

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 10/20)

Fiscal Year 2022-23	Business Unit 5225	Department California Department of Corrections and Rehabilitation	Priority No. Click or tap here to enter text.
Budget Request Name 5225-079-BCP-2022-GB		Program Various	Subprogram Various

Budget Request Description
 eDiscovery Platform, Redaction, and Delivery

Budget Request Summary

The California Department of Corrections and Rehabilitation requests \$19.5 million General Fund and 10.0 positions in 2022-23 and \$1.4 million in 2023-24 and ongoing to develop an eDiscovery platform and increasing staffing for the centralized video storage and redaction unit.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed Click or tap here to enter text.		
Does this BCP contain information technology (IT) components? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO Kristin Montgomery	Date Click or tap to enter a date.	

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project No. N/A **Project Approval Document:** N/A

Approval Date: This information is in progress with CDT.

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Ken Kojima	Date Click or tap to enter a date.	Reviewed By Madelynn McClain	Date Click or tap to enter a date.
Department Director Stacy Lopez	Date Click or tap to enter a date.	Agency Secretary Kathleen Allison	Date Click or tap to enter a date.

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE Dept. of Technology

PPBA Allison Hewitt	Date submitted to the Legislature 1/10/2022
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A. Budget Request Summary

The California Department of Corrections and Rehabilitation (CDCR) requests \$19.5 million and 10.0 positions in 2022-23 and \$1.4 million in 2023-24 and ongoing to develop an eDiscovery platform and increase staffing for the centralized video storage, and redaction unit.

This includes one-time funding to support procurement and implementation of the new eDiscovery solution in partnership with the California Department of Technology, while providing additional time to understand the exact nature of the ongoing funding associated with the solution. Additionally, this request includes funding for 10 permanent positions to support the Department's redaction and platform support functions.

B. Background/History

Per federal and state law and policy, CDCR oversees, manages, and is responsible for retaining electronically stored information (ESI) for all end user and system data. Data, data retention, evidence management, and the discovery thereof is paramount in order to place exemptions upon confidential data and to timely respond to discovery and Public Records Act (PRA) requests. It is imperative that CDCR knows the full scope of its discoverable data and where the data is housed in order to protect, classify, categorize, and effectively manage digital evidence. However, since CDCR moved to a computer-centric environment, it has not had the resources to design and implement a single comprehensive eDiscovery Program capable of managing its electronic data.

Currently, CDCR is dependent on outdated, disparate applications and manual, labor-intensive processes to track, retain, store, redact and provide ESI. Additionally, CDCR's ability to effectively retain all data is limited due to the distinct systems end user assets, network assets, and cloud assets used throughout the Department. Retention programs cannot be uniformly implemented, redaction processes cannot be vetted or follow a proper security and privacy-focused review, digital evidence cannot be secured safely. As a result of gaps in its current systems, CDCR has experienced information security incidents.

Many of the current tracking processes require staff to document details manually and transfer that data into other CDCR IT systems, or maintain it in a digital form which can be modified or deleted at will and does not maintain a proper chain of custody.

The risk and impact affect retention requests, which range from the confidential managerial review, legal workflow, Public Records Act (PRA) requests, the Department of Justice (DOJ), Board of Parole Hearings, as well as litigation, investigative, interdiction, and human resource units. The lack of a proper eDiscovery Program results in individual units having to attempt to solve their own retention and data evidence management and collection strategies, which bifurcates workload ineffectively and creates different types of tools and incompatible practices.

CDCR has a current data discovery system to support CDCR's ability to manage ESI that is stored only as email data. However, a significant amount of ESI exists in mobile devices, computers, and cloud, which is not currently being retained or produced via the existing discovery system due to the platform's limitation.

Resource History

CDCR's program budget for email retention and storage is \$1.1 million annually, which CDCR has fully expended each year. This does not include any resources for redaction and is solely for platform licensing.

There are currently no dedicated full-time staff to perform eDiscovery work. Only two information security personnel are leveraged at 20 percent utilization to service the email data of 50,000 personnel accounts, leaving CDCR with limited ability to process the discovery workload. These resources have been responding to the historical workload specified below, an average of 726.6

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requests annually. CDCR is redirecting legal staff, corrections lieutenants, and other staff from primary responsibilities to manually redact information.

