANNED COMPLEX APPEARS TO PROVIDE ADEQUATE CAPACITY TO HOUSE FUTURE CONDEMNED INMATES

The department believes that the planned condemned-inmate complex will meet its future needs for housing male condemned inmates at San Quentin. As we discussed earlier in this chapter, the condemned-inmate complex will have 1,024 cells. As of January 2004 the department was housing more than 600 condemned inmates at San Quentin. Based on past experience, the department estimates that the condemned-inmate population could grow at a rate of 25 inmates per year. If this holds true, the department will have enough condemned inmates by 2020 to fill every cell in the new complex.

If needed, the department believes it could expand the capacity of the new complex by housing certain condemned inmates two to a cell.

According to the department, if the number of condemned inmates did exceed the number of cells in the complex, San Quentin could expand its capacity by housing appropriate grade A condemned inmates—those who are compatible and have not had discipline problems—two to a cell. The department estimates that this would allow it to increase its capacity to up to 1,400 condemned inmates. Although the United States Supreme Court ruled that placing two condemned inmates per cell in a relatively modern prison facility does not violate the constitutional prohibition against cruel and unusual punishment, some of the entities we spoke to raised concerns

about the practice. The state public defender stated that her office's concern would be with an inmate possibly accessing the legal papers of another in a double-celled situation. Because condemned inmates typically have appeal matters pending throughout their time on death row, the state public defender stated that inmates often review legal papers related to their cases while in their cells. Housing two inmates in a cell may compromise the legal papers' confidentiality. Additionally, the state capital case coordinator at the Office of the Attorney General stated that he feels it would be a mistake to double-cell condemned inmates, due to their violent nature.

Another alternative that the department raised is the potential future expansion of the condemned-inmate complex. As Figure 5 on page 25 indicates, the department has identified space adjacent to the planned complex that it could use for future expansion if needed. Currently, this area is used to house level II inmates in masonry block dormitory facilities. The department also stated that it could return to using the Adjustment Center or the North Segregation facility to house condemned inmates if needed. However, housing condemned inmates in these facilities would likely again raise some of the concerns that prompted the department to build the planned new condemned-inmate complex.

The department's estimate of future condemned-inmate populations is likely overstated because it did not consider the effect of inmates leaving death row.

These concerns may be moot, however, as the department's estimate of future condemned inmate populations is likely overstated because it did not consider the effect of inmates leaving death row. In arriving at its estimate of the annual increase in the numbers of condemned inmates, the department considered the number of male inmates the State sentenced to death each year since 1978, after the State enacted its current death penalty law. Based on these numbers, the department concluded that the State sentences an average of 25 men to death each year. However, this analysis does not consider inmates who leave death row for various reasons such as commuted sentences and death, by natural causes and by execution. Our review of the department's log of condemned inmates, which tracks inmates coming into and out of death row at San Quentin, showed that as many as nine inmates left death row in a single year; over a 10-year period between 1994 and 2003, 48 inmates left death row. Therefore, the department's estimate is likely overstated.

Additionally, both the state public defender and the state capital case coordinator at the Office of the Attorney General told us that they expect the number of inmates being sentenced to death to decrease in the coming years. According to the state public defender, this is due primarily to the expense that the counties incur in capital cases. She stated that counties are seeing a sentence of life without parole as a better alternative. Also, according to the state public defender, lower crime rates and decreasing support for the death penalty will result in fewer capital cases. At the same time, both the state public defender and the state capital case coordinator believe that the number of executions will increase in the coming years as condemned inmates begin to exhaust their federal appeals.

THE DEPARTMENT DID NOT INCLUDE ALL REASONABLE ALTERNATIVES IN ITS ANALYSIS OF OTHER POTENTIAL SITES TO HOUSE MALE CONDEMNED INMATES

In determining where to house its condemned inmates, the department considered certain existing prison facilities but concluded that most of them would not be appropriate, due primarily to their remoteness from metropolitan areas. The department did conclude that California State Prison, Sacramento, would be an appropriate location but determined that transferring the condemned inmates there would exacerbate the department's systemwide shortage of maximum-security beds. However, the department limited its consideration to the seven facilities that currently have 180 housing unit facilities. According to the department, it believed that the legislative direction it had received was to maintain condemned inmates at San Quentin. Nonetheless, the department would have better ensured that the best decision for the State was made if it had included all reasonable alternatives.

Prisons That the Department Included in Its Analysis of Other Potential Locations for Male Condemned Inmates

California Correctional Institution (Tehachapi)

California State Prison, Corcoran

California State Prison, Sacramento

California Substance Abuse Treatment Facility and State Prison, Corcoran

High Desert State Prison (Susanville)

Pelican Bay State Prison (Crescent City)

Salinas Valley State Prison (Soledad)

The Department Limited Its Analysis to Prisons With Existing 180 Housing Unit Facilities

In spring 2003 the department prepared an analysis that considered the feasibility of relocating its condemned inmates to prisons that had 180 housing unit facilities. The department considered only these prisons because it believes that the 180 housing unit, which is designed for maximum-security inmates, is the most

appropriate facility for this population. Focusing its analysis on existing facilities with the 180 housing unit design appears consistent with a statutory provision requiring the department to first consider prisons having 180 housing units and electrified perimeters if it must move its condemned inmates. This provision was part of the legislation that authorized the department to house up to 15 condemned inmates at California State Prison, Sacramento.

According to its analysis, the department concluded that none of the existing locations with 180 housing unit facilities except California State Prison, Sacramento, were appropriate, due to issues such as their remoteness from the court system and legal representation, and excessive transportation costs and logistical problems related to the locations' remoteness. Although our legal counsel did not identify any court opinions suggesting problems with housing condemned inmates in remote locations, entities we spoke to that are involved with defending the inmates agreed that moving the condemned population away from the Bay Area would be problematic. For example, the state public defender told us that members of her staff maintain regular contact with their condemned-inmate clients, visiting them about once a month. The Office of the State Public Defender represents approximately 120 of the more than 600 condemned inmates. The state public defender said that relocating male condemned inmates away from San Quentin would adversely affect her office's ability to achieve its mission of representing condemned inmates in state and federal courts. Representatives from the Habeas Corpus Resource Center (resource center) and the California Appellate Project also voiced concern about moving condemned inmates away from San Quentin. For example, the resource center director said that because all 26 of its attorneys are located in the Bay Area, moving the condemned inmates away from San Quentin would adversely affect their ability to represent their inmate clients and significantly increase the costs of representation.

Each of the entities we spoke to that are involved with defending condemned inmates expressed concerns with relocating the inmates away from San Quentin.

