

Report 2015-609/2015-610

High Risk Update— Public Safety Realignment and the California Department of Corrections and Rehabilitation

The State Has Reduced Overcrowding in Its Prisons, but Its
Inmate Health Care Is Still Under Federal Receivership

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April 21, 2015

2015-609/2015-610

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

Dear Governor and Legislative Leaders:

The California State Auditor presents this report updating our previous assessment of the California Department of Corrections and Rehabilitation (Corrections) as a high-risk agency and the State's 2011 public safety realignment as a high-risk issue. In 2007 we designated Corrections as a high-risk agency because of overcrowding in the state prisons, the state of the prison health care system, and its lack of consistent leadership. In 2013 we designated the 2011 public safety realignment, which transferred responsibility for certain nonserious, nonviolent offenders from the State to the counties, to be a high-risk issue because the State lacked reliable and accessible data on the legislation's effects.

This report concludes that Corrections continues to warrant its designation as a high-risk agency. Although Corrections has continued to reduce the state prison population, achieving the final inmate population target of 137.5 percent of the prisons' design capacity for the first time in February 2015, we continue to have concerns about the remaining two areas. Specifically, despite demonstrating improvement, the prison health care system remains under the direction of the federal court-appointed receiver. Additionally, Corrections continues to lack a succession plan for its senior leadership positions and has no timeline for when such a plan will be complete. Until Corrections has an opportunity to successfully demonstrate that it can maintain the level of care established by the receiver, and can further demonstrate that it has developed a succession plan, we will continue to designate Corrections as a high-risk agency.

In contrast, we conclude that the 2011 public safety realignment is no longer a high-risk issue at the state level because of steps taken by the Board of State and Community Corrections to collect information on realignment programs and practices for counties to use when making decisions related to criminal justice. Although many counties continue to face challenges related to overcrowded jails because of realignment, these challenges are local responsibilities rather than statewide issues that can be addressed by any particular state agency.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

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Summary

Results in Brief

In 2007 we designated the California Department of Corrections and Rehabilitation (Corrections) as a high-risk state agency because of overcrowding in the state prisons, the state of the prison health care system, and Corrections' lack of consistent leadership. Our current review finds that Corrections has reported significant reductions to the state prison population; however, Corrections continues to warrant its designation as a high-risk state agency because of our concerns about the remaining two areas. In contrast, we believe that the 2011 transfer of responsibility for certain nonserious, nonviolent offenders from the State to the counties—a transition known as realignment—is no longer a high-risk issue under our state high-risk program.

Since our high risk update report in 2013, Corrections has continued to reduce the state prison population. In fact, it reported to the Federal Court that it achieved the final inmate population target of 137.5 percent of the prisons' design capacity for the first time in February 2015.¹ Although not enough time has passed for Corrections to demonstrate that it can maintain inmate population levels at the Federal Court's target, a number of factors cause us to conclude that state prison overcrowding is no longer a factor contributing to Corrections' designation as a high-risk agency. Specifically, the State's 2011 public safety realignment significantly reduced the number of inmates housed in the state prisons. Further, the passage of Proposition 47 in November 2014 reduced penalties for certain offenders, making some offenders ineligible for state prison and potentially shortening the sentences of others. By February 2015, Corrections had increased the number of inmates it houses in contract beds outside of state prison facilities to roughly 14,700 individuals; these inmates do not count against the prison population cap. We will consider reexamining the State's prison population in future high risk reports if it begins to show signs of exceeding the Federal Court's inmate population target.

In February 2006 the State's inability to provide adequate prison health care caused the Federal Court to place its prison health care system under a court-appointed federal receiver. California Correctional Health Care Services, under the direction of the federal court-appointed receiver—which we will collectively refer to as the Receiver's Office—will remain in place until the Federal Court

Highlights . . .

Our review of the California Department of Corrections and Rehabilitation (Corrections) and the State's 2011 public safety realignment highlighted the following:

- » *Corrections has reduced its prison population substantially and met the final inmate population target the Federal Court established.*
- » *The prison health care system remains under the direction of the federal court-appointed receiver.*
- » *Corrections lacks a succession plan to ensure that it has consistent leadership.*
- » *The Board of State and Community Corrections has made progress toward gathering information necessary for counties to evaluate the impact of realignment.*

¹ We use one term—Federal Court—throughout our report for simplicity, rather than referring to the United States District Courts for the Eastern and Northern Districts of California as separate courts.

is satisfied that the State has the will, capacity, and leadership to maintain a system of providing constitutionally adequate medical health care services to inmates. In our 2013 report, we concluded that until control of the prison health care system reverts back to Corrections, Corrections will remain a high-risk agency. Because the Receiver's Office has reported significant improvement in the inmate health care system, the Federal Court has now clarified a process for the gradual transition of inmate health care back to Corrections. However, the timing of this transfer is left to the discretion of the Receiver's Office. Until the Receiver's Office delegates increased authority to Corrections, and until Corrections demonstrates that it can adequately manage inmate medical care, we will continue to consider the prison health care system a factor contributing to Corrections' designation as a high-risk agency.

Further, we believe that Corrections' lack of a succession plan for its leadership remains another factor that makes Corrections a high-risk agency. We previously considered Corrections' challenges with maintaining consistent leadership to be high risk because many executive- and warden-level positions were vacant or held by individuals in an acting capacity. However, Corrections has recently shown significant improvement in filling the vacant positions within its leadership at its headquarters: Its March 2015 organizational chart showed no vacancies and only three employees serving as acting directors. Nonetheless, after eliminating its succession planning and training units in 2011, Corrections has yet to establish an adequate alternative to meet this need. Without such a plan or an adequate alternative, Corrections cannot ensure the availability and quality of its future leaders; thus, its ability to maintain consistent leadership remains a factor contributing to Corrections' designation as a high-risk agency.