C. State Level Consideration

State and federal law and policy requires CDCR to impose record retention and ensure that data is appropriately discoverable across all of its systems and solutions. Below is a list of governing statutes and policies imposed by Federal and state Law as well as the California Department of Technology:

- Government Code (GC) 832.7
- Senate Bill 1421 (Skinner, Chapter 988, Statutes of 2018)
- Assembly Bills AB 748 (Ting, Chapter 960, Statutes of 2018)
- California Public Records Act (CPRA) GC 6250
- Data Retention Policy GC12270-12279
- Data Destruction Policy CDT.ISG. 20-4.4
- eDiscovery and Litigation Hold Policy CDT.ISG. 20-4.5
- Privacy Protection Policy CDT.ISG.20-4.7

D. Justification

Currently, CDCR is experiencing challenges in properly retaining and providing timely responses to requests for digital evidence data. The Department is attempting to keep pace with discovery demand by redirecting staff from their primary responsibilities at a full-time, or near full-time, basis to perform manual processing of litigation support, discovery, and PRA requests. This workload is growing in magnitude.

At present, CDCR does not have the tools to place all user data evidence on a preservation hold nor is there a single mechanism to manage this ESI. This is due to decentralized processes and storage options. In addition, there is no central platform to ensure a consistent workflow across the Department which requires personnel to maintain separate and decentralized work logs as well as potentially storing redundant copies of ESI. This can lead to untimely responses to PRA, litigation, and discovery requests. These responses entail identifying the data evidence, placing an effective litigation hold, having the ability to run both simple and complex searches, culling data for duplicates or non-responsive documents, determining privileges, tagging documents, and creating a privilege/production log as necessary as well as managing the cases associated with the collected ESI.

The PRA mandates that responses to requestors must occur within 10 days, or 24 days if an applicable extension applies. In discovery, CDCR must respond to requests within 30 days for the production of documents unless opposing counsel agrees to extend that time. Given current limitations, CDCR has had to routinely request multiple extensions. A new automated comprehensive eDiscovery system will support CDCR's abilities to help meet these timeframes.

Furthermore, institutions with the new video systems have servers dedicated to the continuous 90-day storage of video. Video tied to a triggering event is currently being stored on DVDs or portable hard drives for sharing, viewing, and longer-term storage. Institutions are also managing their own data/storage needs in unstructured formats with no centralized access or delivery mechanisms for more efficient operations and to ensure security requirements.

Systems and the users' actions must be defensible in a court of law. A comprehensive enterprise eDiscovery program, centralized case management, and storage platform will provide CDCR

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with forensic security and auditability. The individuals provisioned with access to these systems will be trained, certified, and obtain mastery over these tools.

Implementation of a centralized storage and case management platform will reduce redundant copies of ESI, increase accessibility to authorized users across all areas of the Department, and improve the integrity of the overall service. The platform will also allow for optimized and consistent workflows leading to improved user training on standardized processes, compliance tracking, executive reporting, and a reliable mechanism for sharing ESI with external stakeholders. The new system will enable staff to work with a common set of data that will preserve integrity of the end-to-end process while allowing for more collaboration across various Departmental areas.

The eDiscovery program will centrally retrieve, manage, and store various forms of ESI across the Department and enable secure delivery to both internal and external entities that are part of the litigation, discovery, and PRA processes.

Specifically, CDCR will implement this solution to meet the recent changes set forth in California Code of Regulations, title 15, section 3270.3(b)(1), which specifies use of force or other triggering events (changed per the most recent *Armstrong* court orders from September 2020 and March 2021) which require storage for evidence and related content for a five-year retention schedule.

The comprehensive solution will increase the overall capabilities and support CDCR to do the following:

- Ensure retention of ESI consistent with requirements under state law.
- Ensure CDCR is positioned to respond to requests for discovery within the allotted timeframe, which is normally 30 days and includes all available data.
- Identify the type and location of all data evidence and centrally manage it appropriately.
- Standardize requirements and training for all personnel regarding responsibilities and liabilities regarding ESI.
- Develop an ongoing training plan to train and certify CDCR personnel in the best practices relevant to ESI.

This request includes 10.0 permanent positions for PRA Unit expansion. Additionally, CDCR requests one-time funding for positions and a software subscription to establish and mature a collaborative workspace for litigation and eDiscovery, including all available ESI (PC, mobile, server, or cloud).

The one-time funding will enable CDCR to work through the IT procurement process in collaboration with the California Department of Technology (CDT) to allow CDCR to identify the best possible eDiscovery and centralized video storage solutions, which will provide insight into the appropriate level of ongoing resources needed to support the new solutions.

The proposed 10.0 permanent positions for the PRA Unit expansion will allow the Division of Adult Institutions (DAI) to have a centralized management and storage location for all DAI PRA requests, and sufficient staff to manage workload closely associated with Departmental litigation. This will eliminate duplicative work, maintain expertise, and ensure timely responses. PRA Unit staff will function as the Department's subject matter experts in redaction software programs used for the processing of PRA requests. Staff will also provide training and technical expertise for extended DAI staff and institutional litigation staff.