Despite the concerns that others expressed about moving the male condemned inmates from the Bay Area, the department, as required by the Penal Code, houses its female condemned population at the Central California Women's Facility in Chowchilla. The department states that the female condemned population is small—15 as of January 2004—and that the Central California Women's Facility is near the Fresno metropolitan area. Nonetheless, the department's concerns related to a remote location for the male condemned population

appear to have some merit. However, the department should have considered the relative weight of these concerns, and their associated costs, as part of a complete analysis of the various costs and benefits associated with each of the existing locations with 180 housing unit facilities. Because the department did not do this, it lacks assurance that it made the most appropriate and cost-effective decision in deciding to eliminate the locations that it did.

The department concluded in its analysis that California State Prison, Sacramento, would be an appropriate site because it is near an urban location and close to state and federal court facilities. However, the department also concluded that if it were to transfer its condemned inmates to California State Prison, Sacramento, or to any other prison with maximum-security facilities, it would need to vacate up to two of the existing 512-cell housing facilities to provide housing that would keep the condemned inmates completely isolated. Because the department normally houses level IV inmates at 190 percent of design capacity, vacating up to two 512-cell facilities would displace up to approximately 1,950 maximum-security inmates. The department would then have to transfer these inmates into existing maximum-security facilities at other prisons.

Even though the department projects having a surplus of more than 5,000 beds for male inmates, including beds in converted gymnasiums, for fiscal year 2003–04 it projects a shortage of maximum-security beds. Displacing additional maximum-security inmates would only make the situation worse. As Table 7 indicates, based on its fall 2003 inmate population projections, the department estimates that on June 30, 2004, it will have almost 25,900 maximum-security male inmates and only 17,200 maximum-security beds in which to house them—a shortage of about 8,700 beds. The department includes condemned inmates and the cells it uses to house them as maximum security for the purposes of this estimate. Although the department projects that it will add an additional 4,100 maximum-security beds in fiscal year 2004–05, when it opens a new prison in Delano, it still expects to end that fiscal year with a shortage of almost 5,000 maximum-security beds.

Transferring condemned inmates to an existing facility at another location could exacerbate the department's shortage of maximum-security beds.

When the department does not have a sufficient number of maximum-security beds to accommodate level IV inmates, it houses them in level III facilities. However, because level III facilities were not designed to house level IV inmates, their use for level IV inmates could present safety concerns due

TABLE 7

Projected Shortage of Maximum-Security Beds

Fiscal Year	Projected Inmates*	Bed Capacity*	Shortage
2003–04	25,890	17,235	8,655
2004–05	26,305	21,349	4,956
2005–06	26,680	21,349	5,331
2006–07	26,990	21,349	5,641
2007–08	27,285	21,349	5,936
2008–09	27,550	21,349	6,201

Source: Department's fall 2003 inmate population projections.

* The department includes condemned inmates and the cells it uses to house them in these amounts.

to inadequate custody features. Additionally, the placement of level IV inmates in level III facilities would likely displace level III inmates into level II facilities, which could also present safety concerns. Therefore, if the department did transfer the condemned inmates to California State Prison, Sacramento, it could exacerbate the department's shortage of maximum-security beds.

Recent changes that the State adopted to reduce costs, such as diverting minor parole violators to community-based programs instead of returning them to prison, will likely further reduce the number of male inmates that the department houses. However, the department projects that these changes will mainly affect inmates at the lower security levels. Specifically, in November 2003 the department estimated that the adopted changes would reduce the male inmate population by nearly 5,200 in fiscal year 2003–04 and by 13,500 in fiscal year 2004–05. However, the department estimated that these reductions would include only about 330 and 840 maximum-security inmates, respectively. Furthermore, according to an administrator in the department's fiscal management and standardization branch in February 2004, recent hiring and contracting restrictions, as well as labor negotiations, have delayed implementation of the changes and their impact on reducing the numbers of inmates.

The deputy director of the department's facilities management division believes that transferring condemned inmates to California State Prison, Sacramento, could detract from that prison's mental health mission. California State Prison, Sacramento, is a hub for treating inmates with various mental

disorders, and it has developed a staff and program to carry out this mission. He stated that adding the condemned-inmate mission to California State Prison, Sacramento, could impede the future growth of the mental health mission due to insufficient space and resources.

The Department Did Not Analyze the Feasibility of Building a New Complex at Other Locations

Although the department has land available at other prison sites on which to build a condemned-inmate complex with the 180 housing unit facilities it considers appropriate for condemned inmates, it did not analyze the feasibility of building such a complex at other locations. The deputy director of the department's facilities management division told us that the department has land available at many locations to accommodate 180 housing unit facilities such as the condemned-inmate complex it plans for San Quentin, although other factors such as wastewater and water capacity, severe recruitment and retention difficulties, community opposition, flood plains, and habitat preservation would limit the feasibility of using most sites. The primary reason the department provided for not analyzing the feasibility of building at other locations was that it believed that the Legislature and others, through their actions, had indicated to the department that they want to maintain male condemned inmates at San Quentin. The department provided the following indicators that led it to this conclusion:

The department believed that the Legislature wanted to maintain male condemned inmates at San Quentin.

- In 1996 the Legislature did not approve a bill sponsored by the department that sought to allow the department to house certain condemned inmates at California State Prison, Corcoran. According to legislative records, this bill died in a senate committee.

- In 2001 the State cut funding that would have allowed the Department of General Services (General Services) to continue its study of potential reuses of San Quentin.

- The Legislature has authorized $33 million in recent years for San Quentin to perform seismic upgrades to its buildings.

- The Legislature limited a 2001 bill sponsored by the department that sought to allow the department the flexibility to transfer condemned inmates whose conduct endangers others' safety or the institution's security to secured housing units in other facilities. The Legislature amended the bill to allow the

department to transfer only up to 15 problem inmates who had committed specified offenses and to limit the transfers to California State Prison, Sacramento. The department told us that it has not exercised the option to transfer problem inmates to California State Prison, Sacramento.

The department also pointed to legislative action occurring after it performed its analysis as confirmation that the department had reached the appropriate conclusion in deciding to build at San Quentin. The department added that in approving the $220 million appropriation for the new condemned-inmate complex, the Legislature decided against an alternative that would have transferred condemned inmates elsewhere.

The department also said that it has encountered difficulties in staffing some of its Central Valley prisons; therefore, staffing the condemned-inmate mission in other locations could be difficult. Finally, the deputy director of the facilities management division noted that the department normally places prisons in communities that have requested it to locate in their region to avoid placing them in communities that oppose the department's presence in the area. According to the deputy director, the department has not received requests from any communities to house the condemned inmates in their regions and has previously faced political and legal opposition when it has attempted to raise security levels. Further, we recognize that remoteness would be a concern with some of the locations. However, as we discussed previously, considering all reasonable alternatives, including reviewing locations where it could construct a new complex with 180 housing units, in its analysis would have helped the department ensure that its decision is the best for the State.

