

POLICE AND LAW ENFORCEMENT FUNDING. CRIMINAL PENALTIES AND LAWS. INITIATIVE STATUTE.

- Requires minimum of \$965,000,000 each year to be allocated from state General Fund for police, sheriffs, district attorneys, adult probation, jails and juvenile probation facilities. Some of this funding will increase in following years according to California Consumer Price Index.
- Makes approximately 30 revisions to California criminal law, many of which cover gang-related offenses. Revisions create multiple new crimes and additional penalties, some with the potential for new life sentences.
- Increases penalties for violating a gang-related injunction and for felons carrying guns under certain conditions.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Net increase in state costs that are likely within a few years to exceed \$500 million annually, primarily due to increasing state spending for various criminal justice programs to at least \$965 million, as well as for increased costs for prison and parole operations. These costs would increase by tens of millions of dollars annually in subsequent years.
- Potential one-time state capital outlay costs for prison facilities that could exceed \$500 million due to increases in the prison population.

ANALYSIS BY THE LEGISLATIVE ANALYST**BACKGROUND**

Criminal Justice Programs and Funds. State and local governments share responsibility for operating and funding various parts of California's criminal justice system. Generally, the state funds and operates prisons, parole, and the courts while local governments are responsible for community law enforcement, such as police, sheriff, and criminal prosecutions.

The state supports some criminal justice activities that have traditionally been a local responsibility. In 2007–08, the state allocated hundreds of millions of dollars for local criminal justice programs. This includes \$439 million for three such programs, the Citizens' Option for Public Safety, the Juvenile Justice Crime Prevention Act, and Juvenile Probation and Camps Funding.

The state also administers the State Penalty Fund which collects revenues from fees assessed to some criminal offenders. These funds are disbursed for various purposes, including restitution to crime victims and peace officer training. Also, a portion is transferred to the state General Fund.

Criminal Sentencing Laws. State laws define three kinds of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime. State laws specify the penalty options available for each crime, such as the maximum sentence of imprisonment in county jail or state prison. About 18 percent of persons convicted of a felony are sent to state prison. Other felons are supervised on probation in the community, sentenced

to county jail, pay a fine, or have some combination of these punishments.

The state operates 33 state prisons and other facilities that had a combined adult inmate population of about 171,000 as of May 2008. The costs to operate the California Department of Corrections and Rehabilitation in 2008–09 are estimated to be approximately \$10 billion. The average annual cost to incarcerate an inmate is estimated to be about \$46,000. The state prison system is currently experiencing overcrowding because there are not enough permanent beds available for all inmates. As a result, gymnasiums and other rooms in state prisons have been converted to house some inmates.

Supervision of Parolees and Sex Offenders. Offenders who have been convicted of a felony and serve their time in state prison are supervised on parole by the state after their release. State policies determine the number of parole agents and other staff necessary to supervise these parolees.

Proposition 83 (commonly referred to as "Jessica's Law") was approved by the voters in November 2006. Among other changes relating to sex offenders, the proposition requires that certain persons who have been convicted of a felony sex offense be monitored by a Global Positioning System (GPS) device while on parole and for the remainder of their lives. The proposition did not specify whether state or local governments would be responsible for paying for the GPS supervision costs after these offenders are discharged from state parole supervision.

PROPOSAL

This measure makes several changes to current laws relating to California's criminal justice system. The most significant of these changes are described below.

Required Spending Levels for Certain New and Existing Criminal Justice Programs. The proposal creates new state-funded criminal justice programs. The measure also requires that funding for certain existing programs be at least continued at their 2007–08 levels. In total, the measure requires state spending of at least \$965 million for specified criminal justice programs beginning in 2009–10. This amount reflects an increase in funding of \$365 million compared to the amount provided in the *2007–08 Budget Act*. Figure 1 summarizes the increase in state spending required by this measure, generally beginning in 2009–10.