- The 3.0 Correctional Lieutenants will manage the staff, provide statistical information to management as requested, and serve as a liaison with internal and external stakeholders. The Correctional Lieutenants will also ensure timely response to all requests, assist and provide clarification and guidance on Government Code exemptions when applicable and provide accurate data to the appropriate requestor(s).
- The 7.0 Associate Governmental Program Analysts (AGPA) will complete the initial review, research and preparation of response for PRA requests received for DAI. The AGPAs will

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also be solely responsible for the initial review and redaction of Audio/Video files and documents prior to Correctional Lieutenant review and approval for release to the requestor.

Resources requested will implement and support a comprehensive ESI eDiscovery program:

- Include an industry-specific Enterprise Legal Matter Management System (ELMMS) to be used across the Department and with collaborating agencies, eliminating the use of disparate systems.
- Include an industry-specific Digital Evidence Management (DEM) system to be used across the Department and with collaborating agencies.
- Review video and audio content and provide redaction and transcription using specialized hardware and software to capture, store, and produce video and audio in an automated manner.
- Be structured to capture end user ESI regardless of device type such as PC, mobile device, or cloud offering.
- Ensure the chain of custody remains intact.

This proposal is in alignment with the CDCR Office of the Secretary to develop an information technology retention strategy and implement systems capable of managing both current risks and anticipated growth to headquarters and all institutions in the CPRA and legal retention action items.

This proposal also supports both CDCR's Security Initiative and the Office of Legal Affairs' objectives by improving existing processes. It will allow CDCR to build or procure expertise and critical infrastructure systems vital to meet current and projected needs, while implementing a proper managerial workflow and the minimum resources required to meet present organizational demands. Establishing an eDiscovery platform will ensure CDCR properly preserves digital evidence information in a timely manner, including data that does not travel over email such as contract documents, invoices, data on computers, cell phones, servers and databases.

This request implements a more automated eDiscovery process, reduces the amount of time CDCR spends in litigation by collaborating with key agencies and law enforcement, and expands the available services to prepare for the ever-evolving mobile workforce.

CDCR will leverage best practices and technologies in use by other collaborating partners such as the CDT and DOJ, allowing the Department to draw upon expertise to procure a best-in-class solutions for public and private sectors.

E. Outcomes and Accountability

CDCR will begin the procurement process and implement an industry leading ELMMS and DEM that, once fully implemented, will allow internal and external collaborators to request litigation hold and eDiscovery data, as well as Public Records Data, from a single solution.

F. Analysis of All Feasible Alternatives

Alternative 1: Provide \$19.5 million General Fund and 10.0 positions in 2022-23 and \$1.4 million in 2023-24 and ongoing to establish a single comprehensive eDiscovery Program and support redaction workload.

Pros:

- Provides for comprehensive coverage of disparate digital evidence data where data is required for retention and is responsive to legal or investigative production.
- Minimizes or eliminates redirecting staff to manual data entry and redaction efforts.

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- Provides an objective record (forensically intact) of case activity and data.
- With the migration to Microsoft Office 365, mobile solutions, new cloud technologies, and the incoming Windows as a service, CDCR will be able to implement a centralized, end-to-end retention, evidence, and case management solution paramount to retaining data in its proper state for legal and investigative needs.

Cons:

- Results in additional General Fund resources.

Alternative 2: Provide \$1.4 million General Fund and 10.0 positions to support the PRA Redaction Unit.

Pros:

- Will allow CDCR to respond to PRAs in a timelier manner.

Cons:

- Does not alleviate discovery-related backlog.
- CDCR will continue to experience challenges fulfilling statutory and legal mandates.
- CDCR will continue having separate, decentralized, and manual processes that will continue to impact its ability to respond to PRAs and litigation requests in a timely manner.

Alternative 3: Do not provide resources to establish an eDiscovery Program or support the PRA Redaction Unit.

Pros:

- Does not result in the need for additional General Fund resources.

Cons:

- More staff will be redirected to perform manual processing of workload and create backlogs for primary and critical tasks.
- CDCR's backlog of discovery work will continue to increase.
- CDCR will continue to experience challenges in complying with statutory and legal mandates.
- CDCR will continue having separate, decentralized, and manual processes that will continue to impact its ability to respond to PRAs and litigation requests in a timely manner.