Considering all reasonable alternatives in its analysis would have helped the department ensure that its decision is the best for the State.

THE DEPARTMENT'S COMPARISON OF COSTS WAS INCOMPLETE

Although the department analyzed the costs of relocating its San Quentin activities, it did not compare the anticipated annual operating and maintenance costs between San Quentin and other potential locations. As part of an effort by General Services to study San Quentin's potential reuses, the department prepared an estimate of the costs associated with relocating all of its activities from San Quentin, including housing for its condemned, reception center, and level I and II inmates. However, the department did not compare the annual operating

and maintenance costs once the condemned inmates had been relocated to those it could expect to incur at San Quentin. Such a comparison would have provided more complete information that would have assisted the department in ensuring that it made the most cost-effective decision.

The Department Prepared an Estimate of the Costs to Relocate Activities From San Quentin

As part of General Services' effort to analyze the potential reuses of the San Quentin prison site for a report issued in June 2001, the department estimated the costs it would incur to relocate the functions that exist at San Quentin. State law required General Services to prepare a report and analyze the possible closure of San Quentin, including the disposition of the real property. The General Services report presented three different alternatives for the San Quentin property should the State decide to dispose of it. We discuss these alternatives in detail in Chapter 2.

Included in the General Services report is a department estimate of the capital and operational costs the department would incur to relocate staff, inmates, and equipment to other locations. As Table 8 indicates, the department estimated that the capital costs would range from $695 million to $798.5 million, depending on when it received bids from potential contractors and built the new facilities. One of the assumptions the department used in developing this estimate was that the new reception center would require about 40 acres near the Bay Area and would consist of two six-story towers that would provide housing for 3,300 inmates, including 200 level I inmates. The department also assumed it would build a single facility at a separate but undetermined location to house both the condemned inmates

TABLE 8

Components of the Department's Estimate of Capital Costs to Relocate San Quentin Activities

	Cost Estimate Based on Costs as of (in Millions)	
Description	**July 2006**	**July 2011**
Reception center and level I	$393.5	$452.0
Condemned and level II	301.5	346.5
Total capital costs	**$695.0**	**$798.5**

Source: Department's March 2001 estimate, included in General Services' June 2001 report.

and the general population inmates, consisting of level II inmates and administrative-segregation inmates. The site would consist of 320 acres and would house up to 1,056 condemned inmates and 1,460 general population inmates.

To determine whether the costs it included in this estimate were comparable to those the department used in its San Quentin estimate, we compared certain components that were included in both estimates. Because both included the construction of the 180 housing unit that is based on a prototype design, the costs should be similar. The department based its estimate of $301.5 million to $346.5 million to construct a new condemned-inmate complex and level II facility on an estimate of the cost of facilities if the costs were as of July 2001, with the costs escalated as appropriate for inflation. The July 2001 estimate for constructing the condemned complex and level II facilities amounted to $262.6 million. This amount comprises $166.2 million in construction costs and $96.4 million in other costs, including fees, off-site modifications, and equipment.

The construction components of the department's estimate of costs to relocate San Quentin activities that we reviewed were comparable to those of its estimate to build the condemned-inmate complex at San Quentin.

We compared certain components of the construction costs for which the department had developed a cost estimate based on the costs per gross square foot to the costs the department used in the San Quentin estimate. These components amounted to 46 percent of the total construction costs, or $76 million. The remaining construction costs related to components that the department did not include in the San Quentin estimate or did not compute on a basis comparable to those in the San Quentin estimate. All but three of the 26 components that were based on square foot estimates agreed with those in the San Quentin estimate. These three components had square foot estimates that were less than those the department used in the San Quentin estimate, due mainly to the compact nature of the San Quentin site and to additional requirements the department knew of when it developed the San Quentin estimate. The total cost of these differences amounted to approximately $4.9 million. Therefore, it appears that, at least for these 26 components, the estimates are comparable.

Although the department did not identify a specific location for building a new facility for the condemned and general population inmates, the location could affect the department's costs. As we discussed previously, in developing its estimate of the condemned-inmate complex at San Quentin, the department determined that the costs of building at that location would be 10 percent higher than at certain other

The location of the condemned-inmate facility can have a significant effect on its cost.

prisons it had built. It arrived at this amount by comparing a construction cost index for Fresno, in the vicinity of several prisons, to the index for San Rafael, near San Quentin. Accordingly, the department included an allowance of $12.6 million in its San Quentin estimate for cost variances due to location. Using this same methodology, we determined that an allowance for a facility built in the Sacramento region would amount to only 1 percent, or $1.3 million. Therefore, the location of the facility can have a significant effect on its cost.

In addition, the department estimated that its onetime operational costs in relocating the San Quentin activities would range between $61 million and $107 million, depending on how many employees owned homes and where the employees would move, thus affecting relocation benefits, as well as how long activating the new prison and deactivating San Quentin would take. Included in these costs were the following:

- $20 million in start-up costs for the new prisons, such as initial supply of clothing, food, office, and program materials.
- Between $17 million and $23 million for relocating staff, assuming that only half of the employees would relocate.
- Approximately $495,000 to transport inmates to new institutions.
- $20 million to $60 million in additional costs to operate two new facilities along with San Quentin during the two- to six-month transition period.
- More than $3 million to move equipment to new facilities.

The Department Did Not Compare the Operating and Maintenance Costs of Potential Sites

In considering the feasibility of moving condemned inmates to California State Prison, Sacramento, the department estimated that modifying the existing facilities there, including constructing a new execution chamber, would cost approximately $35 million. However, the department did not compare the annual costs of operating and maintaining other potential sites such as California State Prison, Sacramento, to those of San Quentin.

In the absence of such a comparison, we examined relevant factors affecting personnel costs at the department's existing San Quentin and California State Prison, Sacramento, locations. We focused on personnel costs, because they are the most significant operating costs for San Quentin, making up over 75 percent of its $158.5 million annual operating and maintenance costs for fiscal year 2002–03. We recognize that California State Prison, Sacramento, currently has different missions than does San Quentin. Nevertheless, certain factors are relevant to a consideration of anticipated operating and maintenance costs for a condemned-inmate facility at California State Prison, Sacramento. Because of San Quentin's location, it faces higher personnel costs than does California State Prison, Sacramento. For example, San Quentin pays a housing stipend of $175 per month to approximately 1,100 of its employees—correctional officers and certain other types of employees—who are members of the California Correctional Peace Officers Association. This stipend results in over $2.3 million in additional annual costs for San Quentin, $307,000 of which represents payments the department makes to the approximately 146 full-time staff assigned to the condemned-inmate unit.