Finally, in 2013 we designated the State's 2011 public safety realignment of its criminal justice programs to be a high-risk issue because the State lacked reliable and accessible data on the legislation's effects. However, since our previous report, the Board of State and Community Corrections has taken significant steps to collect information on realignment programs and practices for counties to use when making decisions related to criminal justice. For example, it has published a definition of recidivism, identified and made available criminal justice performance metrics, and gathered data from counties regarding their plans for implementing realignment. Further, although many counties continue to face challenges related to overcrowded jails because of realignment, these challenges are local responsibilities rather than statewide issues that can be addressed by any particular state agency. For these reasons, we do not believe realignment should continue to be designated an area of high risk, under our state level high-risk program.

Introduction

Background

State law authorizes the California State Auditor (state auditor) to establish a state high risk assessment program and to issue reports with recommendations for improving state agencies or statewide issues it identifies as high risk. State law also authorizes the state auditor to require state agencies identified as high risk and those responsible for high-risk issues to periodically report to the state auditor on the status of the implementation of recommendations made by the state auditor. Programs and functions that are high risk include not only those particularly vulnerable to fraud, waste, abuse, and mismanagement, but also those that have major challenges associated with their economy, efficiency, or effectiveness.

We first designated the California Department of Corrections and Rehabilitation (Corrections) as a high-risk agency because of issues related to overcrowding in its prisons, its inability to achieve or maintain a constitutional level of health care for its prison inmates, and issues related to the consistency of its leadership in upper management. We cited the same issues in our subsequent reviews, and as a result, Corrections has remained a high-risk department since 2007. In 2013 we added as a new high-risk issue the 2011 realignment of funding and responsibility between the State and local governments. We highlighted the impact of realignment on criminal justice programs and noted that stakeholders, including counties that are responsible for assessing their progress under realignment, need reliable and accessible data to assess the effects of realignment on their local criminal justice programs.

To update our analysis of the high-risk statuses of Corrections and the 2011 realignment of criminal justice programs, we interviewed knowledgeable staff at the following entities:

- Corrections.
- The Office of the Inspector General.
- The California Correctional Health Care Services, which operates under the direction of a federal court-appointed receiver.
- The Board of State and Community Corrections.

We also interviewed the governor's special advisor on public safety realignment. In our interviews, we obtained various officials' perspectives on the current extent of risk related to Corrections and the 2011 realignment. We reviewed the efforts that the officials had identified as mitigating the risks, as well as reports and other

documentation relevant to the issues. We considered a number of qualitative and quantitative factors, as well as whether or not any agencies had taken measures to correct previously identified deficiencies. Ultimately, the determination of high risk was based on the independent and objective judgment of the state auditor's professional staff.

High-Risk Agency Update

THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

In our 2013 update on high risk, we continued to identify the California Department of Corrections and Rehabilitation (Corrections) as a high-risk state agency, citing its struggles to reduce prison overcrowding, the state of the prison health care system, and Corrections' lack of consistent leadership. Our current review found that Corrections has made significant progress on the first of these three issues: Corrections has reported that it has reduced its prison population substantially and recently met the final population target that the Federal Court established.² However, the health care system remains in federal receivership, and Corrections must do more to ensure that it maintains consistent leadership. Specifically, California Correctional Health Care Services, under the direction of the federal court-appointed receiver—which we collectively refer to as the Receiver's Office—will retain control of the prison health system until the Federal Court determines that medical health care provided to inmates meets constitutional standards. Although the Federal Court recently prescribed a process for gradual delegation of authority and institutions back to Corrections, we continue to designate prison health care in federal receivership as high risk until Corrections demonstrates that it has the capacity to adequately manage the functions and institutions the Receiver's Office transfers back to it. Finally, we believe that Corrections has more work to do to ensure that it has the ability to attract and retain consistent leadership and that it should continue its efforts to develop a succession plan or a suitable alternative. For these reasons, we continue to designate Corrections a high-risk state agency.

Corrections Recently Reported That It Had Achieved the Federal Court-Ordered Prison Population Target

In accordance with the Federal Court's orders, Corrections has reduced its inmate population. In fact, in February 2015, Corrections reported to the Federal Court that it had met the final population target for its adult institutions.³ Although Corrections has reported that it has met the terms of the Federal Court's Order, the Federal Court has made it clear that it expects

² We use one term—Federal Court—throughout our report for simplicity rather than referring to the United States District Courts for the Eastern and Northern Districts of California as separate courts.

³ Corrections also reported to the Federal Court that it had maintained the appropriate population level in March and April 2015.

We have concluded that prison overcrowding no longer is a factor for designating Corrections as a high-risk agency.

Corrections to demonstrate an ability to sustain these lower population levels. Thus, more time is necessary for Corrections to satisfy the Federal Court on the question of sustainability. Nonetheless, we have concluded that prison overcrowding no longer is a factor for designating Corrections as a high-risk agency according to the statute governing our high risk program. However, because Corrections relies on contracts with facilities to house a significant number of inmates outside of its prisons to meet the Federal Court's population targets, we will consider reexamining the State's prison population in the future if Corrections demonstrates difficulty in maintaining the Federal Court's inmate population target.