Most of the new state spending required by this measure would be for local law enforcement activities, directed primarily to police, sheriffs, district attorneys, jails, and probation offices. The remaining new state spending would be provided for local juvenile programs, offender rehabilitation, crime victim assistance, and other state criminal justice programs. Specifically, the measure requires new state spending for such purposes as:

- Increased supervision of adult probationers by counties (\$65 million);
- Juvenile facility repair and renovation and the operation of county probation programs for youth (\$50 million);
- City law enforcement efforts to target various crimes, including violent, gang, and gun crimes (\$30 million);
- Prosecution of violent, gang, and vehicle theft crimes (\$25 million);
- The construction and operation of county jails (\$25 million);

- Assisting county sheriff and mid-size city police agencies to participate in county, regional, and statewide enforcement activities and programs (\$20 million);
- Programs to assist parolees in their reentry into communities (\$20 million).

The measure prohibits the state or local governments from using the new funding to replace funds now used for the same purposes. In addition, the measure requires that future funding for most of these new and existing programs be adjusted annually for inflation.

In addition, this measure redistributes the State Penalty Fund in a way that increases training support for peace officers, corrections staff, prosecutors, and public defenders, as well as various crime victims' services programs, while eliminating the existing transfer of the money to the state General Fund. About \$14 million was transferred from the State Penalty Fund to the General Fund in 2007–08. The measure also requires that Youthful Offender Block Grant funds—provided by the state to house, supervise, and provide various types of treatment services to juveniles—be distributed to county probation offices and eliminates existing provisions that permit these funds to be provided directly to drug treatment, mental health, or other county departments.

This measure also creates a new state office in part to distribute public service announcements about crime rates and criminal justice statutes, such as the “Three Strikes and You’re Out” law, and establishes a commission to evaluate publicly funded early intervention and rehabilitation programs designed to reduce crime.

Increased Penalties for Certain Crimes. The measure increases criminal penalties for certain crimes, as well as creates some new felonies and misdemeanors. These changes to penalties include crimes related to

Figure 1
Proposition 6
Required Spending Levels for New and Existing Criminal Justice Programs Affected by This Measure

(In Millions)

	Current Spending Level	Proposition 6	Change
Local law enforcement ^a	\$187	\$406	\$219
Local juvenile programs	413 ^b	479	66
New offender rehabilitation programs and evaluations	—	23	23
New crime victim assistance programs	—	13	13
Other new state programs	—	45	45
Totals	\$600	\$965	\$365

^a Local law enforcement includes funding directed to police, sheriffs, district attorneys, adult probation, and jails.

^b Includes \$93 million for the Youthful Offender Block Grant as authorized by current law for 2009–10.

Detail may not total due to rounding.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

gang participation and recruitment, intimidation of individuals involved in court proceedings, possession and sale of methamphetamines, vehicle theft, removing or disabling a GPS device, and firearms possession. These and other proposed increases in penalties would likely result in more offenders being sentenced to state prison or jail for a longer period of time for the crimes specified in the measure. Figure 2 lists some examples of increased penalties and new crimes created by this measure.

Various Changes to State Parole Policies. The measure makes several changes to state parole policies. Among the most significant changes to state parole is a reduction in the average parolee caseload of parole agents from about 70 parolees per parole agent to 50 parolees per parole agent. The measure also requires the state to pay the cost of GPS monitoring of sex offenders after their discharge from parole supervision.

Figure 2
Proposition 6
Examples of Increased Penalties and New Crimes
Created by This Measure

Gang Participation and Recruitment

- Gang members^a convicted of home robbery, carjacking, extortion, or threats to witnesses would be subject to life terms in prison.
- Adds additional five years in prison for gang recruitment if the person recruited was under the age of 14.
- Doubles penalties for inmates who commit a felony as part of a gang.
- Ten-year additional penalty for gang members who attempt to commit violent crimes.
- Failure to register as a gang member with local law enforcement would be a felony or misdemeanor, depending on the underlying conviction.

Methamphetamine Crimes

- Defines possession of methamphetamines as a felony. (This crime currently can be prosecuted as a misdemeanor or a felony.)^b
- Increases prison term for sale, possession for sale, and transportation of methamphetamines generally by one year.