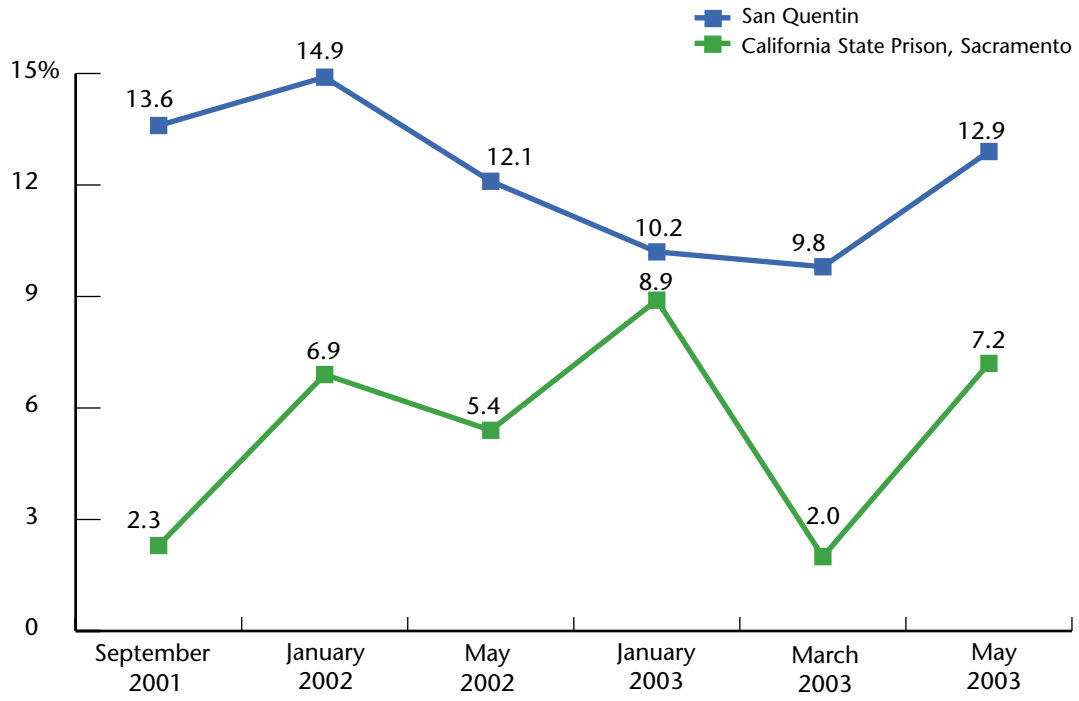
Citing its inability to retain staff, San Quentin recently requested an annual recruitment and retention stipend of no less than $6,000 for each of its employees.

Additionally, according to its warden, San Quentin has long suffered from an inability to retain staff. Although San Quentin has a core group of experienced officers, the warden states that many of the employees it hires and trains leave the institution as soon as possible due to the high cost of living or having to endure long and difficult commutes to work at San Quentin. San Quentin's staff determined that the institution has high vacancy rates primarily because of the high cost of living in Marin County and recruitment problems due to noncompetitive salaries. Because of these factors, in October 2003 San Quentin requested an annual recruitment and retention stipend of no less than $6,000 for each employee. The new stipend would replace any existing stipends that are less than $6,000. If the new stipend is approved, San Quentin would incur an estimated $7 million in additional annual stipend costs, $569,000 of which represents payments to full-time staff assigned to the condemned-inmate unit, although these costs would be offset by any savings that might occur, such as decreased use of overtime because of less staff turnover. According to an administrator in the department's fiscal management and standardization branch, as of January 2004 the department was still considering this request. San Quentin's warden stated that failure to address its recruiting and retention issues in the long term will continue to draw resources away from programs, hinder its efforts to resolve its deficit, and reduce employee morale.

Our review also showed that San Quentin has faced challenges in fully staffing its positions. Prisons prepare staffing reports to communicate their need for new officers from the department's training academy. These reports include information regarding the number of allowed positions for each prison and the number of positions filled. The number of allowed positions includes positions the department is budgeted for as well as additional positions it needs to cover staffing needs, such as for officers on long-term sick leave. As Figure 8 indicates, San Quentin has consistently reported a higher percentage of unfilled positions than has California State Prison, Sacramento. For example, in May 2003 San Quentin had not filled 130 of its 1,009 allowed positions (12.9 percent), whereas California State Prison, Sacramento, had not filled 61 of its 843 allowed positions (7.2 percent).

FIGURE 8

Percentage of Unfilled Officer Positions Reported by San Quentin and California State Prison, Sacramento



Source: Department's Basic Correctional Officer Academy Request for Officer Cadets form.

Note: Because the department changed the format of the Basic Correctional Officer Academy Request for Officer Cadets form, comparable data was not available after May 2003.

Further, because the department must pay overtime to its employees to fill in for vacant positions, unfilled positions drive up overtime costs. San Quentin has incurred much higher overtime costs than has California State Prison, Sacramento: San Quentin averaged about $8,000 in overtime costs per employee in fiscal year 2002–03, whereas California State Prison, Sacramento, averaged $5,100 per employee. Using this as a measure, San Quentin's overtime was about 57 percent higher than that of California State Prison, Sacramento.

Vacancies in health care positions also result in increased use of temporary health care staffing services. Although these services amounted to less than 2 percent of San Quentin's operating and maintenance costs in fiscal year 2002–03, temporary health care staffing of the services most used by San Quentin costs more in the area surrounding San Quentin than in the area around California State Prison, Sacramento. To provide adequate health care for its inmate population, San Quentin contracts with registry services for temporary staffing of vacant positions. In comparing San Quentin with California State Prison, Sacramento, we found that some of the hourly rates for registry services specialties that San Quentin used were higher at California State Prison, Sacramento. However, San Quentin pays more per hour for its three most used specialties—psychology (29.8 percent of total hours contracted), registered nurses (29.7 percent of total hours contracted), and licensed vocational nurses (12.8 percent of total hours contracted). Its hourly rate for registered nurses is 28.1 percent higher than for California State Prison, Sacramento, and its hourly rate for licensed vocational nurses is 15.7 percent higher.

San Quentin pays more per hour for its three most used temporary health care specialties than does California State Prison, Sacramento.

The United States Department of Labor, in its Bureau of Labor Statistics report, indicates higher wages in the San Francisco metropolitan area, including Marin County where San Quentin is located, compared to the Sacramento area. Table 9 on the following page compares the two areas' 2002 wage rates for certain occupations that are key to operating a prison and providing health care services. Even though San Quentin is paying its employees according to statewide wage rates, such competing wage pressures may contribute to its difficulty in recruiting and retaining quality personnel; and the resulting vacancies could lead to increased use of overtime and registry staff.

TABLE 9

Comparison of Hourly Wage Rates Between the San Francisco and Sacramento Areas for Certain Occupations, 2002

	San Francisco	Sacramento
Correctional officers and jailers	$27.89	$22.47
Registered nurses	33.73	27.06
Licensed vocational nurses	21.40	19.09
Health care practitioners and technical occupations	29.22	24.69

Source: United States Department of Labor, Bureau of Labor Statistics, *2002 Metropolitan Area Occupational Employment and Wage Estimates.* (As of February 2004, 2002 data was the latest available.)