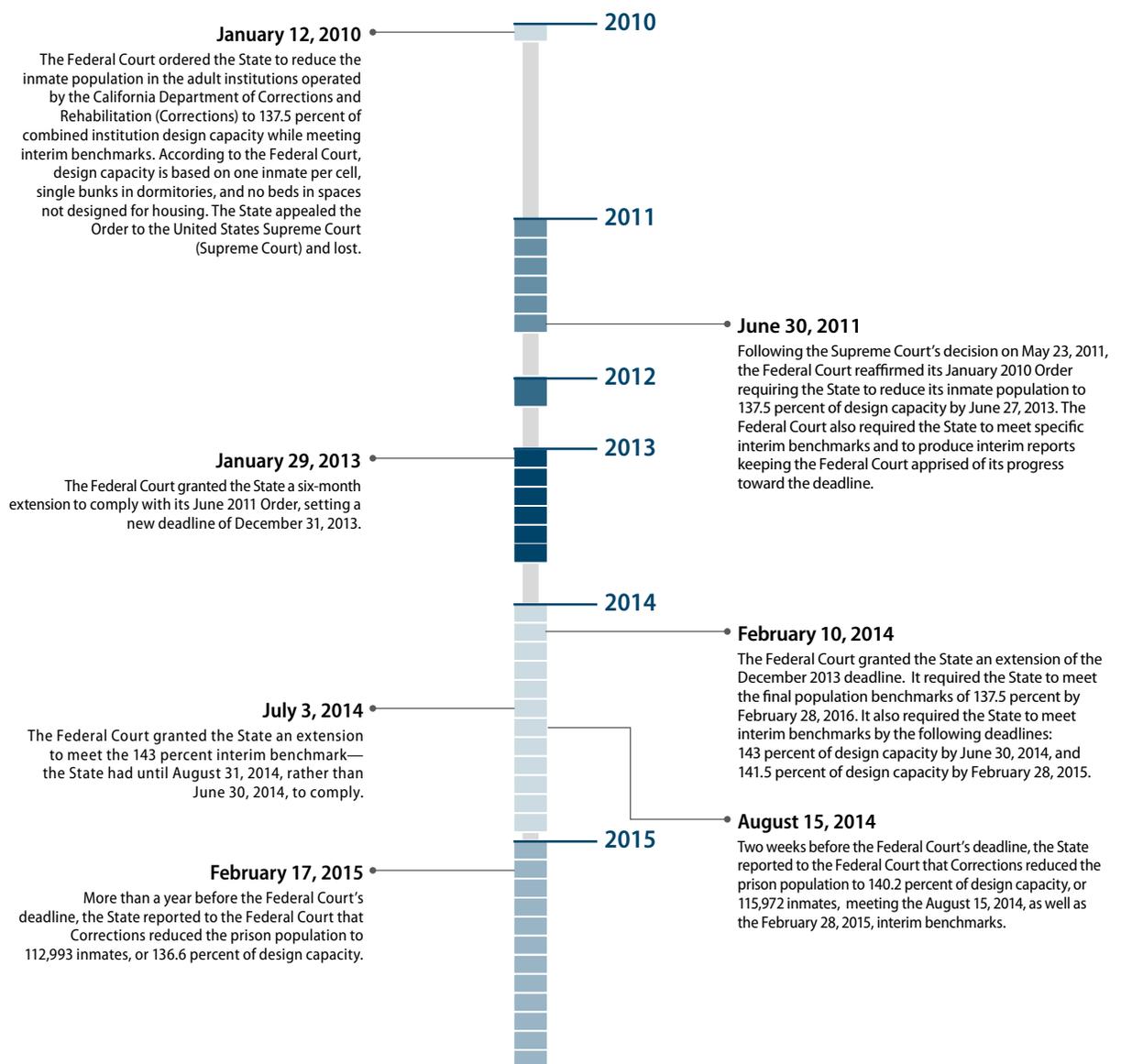
In August 2009 a Federal Court ordered the State to reduce its inmate population in the adult prisons Corrections operates to no more than 137.5 percent of combined design capacity, which it defined as the number of inmates a prison can hold based on one prisoner per cell, single bunks in dormitories, and no beds in spaces not designed for inmate housing. In a related Order dated January 2010, the Federal Court made clear that its Order to reduce the adult prison population was an attempt to rectify deficiencies in inmate medical and mental health care. The January 2010 Order stated that "crowding is the primary cause of the constitutional inadequacies in the delivery of medical and mental health care to California inmates and that no relief other than a 'prison release order' . . . is capable of remedying these constitutional deficiencies." Figure 1 depicts a timeline of select Federal Court Orders and the State's reports on its progress toward reducing its inmate population.

A variety of statutory changes have helped Corrections reduce its prison population. The cornerstone of the State's solution for prison overcrowding was its 2011 public safety realignment, which we discuss in more detail in subsequent sections. Realignment shifted responsibility for newly convicted, low-level offenders and for most parole violators from the state prison system to county jails.⁴ Although it is credited with reducing the prison population by tens of thousands of inmates, realignment alone was not enough to meet the federal court-ordered target. Consequently, in September 2013, the governor signed Senate Bill 105 (Chapter 310, Statutes of 2013), expanding Corrections' ability to enter into contracts for additional inmate housing with local governments, private entities within and outside of the State, and community correctional centers. Further, the bill appropriated \$315 million for this effort. Corrections' *Weekly Report of Population* dated February 11, 2015, listed roughly 5,900 inmates as housed

⁴ According to the Legislative Analyst's Office, the 2011 realignment made felons generally ineligible for state prison unless they had current or prior convictions for serious, violent, or sex-related offenses.

under contract within the State and another 8,800 inmates as housed under contract out of the State. Housing these roughly 14,700 inmates in contracted facilities helped Corrections meet the federal court-ordered population target because the inmates Corrections houses outside of its 34 adult institutions do not count against the institutions' combined design capacity.

Figure 1
Timeline of Selected Federal Court Orders Related to Prison Population Benchmarks



Sources: Federal Court Orders dated January 12, 2010; June 30, 2011; January 29, 2013; February 10, 2014; and July 3, 2014, and status reports from the State dated August 15, 2014, and February 17, 2015.