Vehicle Theft

- Adds additional year in prison for car theft if theft was for purpose of selling the stolen car.
- Allows law enforcement authorities to impound vehicles for up to 60 days when a gun used in a crime is found in one.
- Generally prohibits probation for a conviction of car theft if the offender has multiple prior convictions for car theft.

Other Increased Penalties and New Crimes

- Up to four-year prison term for intimidating a witness, judge, or other person for participating in a court proceeding.
- Unauthorized removal of an offender's GPS device that is required under existing law or worn as a condition of probation or parole would be a misdemeanor or felony, depending on the underlying conviction.
- Ten additional years in prison for possession of a concealed weapon by certain convicted felons.

^a Generally as defined in Penal Code 186.22.

^b Measure does not change eligibility for some offenders for drug treatment diversion under Proposition 36.

Other Criminal Justice Changes. The measure makes several other changes to state laws affecting the criminal justice system. The more significant changes are summarized below:

- **Gang Databases.** The measure requires the state to develop two databases related to gang information for the use of law enforcement agencies.
- **Hearsay Evidence.** In general, the testimony of a witness is considered hearsay when it repeats someone's previous statement for the purpose of proving that the content of that statement is true. Hearsay evidence is not admissible in court except under limited circumstances. The measure would expand the circumstances in which hearsay evidence is admissible in court, especially in cases where someone has intimidated or otherwise tampered with a witness.
- **Gang Injunction Procedures.** The measure changes legal procedures to make it easier for local law enforcement agencies to bring lawsuits against members of street gangs to prevent them from engaging in criminal activities and makes violation of such court-ordered injunctions a new and separate crime punishable by fines, prison, or jail.
- **Criminal Background Checks for Public Housing Residents.** Among other state expenditures, this measure provides \$10 million annually for grants to governmental agencies responsible for enforcing compliance with public housing occupancy requirements. Agencies that accepted these funds would be required to conduct criminal background checks of all public housing residents at least once per year.
- **Temporary Housing for Offenders.** The measure permits counties with overcrowded jails to operate temporary jail and treatment facilities to house offenders. These temporary facilities would be required to meet local health and safety codes that apply to residences.
- **Release of Undocumented Persons.** This measure prohibits a person charged with a violent or gang-related felony from being released on bail or his or her own recognizance pending trial if he or she is illegally in the United States.
- **Juvenile Justice Coordinating Council Membership.** Each county that receives state funds for certain juvenile crime prevention grant programs currently must have a juvenile justice coordinating council that develops a comprehensive plan on how to provide services and supervision to juvenile offenders. This measure changes who may participate on the council. For example, counties would no longer be required

to include representatives of community-based substance abuse treatment programs.

- **Juveniles in Adult Court.** The measure would expand the circumstances under which juveniles would be eligible for trial in an adult criminal court, rather than the juvenile court system, for certain gang-related offenses.

FISCAL EFFECTS

This measure would have significant fiscal effects on both the state and local governments. The most significant fiscal effects are summarized in Figure 3 and discussed in more detail below. These fiscal estimates could change due to pending federal court litigation or budget actions.

Required Spending Levels for Certain New and Existing Criminal Justice Programs. The measure requires state spending for various state and local criminal justice programs totaling about \$965 million beginning in 2009–10, an increase of \$365 million compared to 2007–08. We estimate that this amount will increase by about \$100 million in about five years due to the measure's provisions that require that state funding for certain programs be adjusted each year for inflation. In addition, the redistribution of the State Penalty Fund could result in about a \$14 million loss in state General Fund revenues compared to the 2007–08 budget.

Increased Penalties for Certain Crimes; Parole Policy Changes. Various provisions of this measure would result in additional state costs to operate the prison and parole

system. These costs are likely to grow to at least a couple hundred million dollars annually after a number of years. These increased costs are mainly due to provisions that increase penalties for gang, methamphetamines, vehicle theft, and other crimes, as well as provisions that decrease parole agent caseloads and require the state to pay for the cost of GPS monitoring for sex offenders discharged from parole supervision.

State Capital Outlay Costs. The provisions increasing criminal penalties for certain crimes could also result in additional one-time capital outlay costs, primarily related to prison construction and renovation. The magnitude of these one-time costs is unknown but potentially could exceed \$500 million.