CHAPTER 2

Benefits and Drawbacks Exist for San Quentin's Continued Use as a Prison and Its Reuse for Other Purposes

CHAPTER SUMMARY

The State's decision to maintain male inmates who have been sentenced to death (condemned inmates) at California State Prison, San Quentin (San Quentin), has both benefits and drawbacks. The benefits of continuing to house the condemned inmates at San Quentin include providing a timely solution to San Quentin's condemned-inmate housing problem, preserving the unique training and experience of San Quentin staff, and ensuring that condemned inmates are kept in the proximity of the California Supreme Court and the majority of criminal defense attorneys who represent condemned inmates. However, relocating San Quentin's activities and allowing Marin County to develop the property would provide an opportunity for the State to help Marin County address certain of its housing and transportation concerns.

Even though the State might realize lower annual operating and maintenance costs if it moved San Quentin's activities to another location, the costs to relocate the San Quentin activities may exceed the proceeds the State would receive from the sale of the San Quentin property. Moreover, for the California Department of Corrections (department) to be able to relocate its condemned inmates, the Legislature would have to change the current law that requires most male condemned inmates to be housed at San Quentin, and it would have to overcome any potential opposition from other communities to such a move.

CONTINUING THE STATE'S CURRENT PLANS WOULD PROVIDE A MORE TIMELY SOLUTION TO PROVIDING MORE SECURE HOUSING FOR MALE CONDEMNED INMATES

Continuing its plans to build a condemned-inmate complex at San Quentin would allow the department to address its condemned-inmate housing concerns in a more timely manner

than if it were to begin the process over again somewhere else in the State. As we discussed in Chapter 1, the current facilities do not meet many of the standards that the department established in its design criteria guidelines for maximum-security facilities; further, because of their design, the current facilities pose safety risks to both staff and the inmates. The planned complex at San Quentin will provide modern facilities that are consistent with the facilities in many of the department's maximum-security prisons in the State.

Additionally, the Legislature and governor have already approved the $220 million in spending authority that the department estimates it will need to construct the condemned-inmate complex at San Quentin. Based on this approval, the department has begun to implement its plan for constructing the new facility. The department has initiated the environmental impact review process and has selected the consultants that will provide the project design services. The department estimates that it will complete the project in 2007. Changing the location of the department's condemned-inmate complex would require the department to begin the process over again and would likely delay the resolution of the housing problem for condemned inmates.

MAINTAINING MALE CONDEMNED INMATES AT SAN QUENTIN WOULD ENSURE THAT CONDEMNED INMATES ARE KEPT IN THE PROXIMITY OF THE CALIFORNIA SUPREME COURT AND CRIMINAL DEFENSE ATTORNEYS

As we discussed in the Introduction, several entities that are involved in condemned inmates' legal cases are either located in or have staff in the San Francisco Bay Area (Bay Area) near San Quentin. These entities include the Office of the State Public Defender, the California Appellate Project (appellate project), the Habeas Corpus Resource Center (resource center), the Office of the Attorney General, and the California Supreme Court. San Quentin is in close proximity to each of these entities, especially those involved in condemned inmates' defense.

The entities that are involved in defending condemned inmates all said that their ability to do their work would be affected if the condemned inmates were moved away from San Quentin.

Although representatives from the California Supreme Court and the Office of the Attorney General told us that they have no need to be in close proximity to the condemned inmates, the entities involved in the condemned inmates' defense did indicate such a need, as we discussed in Chapter 1.

Representatives of the Office of the State Public Defender, the appellate project, and the resource center all said that moving the condemned inmates away from San Quentin would affect these entities' ability to do their work. The state public defender said that moving the condemned inmates would adversely affect her office's ability to represent inmates and that cases would take even longer to litigate due to the increased travel that such a move would require. The majority of defense attorneys involved with condemned inmates' cases reside in the Bay Area. For example, the resource center director stated that all 26 of its attorneys that represent condemned inmates are in the Bay Area; if the State moved the condemned inmates, significant additional costs would be incurred for the time and expenses related to the additional travel. Furthermore, although a representative of the California Supreme Court stated that the location of the condemned inmates made no difference to the court, he nevertheless stated that the court would be concerned if the location negatively affects the ability of counsel to have reasonable access to the client inmate or the ability of the court to appoint qualified counsel.

KEEPING CONDEMNED INMATES AT SAN QUENTIN WOULD HELP ALLOW THE STATE TO RETAIN ITS EXPERIENCED STAFF TO MANAGE THE CONDEMNED INMATES

The San Quentin warden believes that on-the-job training and experience are the most important assets her staff possess in handling condemned inmates.

Although staff who manage the condemned inmates at San Quentin receive some unique formal training, such as training in court-ordered requirements related to housing condemned inmates, the San Quentin warden[3] believes that on-the-job training and experience are the most important assets her staff possess in handling this population. She stated that the San Quentin's condemned inmates have special needs and that at times staff must handle unique situations. For example, the warden told us that the public has a tremendous interest in the condemned population and that staff are accountable for treating these inmates with professionalism while being able to mitigate the potentially dangerous situations that can develop. According to the warden, condemned inmates are generally an intelligent group and can be clever and charming. Because of the bond they share regarding their fate, they are more likely to plot together to achieve their objectives. In addition, some feel that

[3] On February 19, 2004, after we had completed our fieldwork, the governor appointed the San Quentin warden as the department director. In this report, we refer to her as the warden.

their death sentence leaves them little to lose from engaging in bad behavior. Therefore, experience in dealing with these individuals can be valuable.

Although, as we discussed in Chapter 1, its warden states that San Quentin has long suffered from its inability to retain staff, the warden maintained that San Quentin has a core group of officers with extensive experience working among the condemned-inmate population. Of the 146 employees who currently fill full-time posts assigned to the condemned population, we found that San Quentin had employed 58 (40 percent) of them for at least 10 years. We were not able to determine how long these employees had actually worked with the condemned inmates at San Quentin, because those data were not available. Nonetheless, because 40 percent of the staff working with condemned inmates have been at San Quentin for at least 10 years, it appears that a core group of experienced officers does exist.

The warden believes that many experienced staff would not move to another location and contends that an increase in inmate lawsuits regarding improper treatment may occur.

The warden believes that many of the experienced personnel would not move with the condemned population to another location and contends that an increase in inmate lawsuits regarding improper treatment may occur. However, she added that over a period of time the problem would likely resolve itself as new personnel became more experienced.