Federal Court-Ordered Measures to Reduce the State's Prison Population

The Federal Court ordered the State to implement the following measures to reduce its adult prison population:

Measures affecting release credits:

- Increase good behavior and participation credits for offenders with two felony convictions for crimes that are not violent or sex-related. The measure made these offenders eligible for credits that could reduce their sentences by 33 percent, an increase from the previous rate of 20 percent.
- Increase good behavior and participation credits for low-risk, minimum-security inmates so that these offenders are eligible to earn two days of credit for every one day served while maintaining participation in fire camps.

Measures affecting parole:

- Create and implement a new parole determination process for offenders with two felony convictions for crimes that are not violent or sex-related where these offenders become eligible for parole consideration once they have served 50 percent of their sentence.
- Parole inmates who are serving indeterminate sentences—sentences of unspecified duration—to whom the Board of Parole Hearings has already granted parole and set a future parole date.
- Finalize and implement an expanded parole process for medically incapacitated inmates in consultation with California Correctional Health Care Services.
- Finalize and implement a new parole process whereby it refers inmates who are 60 years of age or older and have served at least 25 years of their sentences to the Board of Parole Hearings to determine the inmates' suitability for parole.

Measures affecting rehabilitative programs:

- Activate new reentry hubs at 13 designated prisons. These hubs are locations in which the California Department of Corrections and Rehabilitation (Corrections) and Corrections concentrates programs to help to ensure that inmates are ready for the transition back into society after they are released. The Federal Court ordered Corrections to ensure the hubs are operational within one year.
- Pursue expanding pilot reentry programs with additional counties and local communities.
- Implement an expanded alternative custody program for female inmates.

Source: Federal Court Order dated February 10, 2014.

Furthermore, California's voters passed Proposition 47 in November 2014, which further reduced Corrections' inmate population. Specifically, Proposition 47 reduced certain crimes to misdemeanors, thus making them punishable by imprisonment in a county jail rather than in a state prison. The crimes in question include shoplifting when the value of the stolen property does not exceed \$950, and possession of certain controlled substances for personal use unless the defendant has certain prior convictions. Further, the proposition allows offenders currently serving certain felony sentences to apply for reduced sentences. As of mid-February 2015 Corrections reported that it had released approximately 2,470 inmates that met the provisions of the proposition. The Legislative Analyst's Office (LAO) estimates that by reducing some crimes to misdemeanors, Proposition 47 may result in an ongoing reduction to the state prison population of several thousand inmates within a few years. Similarly, the LAO estimates inmate resentencing resulting from Proposition 47 could likewise result in the release of several thousand inmates; however, according to the LAO, this resentencing will have only a temporary effect on the State's prison population. In its *Senate Bill 105 Final Report* dated January 9, 2015, the California Department of Finance (Finance) estimated that roughly 5,300 inmates were potentially eligible for release if resentenced under the provisions of Proposition 47 as of September 2014.

In addition to those steps the State took on its own, the Federal Court ordered Corrections to institute a series of measures to reduce the prison population. In an Order dated February 10, 2014, the Federal Court instructed the State, among other things, to adopt eight measures to reduce the inmate population. We describe these measures in the text box. Arguably, the measure that has had the most impact to date on the prison population is a measure that made certain offenders eligible for good behavior and participation credits that could reduce their sentences by 33.3 percent. Corrections reported to the Federal Court that it had released at least 5,581 inmates as a result of the measure as of February 2015. In contrast, in its February 2015 report to the Federal Court, Corrections noted that it had granted parole to only 115 inmates because they were 60 years or older and had served at least 25 years of their sentences.

The Federal Court Has Recently Clarified the Process for Transitioning the State's Medical Care System From Under the Receivership, but More Work Remains

In 2006 the Federal Court ordered that California's inmate health care system will remain in federal receivership until it determines that the State has the will, capacity, and leadership to maintain a system of providing constitutionally adequate medical health care services to inmates. In March 2015 the Federal Court issued an Order (March 2015 Order) clarifying the terms and conditions for transitioning the State's medical care system back from the Receiver's Office. The March 2015 Order clarifies the process for gradual delegation of authority over headquarter functions and institutions back to Corrections and vests the delegation decisions with the receiver. Leading up to the Federal Court's order, the Receiver's Office reported to the court that it had made notable improvements to the inmate health care system and had already delegated several functions to Corrections. However, until Corrections can demonstrate that it is capable of maintaining the medical care systems that the Receiver's Office has put in place, the prison health care system will continue to be a factor contributing to Corrections' designation as a high-risk agency.

The Receiver's Office published a turnaround plan of action (turnaround plan) in 2008, which has guided its efforts for bringing prison health care services within Corrections up to federal constitutional standards. In the turnaround plan, the Receiver's Office stated that constitutionally adequate health care requires that inmates receive timely access to competent medical and clinical personnel who provide effective care informed by accurate patient records. Further, constitutionally adequate health care also requires that inmates have access to appropriate medical facilities, equipment, and processes, as well as timely access to prescribed medications, treatment modalities, specialists, and appropriate levels of care. The Receiver's Office outlined six goals, which it characterized—along with the associated objectives and action items—as the steps necessary for Corrections' health care program to rise to constitutionally acceptable and sustainable levels.

The Receiver's Office reports that it has made significant progress in achieving its goals, but critical areas of improvement remain. Specifically, in its February 2015 triannual report, the Receiver's Office noted that 43 of the 47 required actions were complete and that only four were in process or ongoing, an improvement from the 13 required actions in progress or ongoing that we reported in 2013.⁵ The Table on the following page lists each goal and the

In March 2015 the Federal Court clarified the process for gradual delegation of authority over headquarter functions and institutions back to Corrections and vests the delegation decisions with the receiver.