State Trial Courts, County Jails, and Other Criminal Justice Agencies. This measure could have significant fiscal effects on state trial courts, county jails, and other criminal justice agencies, potentially resulting in both new costs and savings. The net fiscal effect of its various provisions is unknown as discussed further below.

On the one hand, the measure could result in increased costs to the extent that the additional funding provided for local law enforcement activities results in more offenders being arrested, prosecuted, and incarcerated in local jails or state prisons. There could also be additional jail costs for holding undocumented offenders arrested for violent or gang-related crimes who would no longer be eligible for bail or release on their own recognizance. The measure's provision permitting the use of temporary jail and treatment facilities could result in additional costs to counties to purchase, renovate, and operate such temporary facilities. The magnitude of these costs would depend primarily on the number and size of new temporary facilities utilized by counties.

On the other hand, the measure provides some additional funding for prevention and intervention programs designed to reduce the likelihood that individuals will commit new crimes. To the degree that these programs are successful, they could result in fewer offenders being arrested, prosecuted, and incarcerated in local jails or state prisons than would otherwise occur. Additionally, the measure's provisions increasing criminal penalties for specified crimes could reduce costs related to courts and other criminal justice agencies by deterring some offenders from committing new crimes.

Other Impacts on State and Local Governments. Other savings to the state and local government agencies could result to the extent that offenders imprisoned for longer periods under the measure's provisions require fewer government services, or commit fewer crimes that result in victim-related government costs. Alternatively, there could be an offsetting loss of revenue to the extent that offenders serving longer prison terms would no longer become taxpayers under current law. The extent and magnitude of these impacts are unknown.

Figure 3
Proposition 6

Summary of Fiscal Effects on State and Local Governments

Fiscal Effects	Amount
<p>Increase in net annual state costs primarily for the following:</p> <ul style="list-style-type: none"> • Required spending of \$965 million for certain new and existing criminal justice programs, an increase of \$365 million. • Requirement that certain criminal justice program spending increase annually with inflation. • Increased penalties for certain crimes resulting in higher prison population. • Increased parole costs due to reduced caseload requirements. 	More than \$500 million within first few years, which would grow by tens of millions of dollars annually in subsequent years.
Additional one-time state capital outlay costs for prison facilities.	Potentially more than \$500 million.
Costs and savings to state trial courts, county jails, and other criminal justice agencies.	Unknown net fiscal impact.

★ **ARGUMENT IN FAVOR OF PROPOSITION 6** ★

EVERY SHERIFF IN CALIFORNIA SUPPORTS THE SAFE NEIGHBORHOODS ACT—PROPOSITION 6

Proposition 6 is a comprehensive anti-gang and crime reduction measure that will bring more cops and increased safety to our streets, and greater efficiency and accountability to public safety programs.

Proposition 6 returns taxpayers' money to local law enforcement without raising taxes. It creates a special oversight commission to guard and protect tax dollars from waste and abuse.

The California District Attorneys Association, California Police Chiefs Association, Crime Victims United, and organizations representing more than 45,000 law enforcement officers back Proposition 6 because it's a balanced solution to California's crime problem.

CRIME, GANGS, AND VIOLENCE ARE TAKING OVER OUR STREETS

Between 1999 and 2006, while the national homicide rate declined, California's murder rate increased—accounting for nearly 500 more murders per year. In fact, California's murder rate has become the highest among the nation's five largest states.

Gangs are a leading cause of California's rising murder rate. According to the Attorney General, upwards of 420,000 gang members roam our streets. Convicted felons and gang members with firearms commit the majority of gun crimes, including the killing of peace officers.

IT'S TIME TO FIGHT BACK

Proposition 6 is a comprehensive plan that addresses crime and gang violence on many levels, including:

- Prohibiting bail to illegal immigrants who are charged with violent or gang crimes.
- Imposing a 10-year penalty increase on gang offenders who commit violent felonies.
- Creating more effective and accountable intervention programs to stop young kids from joining gangs and ruining their lives.
- Requiring convicted gang offenders to register with

local law enforcement each year for five years following conviction or their release from custody.