CLOSING SAN QUENTIN WOULD PROVIDE AN OPPORTUNITY TO ADDRESS REGIONAL NEEDS BUT MAY BE PROBLEMATIC

The Department of General Services (General Services) has identified three alternatives for the potential reuse of the San Quentin site and has developed an estimate of the revenue the State would receive from selling the land for each alternative. Marin County, which would control the property's development if the State disposed of it, envisions a transit village surrounded by an urban community that would address some community needs, such as transportation and housing. However, the costs of building new prison facilities to replace those at San Quentin and of moving staff, inmates, and equipment to new locations may exceed the potential revenue from selling the site. Additionally, relocating the condemned inmates would require changing the law and could add to the department's current shortage of maximum-security beds. Finally, communities may not be receptive to having the State relocate condemned inmates nearby.

General Services Has Identified Potential Uses for the San Quentin Site

In 2000 the Legislature directed General Services to prepare a report by June 30, 2001, regarding potential reuses of the San Quentin site. General Services' report, entitled *Preliminary Analysis of Potential Reuse and Relocation of San Quentin Prison,* concluded that the site could be used to address fundamental regional issues such as transportation and housing. The report described three alternatives for the potential reuse of the San Quentin property:

- *Residential Community*—This alternative presents a development program that essentially follows existing land use regulations. General Services concluded that this alternative would require the fewest changes to current Marin County policies. The overall development pattern would be suburban in character and would provide open space in both ridgeline and shoreline areas. This alternative would contain low- and moderate-density residential neighborhoods containing approximately 506 dwellings, and it would retain the most buildings for historical reuse. General Services estimated the State's proceeds from the sale of the San Quentin property under this alternative to be between $129 million and $205 million.

- *Transit Village*—This scenario is intended to provide additional affordable and market-rate housing linked to an enhanced set of regional land and water transit facilities. It is intended to promote a compact development pattern of housing, and supportive mix of uses on the site. General Services stated that this approach would require amending current Marin County zoning and policies regarding land use. This alternative would contain a mixed-use transit center, a mixed-use core area, a core residential area, and peripheral residential areas surrounded by low- and moderate-density residential neighborhoods, for a total of 2,097 dwelling units. The overall development pattern would be relatively urban in character and would provide open space in the ridgeline and shoreline areas. This alternative would retain the fewest historic buildings for reuse. General Services estimated the State's proceeds from the sale of the San Quentin property under this alternative to be between $364 million and $568 million.

- *New Town*—This alternative, like the transit village, provides for an enhanced set of facilities for regional land and water transit. It illustrates an urban development pattern of

housing, employment, and a supportive mix of uses on the site. General Services concluded that this approach would require revising current Marin County policies regarding land use. This alternative calls for more intensive development than the transit village, thereby increasing the number of housing units—both market rate and affordable—to 3,585 units. It is composed of a mixed-use transit center, a mixed-use core area, and a core residential area surrounded by low- and moderate-density residential neighborhoods. The overall development pattern would be more urban in character than the transit village but would still provide open space in both ridgeline and shoreline areas. This alternative would retain a moderate number of buildings for historical reuse. General Services estimated the State's proceeds from the sale of the San Quentin property under this alternative to be between $421 million and $664 million.

Marin County Envisions a Transit Village Surrounded by an Urban Community That Would Provide Various Benefits

Marin County's vision for the San Quentin property is intended to address transportation and housing needs of the region, as well as increase the tax base of the county.

Marin County has refined its vision for San Quentin in recent years, developing plans that are intended to address the region's needs, such as transportation and affordable housing, as well as increase the county's tax base through increased property and sales taxes. In light of the potential for the State to close San Quentin, the Marin County Board of Supervisors appointed the San Quentin Reuse Planning Committee (reuse committee) in early 2002 to evaluate appropriate uses for the site should the State decide to declare the property surplus and dispose of it. As a result of the reuse committee's activities, which included public input, the county published the *San Quentin Vision Plan* (vision plan) in September 2003. The vision plan presents an urban community surrounding a transit plaza where ferries, trains, buses, and multiuse pathways all converge. According to county representatives, the vision plan corresponds most closely with General Services' transit village alternative. Marin County considers its vision plan a formal recommendation for the San Quentin site. County staff are now incorporating the vision plan's elements into a countywide plan update.

According to county representatives, potential benefits from reusing the San Quentin site would be not only local but regional. The representatives stated that the transportation problems are a regional issue because they affect commuters from throughout the region. The county's vision plan for the site includes a transportation facility that potentially would

include a ferry terminal, an extension of the commuter rail line, and bus service. According to the representatives, the county's Water Transit Authority has determined that the best location for the area's ferry terminal facility is at San Quentin, due to its deep-water access. The facility's current location at Larkspur requires dredging the channel and maintaining a no-wake zone that results in slower service, making the ferry less attractive to users than a San Quentin terminal would be. Housing is also in short supply in Marin County because the land remaining to accommodate projected growth is limited. As a result, this area has some of the most expensive average home prices in California. The mixed-density housing included in the county's vision plan would provide additional housing to the region. The county representatives also added that the development would provide revenue to the county in the form of property and sales taxes from the vision plan's new housing and commercial space.

The Costs of Moving San Quentin's Activities May Exceed the Potential Revenue From Selling the San Quentin Site

As we discussed previously, General Services has identified three potential uses of the San Quentin property and has estimated the amount the State might receive from selling the property under each scenario. According to county representatives, its vision plan is most similar to General Services' estimate for a transit village. Thus, the amount that could result from selling the San Quentin property would best correlate to General Services' estimated $364 million to $568 million. Marin County has not developed its own estimate of the amount of money the State may realize by selling the San Quentin property, because it has not developed the detailed plans that it would need to accomplish this. County representatives indicated that it would not make sense for Marin County to plan specifically for the site until the State decided to pursue making the property available for development or at least expressed continued interest in collaborating on additional studies.

The department's cost to relocate San Quentin's activities could exceed the revenue from the sale of the property by $337 million.

As we discussed in Chapter 1, the department estimates that its costs to relocate the San Quentin activities could be as high as $798 million in capital costs and $107 million in onetime operational costs, for a potential total of $905 million. Therefore, using the maximum for both estimates, the department's cost to relocate San Quentin's activities could exceed the revenue from selling the property by $337 million. Using San Quentin's operating costs, which amounted to

$158.5 million in fiscal year 2002–03, the department would have to reduce annual operating costs by 7 percent over 30 years at alternative locations to recover the $337 million.

Indeed, relocating the activities currently at San Quentin to other locations may result in some savings in annual operating and maintenance costs. As we discussed in Chapter 1, we found that San Quentin incurs higher personnel costs than does California State Prison, Sacramento, in part because of stipends it pays to many of its personnel amounting to more than $2.3 million in additional annual costs. Furthermore, according to its warden, San Quentin has long suffered from recruitment difficulties and an inability to retain staff due to the high cost of living in Marin County and San Quentin's noncompetitive salaries for the region. Therefore, San Quentin has experienced an increased use of overtime and temporary health care staffing services. As a result, if the department relocated San Quentin's activities, it might realize lower annual operating and maintenance costs.