⁵ By February 2015 the Receiver's Office combined two of the 13 required actions and completed eight required actions. As a result, the Receiver's Office reported four required actions in progress or ongoing.

total number of required actions that were complete or in process according to the February 2015 report. One action the Receiver's Office has completed since 2013 is implementing a health care scheduling and inmate tracking system. Because the system allows health care staff to schedule medical appointments and track the location of inmates as their appointments approach, its establishment furthers the Receiver's Office's goal of ensuring patient-inmates' timely access to health care services. Two of the four actions that are currently in process or ongoing relate to the Receiver's Office implementing programs for quality assurance and continuous improvement. The remaining two actions focus on improving medical records, radiology, and laboratory services and completing upgrades to administrative and clinical facilities at Corrections' institutions.⁶

Table
California Prison Health Care Services' Progress Toward Completing Actions and Achieving Goals Established in the Turnaround Plan of Action

GOAL	NUMBER OF TOTAL ACTIONS	NUMBER OF COMPLETE ACTIONS	NUMBER OF INCOMPLETE ACTIONS	GOAL ACHIEVED
Ensure timely access to health care services	9	9	0	✓
Establish a prison medical program addressing the full continuum of health care services	9	9	0	✓
Recruit, train and retain a professional quality medical care workforce	6	6	0	✓
Implement a quality assurance and continuous improvement program	9	7	2	✗
Establish medical support/allied health infrastructure	7	6	1	✗
Provide for necessary clinical, administrative, and housing facilities	7	6	1*	✗
Totals	47	43	4	3

Source: California State Auditor's analysis of the *Twenty-Eighth Tri-Annual Report of the Federal Receiver's Turnaround Plan of Action for September 1–December 31, 2014*, filed with the Federal Court on February 2, 2015.

✓ = Yes

✗ = No

* According to the Receiver's Office, the California Department of Corrections and Rehabilitation is responsible for implementing this required action.

In March 2015 the Federal Court issued an Order that reinforces a process for incremental delegation of authority over headquarters' functions and institutions back to Corrections. The March 2015 Order maintains the existing process through which the Receiver's Office delegates authority to Corrections, but more significantly, it requires the Receiver's Office to consider information from monitoring

⁶ According to the Receiver's Office, Corrections is responsible for implementing the required action that pertains to completing upgrades to administrative and clinical facilities at its institutions.

activities when making a delegation decision. Further, the March 2015 Order states generally that after the Receiver's Office delegates all authority back to Corrections without revocation for a one-year period after delegation "a rebuttable presumption of constitutional adequacy and sustainability [in the prison medical care system] will be created." Although the Federal Court makes clear that the authority the Receiver's Office delegates to Corrections can be revoked, the March 2015 Order offers a clear path toward the eventual termination of the receivership. The text box offers additional detail from the March 2015 Order.

A year earlier, in March 2014, the Federal Court indicated that a meaningful, independent system of evaluating the quality of care is critical for ensuring sustainability of the reforms the Receiver's Office has put in place and it confirmed this previous position in its more recent March 2015 Order. Specifically, the Federal Court stated that when the Receiver's Office determines whether an institution is suitable to return to Corrections' control, it will consider findings from the Office of the Inspector General's (Inspector General) medical inspection reports as well as data from the Health Care Services Dashboard and other internal monitoring tools. The Inspector General began its program of inspections in 2007, when it developed a tool and process to periodically review medical care delivery at the adult institutions and measure compliance with health care policies and procedures, as state law requires. Over time, the Inspector General has worked with the Receiver's Office, court experts and others to redesign its medical inspection process by adding a qualitative component that allows it to examine the quality of care. The Federal Court also recognized in its March 2015 Order that the Receiver's Office had initiated a quality improvement program at its headquarters and at the institutions. The Federal Court believes that when the Receiver's Office fully implements this program, it will provide a mechanism for self-identifying and correcting errors.

As of February 2015 the Receiver's Office reported that it had delegated to Corrections authority over three operational areas: construction, medical facility activation, and health care access. In its March 2015 Order, the Federal Court directed the

General Summary of the Federal Court's Receivership Transition Plan Dated March 2015

In March 2015 the Federal Court issued an Order (March 2015 Order) that modifies the plan to transition inmate medical care from California Correctional Health Care Services, under the direction of the federal court-appointed receiver—which we collectively refer to as the *Receiver's Office*—back to the California Department of Corrections and Rehabilitation (Corrections). The March 2015 Order establishes the process for incremental delegation of authority over system-wide and headquarters functions, and individual institutions from the Receiver's Office back to Corrections as generally summarized below.

Certain requirements related to delegating or revoking authority:

- The Receiver's Office must meet and confer with the underlying parties and consult with the court experts before granting a delegation of authority.
- The plaintiffs may monitor care at the institutions for one year after authority has been delegated to Corrections. Plaintiffs' monitoring ends after one year unless the Receiver's Office revokes the delegation or the plaintiffs bring a successful motion before the Federal Court.
- The Receiver's Office must regularly evaluate at least monthly whether it should revoke any delegations. However, before revoking a delegation, the Receiver's Office must meet and confer with the parties and consult with the court experts.
- Any party who disagrees with the Receiver's Office's decision to delegate authority or not, or to revoke authority or not, may challenge that decision before the Federal Court.

Certain requirements after delegation:

- The Receiver's Office will retain power over the inmate medical care system until the underlying court case terminates.
- The Receiver's Office must certify for the court that it has transferred all headquarters functions and institutions to Corrections once it has done so. Within 30 days of the Receiver's Office's certification, Corrections must file a governance plan with the court. Plaintiffs have 30 days to challenge Corrections' plan.
- If the Receiver's Office leaves all delegations in place without revocation for one year following certification to the Federal Court, then a rebuttable presumption of constitutional adequacy and sustainability will be created. The plaintiffs have 120 days to challenge the presumption. If no challenge is made, the parties must promptly file with the Federal Court a stipulation and proposed order terminating the federal receivership and underlying court case.

Source: Federal Court Order dated March 10, 2015.