G. Implementation Plan

The following table identifies the high-level milestones associated with this BCP:

Task	Estimated Completion Date
Complete Hiring Process	August 2022
Procurement Completion	September 2022
Configure, install, test systems and validate workflows	November 2022

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Task	Estimated Completion Date
Complete Administrator and Trainer Training (CPRA units, OLA, DOJ)	February 2023
Operationalize ELMMS	March 2023
Operationalize redaction automation modules (Text, Video)	July 2023
Operationalize extensible integration modules (OneDrive, OneNote, M365.)	October 2023
All modules operationalized	November 2023

The implementation of the timetable will cover the following items, and will meet all necessary compliance gaps from previous audits, assessments, observations, and best practices leveraged throughout the industry for ESI retention:

- Case Management Platform
- Platform Monitoring
- Notification of tasks
- Escalation process workflows
- Case management procedures
- Workflow handbook
- Metrics
- Compliance monitoring
- Report development
- Dashboard development
- Audit readiness
- Training
- Key Performance Indicators

H. Supplemental Information

N/A

I. Recommendation

Approve Alternative #1 which will provide \$19.5 million General Fund and 10.0 positions in 2022-23 and \$1.4 million in 2023-24 and ongoing to develop an eDiscovery platform and establish a centralized video storage and redaction unit.

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BCP Fiscal Detail Sheet

BCP Title: eDiscovery Platform, Redaction and Delivery

BR Name: 5225-079-BCP-2022-GB

Budget Request Summary

Personal Services

Personal Services	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
Positions - Permanent	0.0	10.0	10.0	10.0	10.0	10.0
Total Positions	0.0	10.0	10.0	10.0	10.0	10.0
Earnings - Permanent	0	1,989	890	890	890	890
Total Salaries and Wages	\$0	\$1,989	\$890	\$890	\$890	\$890
Total Staff Benefits	0	949	466	466	466	466
Total Personal Services	\$0	\$2,938	\$1,356	\$1,356	\$1,356	\$1,356

Operating Expenses and Equipment

Operating Expenses and Equipment	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
5301 - General Expense	0	101	16	16	16	16
5302 - Printing	0	15	2	2	2	2
5304 - Communications	0	29	3	3	3	3
5306 - Postage	0	7	1	1	1	1
5320 - Travel: In-State	0	36	3	3	3	3
5322 - Training	0	12	6	6	6	6
5340 - Consulting and Professional Services - External	0	10	0	0	0	0
5340 - Consulting and Professional Services - Interdepartmental	0	4	1	1	1	1
5368 - Non-Capital Asset Purchases - Equipment	0	100	25	25	25	25
539X - Other	0	16,270	0	0	0	0
Total Operating Expenses and Equipment	\$0	\$16,584	\$57	\$57	\$57	\$57

Total Budget Request

Total Budget Request	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
Total Budget Request	\$0	\$19,522	\$1,413	\$1,413	\$1,413	\$1,413

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Fund Summary

Fund Source

Fund Source	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
State Operations - 0001 - General Fund	0	19,522	1,413	1,413	1,413	1,413
Total State Operations Expenditures	\$0	\$19,522	\$1,413	\$1,413	\$1,413	\$1,413
Total All Funds	\$0	\$19,522	\$1,413	\$1,413	\$1,413	\$1,413

Program Summary

Program Funding

Program Funding	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
4500039 - Information Technology	0	18,095	0	0	0	0
4550051 - Division of Adult Institutions	0	1,427	1,413	1,413	1,413	1,413
Total All Programs	\$0	\$19,522	\$1,413	\$1,413	\$1,413	\$1,413

Personal Services Details

Positions

Positions	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
5393 - Assoc Govtl Program Analyst (Eff. 07-01-2022)	0.0	7.0	7.0	7.0	7.0	7.0
9656 - Corr Lieut (Eff. 07-01-2022)	0.0	3.0	3.0	3.0	3.0	3.0
VR00 - Various (Eff. 07-01-2022)	0.0	0.0	0.0	0.0	0.0	0.0
Total Positions	0.0	10.0	10.0	10.0	10.0	10.0

Salaries and Wages

Salaries and Wages	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
5393 - Assoc Govtl Program Analyst (Eff. 07-01-2022)	0	531	531	531	531	531
9656 - Corr Lieut (Eff. 07-01-2022)	0	359	359	359	359	359
VR00 - Various (Eff. 07-01-2022)	0	1,099	0	0	0	0
Total Salaries and Wages	\$0	\$1,989	\$890	\$890	\$890	\$890

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Staff Benefits

Staff Benefits	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
5150450 - Medicare Taxation	0	29	13	13	13	13
5150500 - OASDI	0	101	33	33	33	33
5150600 - Retirement - General	0	401	210	210	210	210
5150800 - Workers' Compensation	0	65	40	40	40	40
5150820 - Other Post-Employment Benefits (OPEB) Employer Contributions	0	53	27	27	27	27
5150900 - Staff Benefits - Other	0	300	143	143	143	143
Total Staff Benefits	\$0	\$949	\$466	\$466	\$466	\$466

Total Personal Services

Total Personal Services	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
Total Personal Services	\$0	\$2,938	\$1,356	\$1,356	\$1,356	\$1,356