Relocating Condemned Inmates Would Require Changing the Law

Past efforts to revise the state law requiring male condemned inmates to be housed at San Quentin have been mostly unsuccessful.

Current law requires that the department carry out executions at San Quentin and that it house most male condemned inmates there. Therefore, if the department were to relocate its condemned inmates, the Legislature would need to revise state law to allow it to do so. Past efforts to revise this provision have been mostly unsuccessful. In 1996 a bill to move certain condemned inmates to California State Prison, Corcoran, died in a legislative committee. In addition, the Legislature amended a 2001 bill, which initially was to provide the department a wide degree of flexibility in relocating condemned inmates whose conduct endangered others, to allow the department to relocate only up to 15 inmates who have committed specified offenses to California State Prison, Sacramento. Therefore, changing the provision in state law that requires the department to house male condemned inmates at San Quentin could be a challenge.

Moving the Male Condemned Inmates to Existing Maximum-Security Facilities Would Add to the Department's Shortage of Maximum-Security Beds

As we discussed in Chapter 1, the department's statistics show a statewide shortage of maximum-security beds. Therefore, relocating the condemned inmates to existing maximum-security facilities at another location would displace the level IV

or maximum-security inmates housed in those facilities, exacerbating the shortage of maximum-security beds. According to the department's projections, even after it opens a new maximum-security prison in fiscal year 2004-05, it will have a shortage of 5,000 maximum-security beds. Additionally, because the department normally houses most maximum-security inmates two to a cell (at 190 percent of design capacity), it estimates that dedicating 1,024 existing cells to condemned inmates could displace up to approximately 1,950 inmates. As we pointed out in Chapter 1, the department houses overflow maximum-security inmates in level III facilities, likely forcing the department to house level III inmates in level II facilities. This would create a potential safety concern because inmates would be housed in facilities that were not designed with the appropriate security features.

Communities May Not Be Receptive to Relocating Condemned Inmates Near Their Locations

In 2001, the city of Folsom opposed moving certain condemned inmates to a prison located in its city, citing traffic and security concerns.

The department's past efforts to relocate condemned inmates have resulted in community opposition. For example, in 2001 the city of Folsom (Folsom) became aware that the State was considering moving certain condemned inmates to California State Prison, Sacramento, which is located in Folsom. Folsom passed a resolution declaring its opposition based on the traffic and security concerns related to the execution process. The resolution stated that persons demonstrating for or against executions at the prison would be within 300 feet of a residential community and would detrimentally affect neighborhood residents' peace, safety, and security. In addition, the resolution stated that such demonstrations would impede the flow of traffic and impose a burden on the resources of Folsom's police department, causing it to divert patrol officers from other enforcement matters and thereby posing a safety risk to its residents. According to the department, no communities have expressed an interest in housing the condemned inmates. Therefore, any decision to relocate condemned inmates would need to overcome any community opposition to such a move. ■

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CHAPTER 3

Conclusions and Recommendations

CONCLUSIONS

The California Department of Corrections (department) has begun the process of constructing a new complex for inmates who have been sentenced to death (condemned inmates) at California State Prison, San Quentin (San Quentin). The Legislature and governor have approved spending authority of $220 million, and the department is implementing its plans to construct the facilities, currently identifying the project's environmental impacts and selecting the consultants that will provide the project design services.

Although the department's estimate of the costs to build the new condemned-inmate complex is based on its previous experiences, its analysis of the best location to house the State's male condemned inmates is incomplete. For example, the department's analysis did not consider all alternatives, such as building the facility at other locations. Additionally, the department's analysis did not consider all relevant factors, such as anticipated annual operating and maintenance costs. Because the department's analysis was incomplete, we can conclude neither that San Quentin is the best location for the new condemned-inmate complex nor that a better location exists. Further, we found that benefits and drawbacks exist to both proceeding with the department's plans to build a condemned-inmate complex at San Quentin and to reusing the San Quentin site for other purposes.

RECOMMENDATIONS

If the Legislature decides that it wants a more complete analysis regarding the optimal location for housing male condemned inmates, it should consider the following actions:

- Require the department to assess the costs and benefits of relocating the condemned-inmate complex to each of the current prison locations possessing either adequate available land for such a facility or an existing adequate facility, including in its assessment the relative importance and costs associated with each site's remoteness.

- Require the department to analyze the estimated annual operating and maintenance costs of a new condemned-inmate complex at other locations with adequate available land or facilities, compared to those it expects to incur at San Quentin.

- Require the department, in order to provide more accurate estimates of future numbers of condemned inmates, to include all relevant factors in future estimates, such as the number of inmates who leave death row for various reasons, including commuted sentences and death.

In the future, the department should include all feasible alternatives and appropriate costs when it analyzes locations for any new prison facilities.

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 this report.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Date: March 16, 2004

Staff: Karen L. McKenna, CPA, Audit Principal
David E. Biggs, CPA
Dawn M. Beyer
Leonard Van Ryn, CIA

Agency's comments provided as text only.

Youth and Adult Correctional Agency
1515 K Street, Suite 520
Sacramento, CA 95814

February 27, 2004

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

Dear Ms. Howle:

Thank you for the opportunity to review and comment on the draft of your recent audit 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.*" We are forwarding the enclosed memorandum prepared by the California Department of Corrections (CDC) as our response to the draft audit. As indicated in the response, we appreciate the thoroughness of your review in addressing the relevant issues pertaining to the construction of the condemned-inmate complex at San Quentin. As you further indicate, the CDC has begun implementing plans for the construction of the new facility based on $220 million in spending authority received by the Legislature and the Governor. We believe that continuing with this plan is a timely solution to providing more secure housing for the male condemned population.

If you have any questions concerning our response, please contact me at 323-6001.

Continued success,

(Signed by: Roderick Q. Hickman)

RODERICK Q. HICKMAN
Secretary
Youth and Adult Correctional Agency

Enclosures

State of California Department of Corrections

Memorandum

Date : March 1, 2004

To : Roderick Q. Hickman
Secretary
Youth and Adult Correctional Agency
1515 K Street, Suite 520
Sacramento, CA 95814

Subject: **BUREAU OF STATE AUDITS REPORT TITLED "CALIFORNIA DEPARTMENT OF CORRECTIONS: ITS PLANS TO BUILD A NEW CONDEMNED-INMATE COMPLEX AT SAN QUENTIN ARE PROCEEDING, BUT ITS ANALYSIS OF THE ALTERNATIVE LOCATIONS AND COSTS WAS INCOMPLETE"**

As requested, the California Department of Corrections (CDC) reviewed the Bureau of State Audits Report titled "California Department of Corrections: Its Plans to Build a New Condemned Inmate Complex at San Quentin are Proceeding But Its Analysis of the Alternative Locations and Costs Was Incomplete."