Receiver's Office to continuously evaluate whether additional revocable delegations of authority to Corrections are appropriate. The Receiver's Office has not revoked the three delegations it has made thus far, which the Federal Court indicated in its March 2015 Order constitutes some evidence that Corrections' capacity to maintain a constitutionally adequate system of inmate medical care has increased. When we asked the Receiver's Office in March 2015 about the status of its additional delegations, the director of legislation and communications (director) stated that the Receiver's Office will not establish plans or a timeline to transfer more headquarters functions to Corrections until it has an opportunity to confer with Corrections' management.

When we asked the Receiver's Office about its plans for delegating authority over institutions back to Corrections, the director stated that any plans will be informed by findings from the Inspector General's ongoing medical inspections, as well as by subsequent consideration of other performance data by the Receiver's Office. The director also stated that because the Inspector General began its medical inspections cycle with Folsom State Prison, the Receiver's Office expects that a report on Folsom will be available in late April 2015.

Until the Receiver's Office delegates increased authority to Corrections for inmate medical care, and until Corrections demonstrates that it can adequately manage these functions, the issue remains a factor contributing to Corrections remaining a high-risk agency.

Although the Federal Court has established a process for transitioning the prison medical care system from the Receiver's Office back to Corrections, this transition process will take time. Until the Receiver's Office delegates increased authority to Corrections, and until Corrections demonstrates that it can adequately manage functions related to inmate medical care, the issue remains a factor contributing to Corrections remaining a high-risk agency.

Although Corrections Has Filled Many of Its Vacant Positions, It Lacks a Succession Plan to Ensure That It Has Consistent Leadership

In past high risk reports, we expressed concern over Corrections' lack of a strategic plan, the significant number of vacancies in its leadership positions at its headquarters, and the high turnover rates for the wardens at its institutions. Corrections has been using a current multiyear *blueprint* rather than a traditional strategic plan to establish its commitments and guide its focus. Corrections describes the blueprint as its plan to make sizable changes to its operations, and it and other state oversight agencies are monitoring its progress against the established goals in the blueprint. Additionally, Corrections has made progress in filling many of its vacant leadership positions and follows an established warden-vetting process. However, it continues to lack a succession plan and has no timeline for when such a plan will be complete.

We believe without a succession plan, Corrections may struggle to ensure the availability and quality of the future leaders it will need. As a result, Corrections' ability to maintain consistent leadership remains a factor contributing to Corrections remaining a high-risk agency.

In 2013 we reported that Corrections had stopped using its 2010–2015 strategic plan—despite the document remaining available on its website until mid-March 2015—rather, Corrections had shifted its focus to developing a multiyear blueprint in response to the 2011 realignment. Corrections describes the blueprint as its plan to save billions of dollars, to end Federal Court oversight, and to improve the prison system. It uses a commitment matrix to list its goals, to identify the responsible parties and due dates, and to track each goal's status toward completion.

Both the Inspector General and Finance monitor and report on Corrections' progress toward achieving selected blueprint goals. In October 2014 the Inspector General reported mixed results in Corrections achieving the goals it set in the blueprint. For example, the Inspector General reported that Corrections continues to meet the blueprint goals for standardized staffing at institutions but needs “marked improvement” to reach its in-prison rehabilitation goals. According to Corrections, it has also developed an internal dashboard to monitor and track certain new and existing goals that complement the blueprint. For example, on an internal dashboard the department lists five goals, including reducing the inmate population and achieving excellence in infrastructure and administration. The dashboard reflects measures associated with each goal and offers links to historical quarterly data. Because Corrections has a current vision for its operations and it and others are measuring its progress against these established goals, we no longer consider strategic planning to be a factor that makes Corrections a high-risk agency.

We also found that Corrections has filled many of its vacant leadership positions. Its March 2015 organization chart showed no leadership vacancies at its headquarters and just three of 22 leadership positions with direct reports to the Corrections secretary are filled by employees in an acting capacity.

The three positions with staff in an acting capacity are the undersecretary of administration and offender services, the director of correctional health care services, and the director of adult institutions. According to Corrections, the undersecretary and the director of correctional health care services positions have been filled by employees in an acting capacity since February 2013—more than two years ago. Nevertheless, this is a significant improvement from the recent past, during which Corrections experienced rates as high as 38 percent for positions that were vacant or had staff

We believe without a succession plan, Corrections may struggle to ensure the availability and quality of the future leaders it will need.

working in an acting capacity. In addition, as of February 2015, Corrections reported that 12 of the 35 wardens who oversee the institutions' day-to-day operations were serving in an acting capacity.⁷ Although this number may seem high, the Inspector General's 2014 annual report states that warden candidates typically serve as acting wardens for at least three months before the State begins its vetting process. The Inspector General leads the vetting process, which includes subjecting the candidates to background investigations, site visits, interviews, and stakeholder surveys; at its conclusion, the Inspector General makes a confidential recommendation to the governor.

However, despite its progress related to other leadership issues, Corrections continues to lack a succession plan and has no timeline for when such a plan will be complete. In a document titled *Strategic Plan—2010–2015*, posted on its website through mid-March 2015, Corrections states that a high number of management and leadership staff are eligible to retire within five years and that it must ensure a viable candidate pool exists to assume these roles in the future. Further, Corrections defines viable candidates as those that are prepared, trained, and motivated to assume management and leadership roles, among other qualities. Moreover, Corrections states that a succession plan will mitigate the impact of impending retirements and increase employee motivation to promote. Nevertheless, by 2011 Corrections had eliminated its succession planning and training units and abolished all the positions; Corrections attributed its actions to budget cuts.