- Providing GPS tracking equipment for monitoring gang offenders, sex offenders, and violent offenders.
- Increasing penalties for manufacture and sale of methamphetamine to the same level as those for cocaine.
- Adding a 10-year sentence to dangerous felons who carry loaded or concealed firearms in public.
- Increasing penalties for multiple acts of graffiti.

CRIME VICTIMS AND LAW ENFORCEMENT AGREE—YES ON PROPOSITION 6

"Seven months ago I lost my husband to gang violence. A sheriff's deputy, he was shot while chasing a suspect. The person who murdered my husband was a 16-year-old gang member.

"This tragedy demonstrates the need for prevention and intervention so at-risk children do not turn to gangs and crime. Proposition 6 will do just this and give law enforcement the tools they need to keep all Californians safe." — Thanh Nguyen, widow of Deputy Sheriff Vu Nguyen

"Proposition 6 is a comprehensive plan that will secure funding for law enforcement, stiffen penalties for the most dangerous criminals, and improve prevention programs." — Robert Lopez, President, San Jose Police Officer Association

"The Safe Neighborhoods Act gives us the tools we need to help keep at-risk kids out of gangs." — Jerry Powers, President, Chief Probation Officers of California

VOTE YES ON PROPOSITION 6

Join victims' rights advocates and law enforcement leaders in supporting Proposition 6.

Learn more by visiting www.SafeNeighborhoodsAct.com.

LEE BACA, Sheriff

Los Angeles County

BONNIE M. DUMANIS, District Attorney

San Diego County

HARRIET C. SALARNO, Chair

Crime Victims United of California

★ **REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 6** ★

PROP. 6 WILL SPEND ONE BILLION DOLLARS ON UNPROVEN PROGRAMS WITH NO ACCOUNTABILITY FOR THE MONEY SPENT.

Vote No on Prop. 6. The proponents of Prop. 6 never mention that it will cost taxpayers \$1,000,000,000 just in the first year! That's \$1,000,000,000 not available for education, health care, fire protection, or proven public safety efforts.

There's plenty Prop. 6 will NOT do:

1. Prop. 6 will NOT guarantee that one more police officer is on the street.
2. Prop. 6 will NOT fund youth gang prevention programs that are already proven to work.
3. Prop. 6 will NOT allow local communities to decide how to invest their money to improve public safety.

But Prop. 6 will definitely spend more money on prisons and jails.

Prop. 6 will slow down our courts with unnecessary and costly new laws.

And Prop. 6 will create more bureaucracy that duplicates programs we already have.

Virtually every criminal justice study of gang problems and high crime communities calls for a coordinated balanced approach that includes community service workers, mental health, drug and alcohol services along with tough enforcement of the law.

Unfortunately, Prop. 6 ignores these facts, and instead focuses on the symptoms, not the causes.

We cannot afford another costly ballot measure that doesn't solve the problem. Vote NO on Prop. 6!

ROY ULRICH, Board Chair

California Tax Reform Association

DANIEL MACALLAIR, Executive Director

Center on Juvenile & Criminal Justice

★ **ARGUMENT AGAINST PROPOSITION 6** ★

This November's ballot is filled with propositions that sound good on first reading, but in reality will savage California's economy without delivering what they promise. Prop. 6 is a good example.

PROP. 6 REQUIRES MASSIVE NEW SPENDING

As California faces the worst budget crisis in history, Prop. 6 worsens the crisis by spending almost a billion dollars each year on ineffective programs that aren't proven to reduce crime. Programs that threaten funding for schools, foster care, after school programs, fire protection, and effective public safety efforts.