The CDC wishes to express its appreciation for the time and effort of the auditors dedicated to this review. They were thorough in reviewing both in concept and in on-site visitations, the serious safety and security weakness that exist and are continuing to grow in the housing of condemned inmates in the existing aged facilities at California State Prison, San Quentin (SQ). Their review validates what CDC has been saying for many years--that SQ facilities are not secure or safe for the housing of maximum-security inmates such as the condemned.

As the report correctly points out, the Department has been attempting for more than ten years to solve a serious State public safety issue that exists and will continue to grow in the housing of the male condemned at SQ; keeping the male condemned at SQ will allow the State to retain its experienced staff to manage the male condemned; the costs of moving SQ may exceed the potential revenue from the sale of SQ; moving the male condemned to existing maximum-security facilities would add to the Department's shortage of maximum- security cells, and continuing with the State's current plans would provide a more timely solution to providing more secure housing for the male condemned.

The audit acknowledges and articulates these issues clearly and validates the Legislature's decision to build this much-needed facility at SQ to correct a serious State safety and security situation. The State must move now and as rapidly as possible to correct this serious public safety issue.

If you have any questions regarding the attached response, please call Ernest C. Van Sant, Deputy Director, Facilities Management Division, at 445-7112.

(Signed by: J.S. Woodford)

J. S. WOODFORD
Director

Attachment

DEPARTMENT OF CORRECTIONS
RESPONSE TO THE BUREAU OF STATE AUDITS REPORT
"Its Plans to Build a New Condemned-Inmate Complex at San Quentin Are Proceeding, but Its Analysis of Alternative Locations and Costs Was Incomplete"
MARCH 2004

CHAPTER 1

Bureau of State Audits:

The Department Is Proceeding With Its Plans to Construct a New Condemned-Inmate Complex, but It did Not Include all Alternatives in Deciding Where to Locate the Complex

California Department of Corrections Response:

The California Department of Corrections (CDC) appreciates the time and effort each of the auditors dedicated to this review. They were thorough in reviewing both in concept and in on-site visitations, the serious safety and security weakness that exist and are continuing to grow in the housing of male condemned inmates in the existing aged facilities at the California State Prison, San Quentin (SQ). Their review validates what CDC has been saying for many years--that SQ facilities are not secure or safe for the housing of maximum-security inmates such as the condemned. The audit acknowledges and articulates these issues clearly and supports the Legislature's understanding of these issues when they authorized the new facility.

The Department also appreciates the thoroughness of the auditors in examining the project cost estimating and planning, and the analysis of the projected longevity for this project. The auditors validated the cost modeling and estimating used, and acknowledged the strength of our experience and of our consultants in developing facility plans, accurate cost models, and designs that effectively provide efficient security, safety, and operations. The auditors also validated that the project will meet the housing needs of the male condemned for the foreseeable future.

While we agree that the Department did not prepare a formal analysis of the feasibility of all sites nor a side-by-side operating cost analysis of the potential sites where the male condemned could be added, over the last decade the Department has considered in various policy deliberations all aspects of alternative sites that could be considered "feasible" for the male condemned. Repeated legislative and local opposition, both legal and political, were considered when identifying feasible sites. Remoteness, that affects the ability to efficiently manage and operate a facility and program of this sensitivity and difficulty, as well as impacts to stakeholders, including the legal community, were also considered. In addition, the site's ability to provide or support sufficient water, wastewater, and other infrastructure needs was also assessed. Only California State Prison, Sacramento (SAC) and SQ were deemed feasible, and the Legislature reviewed these options and chose to authorize a new condemned facility at SQ.

While we agree that SQ does have certain operating costs that are higher than SAC, it is important to note that the overall fiscal year 2002/2003 operating cost per inmate at SQ was $30,712 as compared to other maximum-security institutions ($31,754 to $45,452) and to SAC at $47,646. We know that various issues including size and mission matter but we also believe that the design and construction of new buildings at SQ specifically for the condemned mission will provide both

program and cost effectiveness opportunities that a conversion of SAC (originally built for a general population and subsequently modified at a cost of more than $20 million to a mental health mission) would not offer.

CHAPTER 2

Bureau of State Audits:

Benefits and Drawbacks Exist for Both the Continued Use of San Quentin as a Prison and Its Reuse for Other Purposes

California Department of Corrections Response:

We wholeheartedly concur with the report's findings that continuing with the State's current plans would provide a more timely solution to providing more secure housing for the male condemned. We agree that maintaining the male condemned at SQ would allow the State to retain its experienced staff to manage the male condemned and would ensure that male condemned inmates are kept in the proximity of the California Supreme Court and criminal defense attorneys. We also agree that the costs of moving SQ may exceed the potential revenue from the sale of SQ; that moving the male condemned to existing maximum-security facilities would add to the Department's shortage of maximum-security cells; and that communities may not be receptive to relocating male condemned inmates near their locations.

While the potential for selling SQ property may provide unique benefits to some parties in Marin County, the State of California derives numerous advantages and benefits from a prison such as SQ being located in an urban location. Most important are the partnerships with numerous volunteer organizations that have provided counseling and services to the inmates for decades. Today, it is more important than ever to build upon these strengths as the Department continues to focus its efforts to reduce recidivism and provide our parolees with the skills, knowledge, and support to be successful upon their release.

As the report indicated, the Department has begun the planning and design activities for this project as authored by the Legislature. At a December public hearing held in Marin County, many local residents and a locally elected official expressed support for the new condemned project at SQ and opposition to the unadopted alternative uses being considered by Marin County.

CHAPTER 3

Bureau of State Audits:

Conclusions and Recommendations

California Department of Corrections Response:

As the report correctly points out the Department has been attempting for more than ten years to solve a serious public safety issue that exists and will continue to grow in the housing of the male condemned at SQ; keeping the male condemned at SQ will allow the State to retain its experienced staff to manage the male condemned; costs of moving SQ may exceed the potential revenue from

the sale of SQ; moving the male condemned to existing maximum-security facilities will add to the Department's shortage of maximum-security cells and; continuing with the State's current plans will provide a more timely solution to providing more secure housing for the male condemned.

The report validates the Legislature's decision to build this much needed facility at SQ now to correct a serious safety and security situation and that the Department can build this facility successfully. The State must move rapidly to correct this serious public safety issue.

Recommendation:

"In the future the department should include all feasible alternatives and appropriate costs when it analyzes locations for any new prison facilities."

California Department of Corrections Response:

We concur. The Department will continue its practice of assessing feasible alternatives and appropriate costs when it analyzes locations for any new prison facility.

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