In 2013 we reported that Corrections anticipated reestablishing these units, but according to the human resources associate director, as of January 2015 Corrections had not yet done so. However, the director stated that Corrections is working with the California Department of Human Resources to engage in certain succession planning activities. Nevertheless, the associate director noted that Corrections lacks authorized positions dedicated to developing a succession plan; instead, its current efforts consist of one to two staff fitting these tasks into their current workloads. She further explained that because of its lack of adequate staffing, Corrections does not have a timeline for when it will complete its succession plan. Without a plan to help ensure the availability and quality of future leaders, Corrections may struggle to mitigate the impact of impending retirements. Consequently, we continue to consider this an area of high risk that contributes to Corrections' designation as a high-risk agency.

⁷ One of the 35 wardens oversees the California City Correctional Facility; the Corrections Corporation of America owns it, but Corrections leases, staffs, and operates the facility.

High-Risk Issue Update

THE STATE'S 2011 PUBLIC SAFETY REALIGNMENT

In 2013 we added the 2011 realignment of public safety funding and responsibilities between the State and local governments (realignment) to our list of high-risk issues facing the State. As a result of realignment, the State shifted fiscal and program responsibilities for nonserious, nonviolent, and nonsexual felony offenders in local jails and on probation or in treatment programs to local governments instead of sending them to state prisons. As we noted in our 2013 report, stakeholders need reliable and accessible data to assess the realignment's effects. Since our last report, the Board of State and Community Corrections (BSCC) has made significant efforts to gather information on realignment programs and practices that counties can use to inform their decisions related to criminal justice. Although many county jails continue to struggle with overcrowding, we determined that realignment is no longer an issue under our statewide high-risk program because under the tenet of realignment, county officials are responsible for how best to address this issue. However, we may consider the management of their jail populations as we carry out our high risk local government audit program.

The State Has Made Progress Toward Collecting the Information Necessary for Counties and Interested Parties to Evaluate the Impact of Realignment

The 2011 public safety realignment shifted fiscal and program responsibility for nonserious, nonviolent, and nonsexual felony offenders in local jails and on probation or in treatment programs to local governments instead of sending them to state prison. Although the legislation related to realignment does not clearly contain distinct, measurable goals, it outlines overarching intended objectives, which include lowering recidivism rates, improving public safety outcomes among adult felons and facilitating their reintegration back into society, and reducing costs to the State. Since 2011 the State has provided funding to counties to help support them in managing their new responsibilities under realignment. The funding was about \$1.1 billion for fiscal year 2014–15. This funding became permanent and constitutionally protected with the passage of Proposition 30 in 2012.

An August 2011 report by the Legislative Analyst's Office (LAO) indicated that establishing useful accountability measures would be critical to the long-term success of realignment. The LAO emphasized the importance of creating reporting requirements and processes that are beneficial to local agencies, elected officials, and communities—those ultimately responsible for the local programs—rather than

the State when establishing program accountability mechanisms for realigned programs. The special advisor to the governor for realignment (special advisor) echoed this emphasis on the importance of local decision-making responsibility. She stated that realignment was designed to give counties maximum flexibility in managing their new criminal justice responsibilities and determining how to measure their success. Accordingly, she asserted that the State deliberately did not identify statewide success measures and gave the counties full discretion to use their realignment allocations as they saw fit.

The State established the BSCC in 2012 to help provide leadership, coordination, and technical assistance to state and local criminal justice systems, among other tasks. More specifically, the BSCC is responsible for collecting and making publicly available data and information regarding state and community correctional policies and practices. According to the special advisor, part of the BSCC's purpose in producing this information is to help counties better measure and assess their performance and to highlight county practices that have improved outcomes for offenders and local communities. In our 2013 audit report we noted that the State lacked access to reliable and meaningful realignment data to ensure its ability to effectively monitor progress toward achieving intended realignment goals. Since we issued our 2013 assessment, the BSCC has made significant progress in its efforts to gather and make available such information and data. Its recent efforts include developing a definition of recidivism, identifying and making available data related to a set of criminal justice performance metrics, gathering more useful data from counties regarding their plans for implementing realignment, and preparing to collaborate with other entities to research individual offender behavior over time.

In particular, the BSCC's recent efforts to establish a uniform definition of recidivism may help improve the reliability of the counties' recidivism-related data. As we previously mentioned, reducing recidivism was one of the overarching goals of realignment.

Although a June 2014 report by the Public Policy Institute of California (PPIC) concluded that offender behavior did not appear to have changed substantially following realignment, it acknowledged that measuring recidivism presented a challenge due to the variety of ways that the California Department of Corrections and Rehabilitation and other interest groups define it. Following a mandate by the Legislature requiring it to define recidivism, the BSCC collaborated with various legislatively mandated stakeholders and in November 2014 approved the definition shown in the text box. A uniform definition of recidivism may help counties to better evaluate their performance in the future.

The Board of State and Community Corrections' Definition of Recidivism

Recidivism is defined as a conviction of a new felony or misdemeanor committed within three years of release from custody or committed within three years of placement on supervision for a previous criminal conviction.

Source: The definition of adult recidivism that the Board of State and Community Corrections released on November 13, 2014.

In response to another of the Legislature's mandates, the BSCC published a report in February 2015 that established a set of performance metrics for criminal justice systems to assist policymakers in making informed decisions based on their local priorities and desired outcomes. The proposed metrics include measures of the flow of people and cases into each county's correctional system—reported crimes, arrests, and court proceedings—as well as the results: numbers detained, sanctioned, supervised, and treated. The report also includes metrics related to local socioeconomic circumstances. County officials will be able to use these metrics in conjunction with their understanding of local policy preferences and other unique county-specific circumstances as they seek to establish priorities, maximize resources, and achieve goals within their own community correctional systems. However, the report stresses that local knowledge is necessary to fully interpret community corrections metrics and that using differences in metrics to compare the effectiveness of county community correctional systems is inappropriate. Although these metrics alone may not be useful for comparing community correctional systems' relative effectiveness, they should provide relevant insight into how counties have responded to policy changes at the state level.