PROP. 6 INCREASES STATE SPENDING ON PRISONS AND THREATENS FUNDS FOR OTHER CRITICAL PROGRAMS

Prop. 6 would require construction of new prison facilities; a cost which could exceed half a billion dollars. *California already spends more than 4 times more per prisoner than per public school student.*

"Proposition 6 would spend billions to put children in jail and keep them there longer for 'crimes' like failing to update a current home address. More 14-year-old children would be tried as adults. Those billions could be spent on schools and children's healthcare . . . programs proven to reduce crime." — Marty Hittelman, President, California Federation of Teachers

PROP. 6 WASTES MONEY ON INEFFECTIVE PROGRAMS WITHOUT ACCOUNTABILITY

Prop. 6 spends a billion dollars each year on programs with no real oversight or accountability. These programs would be selected without a competitive process or cost-benefit analysis. The state would then have to automatically renew funding each year, whether or not the programs are working.

Under Prop. 6, the largest increase in funding is for "Citizens Options for Public Safety," a program reviewed by the state's independent Legislative Analyst and found to have "no definable goals" and "no identifiable results." *Prop. 6 would waste billions on programs that are unproven.*

PROP. 6 DISRUPTS EXISTING CRIME PREVENTION EFFORTS

The proponents argue that this raid on your tax dollars is needed to fight gangs. *They ignore the fact that the Governor and Legislature have already taken firm steps to combat gangs and crime.* Last year, Governor Schwarzenegger launched "CalGRIP," directing state funds to law enforcement and community anti-gang programs throughout the state.

CalGRIP applies a balanced approach, attacking gangs with prevention, intervention, suppression, and incarceration. Prop. 6 would completely disrupt the current progress being made in California.

PROP. 6 WON'T INCREASE PUBLIC SAFETY

We agree that the state can and should do more to prevent crime and increase public safety. But that's not what Prop. 6 does. Prop. 6 pours tax dollars into unproven programs with no real oversight or accountability, robbing effective anti-crime programs of funding.

PROP. 6 WOULD THREATEN SCHOOL FUNDING

Prop. 6 doesn't pay for itself so there'll be less money for schools, healthcare, and other vital programs.

Visit www.votenoprop6.com to see a list of groups opposing Prop. 6, including former law enforcement officials, taxpayer and children's groups, faith leaders, and civil rights groups.

Prop. 6 is nothing more than a raid on the state treasury being marketed with public safety slogans.

Vote No on Prop. 6!

LOU PAULSON, President

California Professional Firefighters

STEPHAN B. WALKER, Chief Executive Officer
Minorities in Law Enforcement

★ **REBUTTAL TO ARGUMENT AGAINST PROPOSITION 6** ★

Government's first priority is the safety of its citizens. Yet our state budget does not do enough to keep our neighborhoods safe from gangs, drug dealers, and violent criminals.

The Legislature consistently shortchanges local law enforcement's fight to rid neighborhoods of violent gangs. California's public safety spending is nearly 14% less than it was in 2003, in today's dollars.

YES on 6—RETURNS TAXPAYERS' MONEY TO LOCAL LAW ENFORCEMENT

Proposition 6 asks voters to prioritize 1% of California's General Fund Budget for local law enforcement without raising taxes.

"The Safe Neighborhoods Act is a sound public safety investment. It measures results in gang and crime prevention with a refreshing level of accountability seldom seen in government." — Lew Uhler, President, The National Tax Limitation Committee

YES on 6—SAFER SCHOOLS FOR OUR CHILDREN

Proposition 6 keeps our children safe, while education will continue to receive full funding.

The ATTORNEY GENERAL reported in 2007, that "the constant presence of . . . gangs make it difficult for students

to travel to and from school safely. Gangs threaten, intimidate and recruit; they shoot, rob, and assault students near school entrances . . . at bus stops."

"Proposition 6 helps keep gangs, drugs, and violence out of our schools—ensuring a safe learning environment for our children."

— Jamie Goodreau, Los Angeles County Teacher of the Year, 2003

BROAD SUPPORT FOR SAFE NEIGHBORHOODS ACT

Every California sheriff, California Police Chiefs Association, California District Attorneys Association, Chief Probation Officers of California, and Hispanic American Police Command Officers support Proposition 6.

VOTE YES ON 6.

ROD PACHECO, District Attorney

Riverside County

LAURIE SMITH, Sheriff

Santa Clara County

RON COTTINGHAM, President

Peace Officers Research Association of California