The BSCC has also improved its survey questions concerning counties' realignment implementation plans, which should improve the quality of its annual report. Each year, the BSCC is required to compile a report regarding counties' realignment implementation plans and issue it no later than July 1st. The survey sent to counties for fiscal year 2014–15 asked additional questions that should result in more detailed information from counties. Specifically, the survey included questions regarding each county's criminal justice goals, objectives, and outcomes, as well as a breakdown of how counties have budgeted realignment allocations not found in previous years' surveys. This information should allow stakeholders to more clearly see how counties have chosen to deal with their new responsibilities under realignment and provide counties with better information to assess their own performance and approach to criminal justice.

Recognizing that data-driven analyses are essential to determining the impact of realignment and the effectiveness of county approaches, the BSCC is collaborating with the PPIC, Corrections, and the California Department of Justice to conduct a study that will provide individual offender-level data from 11 counties over a three-year period. The BSCC expects the study to begin in July 2015 at which time the PPIC will begin receiving data, which should provide insight into the impact of different realignment correctional strategies and show how unique county features may

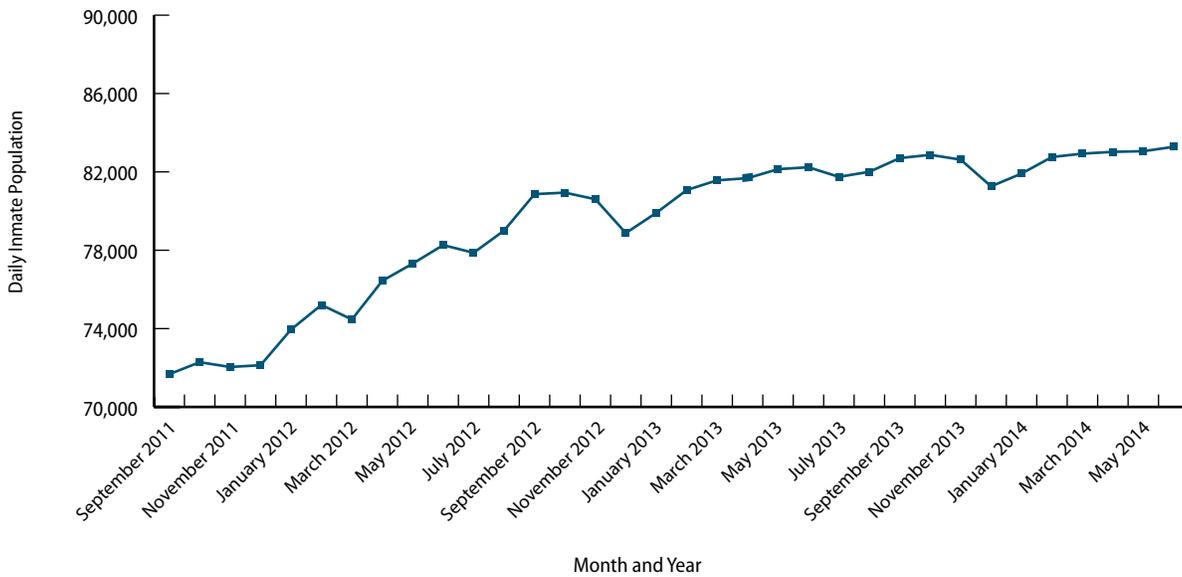
The BSCC has improved its survey questions concerning counties' realignment implementation plans, which should improve the quality of its annual report to stakeholders.

impact correctional decisions. According to the executive director of the BSCC, this study may assist counties as they try to implement programs to achieve better outcomes for their inmate populations.

County Officials, Rather Than State Administrators, Are Responsible for Managing the Increase in County Jail Populations and Other Challenges Following Realignment

Since the implementation of realignment began on October 1, 2011, the number of inmates in state prisons has decreased while the number of inmates in county jails has increased, albeit to a lesser extent. Specifically, between September 2011 and June 2014, the state prison population declined by about 25,300, while the average daily county jail population increased by 16 percent, or about 11,600, as shown in Figure 2.⁸ A PPIC report on the impact of realignment between June 2011 and June 2012 concluded that realignment had significantly affected county jail populations, resulting in more counties operating jails above their rated capacities. Further, PPIC stated that an increased number of counties had reported releasing inmates early due to insufficient capacity.

Figure 2
 Average Daily Statewide Inmate Population at County Jails



Source: The Board of State and Community Corrections' Jail Profile Survey Data from September 2011 through June 2014.

⁸ In November 2014 voters passed Proposition 47, which reduced penalties, including jail terms, for offenders who commit certain nonserious and nonviolent drug and property crimes. Although data is not yet available at the county level, Proposition 47 may help reduce overcrowding in county jails.

Although county jail populations and the early release of inmates have generally increased statewide since realignment, the impact has varied from county to county. The number of inmates released early from county jails each month increased by 37 percent across the State, from about 10,200 in September 2011—the month prior to realignment being implemented—to more than 14,000 in June 2014, the most recent month for which data is available. Between September 2011 and June 2014, 26 of the 58 counties reported increasing the number of inmates they released early, eight reported decreasing the number, and the remaining 24 reported that they did not release inmates early in either month. The BSCC's deputy director of administration and research indicated that knowledge of local circumstances and issues is essential for understanding why jail overcrowding and early release rates have changed in certain counties. A February 2015 BSCC report indicated that socioeconomic factors, demographics, and the availability of certain county resources all influence jail incarceration rates and other county-level performance metrics.

Although some counties have struggled to manage the increased number of offenders for whom they are responsible under realignment, the responsibility for resolving these issues ultimately lies with county officials, not with state administrators. The California State Auditor may consider the management of local jail population as we carry out our high risk local government audit program.

We prepared this report under the authority vested in the California State Auditor by Section 8546.5 of the California Government Code.

Respectfully submitted,



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State Auditor

Date: April 21, 2015

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