

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

<b>Fiscal Year</b> 2023-24	<b>Business Unit</b> 5225	<b>Department</b> California Department of Corrections and Rehabilitation	<b>Priority No.</b>
<b>Budget Request Name</b> 5225-079-BCP-2023-GB		<b>Program</b> Various	<b>Subprogram</b> Various

**Budget Request Description**  
 eDiscovery Ongoing Needs

**Budget Request Summary**

The California Department of Corrections and Rehabilitation requests 11 positions and \$10 million General Fund in 2023-24 and ongoing to continue to develop and implement the Department's comprehensive eDiscovery platform.

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Code Section(s) to be Added/Amended/Repealed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

**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.** 5225-174    **Project Approval Document:** Stage 1 Business Analysis (S1BA)  
**Approval Date:** 11/18/2021

**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.*

<b>Prepared By</b> Edmond Blagdon	<b>Date</b> 1/10/2023	<b>Reviewed By</b> Madelynn McClain	<b>Date</b> 1/10/2023
<b>Department Director</b> Kristin Montgomery	<b>Date</b> 1/10/2023	<b>Agency Secretary</b> Kathleen Allison	<b>Date</b> 1/10/2023

**Department of Finance Use Only**

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

<b>PPBA</b> Allison Hewitt	<b>Date submitted to the Legislature</b> 1/10/2023
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## **A. Budget Request Summary**

The California Department of Corrections and Rehabilitation (CDCR) requests 11 positions and \$10 million General Fund in 2023-24 and ongoing to continue to develop and implement the Department's comprehensive eDiscovery platform.

## **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 to appropriately placing exemptions on confidential data and to respond to discovery and Public Records Act (PRA) requests in a timely manner. It is imperative that CDCR knows the full scope of its discoverable data to protect, classify, categorize, and effectively manage digital evidence. However, as CDCR moves to a computer-centric environment, it is essential that the Department implement a comprehensive eDiscovery program to manage its electronic data.

The 2022 Budget Act provided CDCR with \$19.5 million General Fund one-time and \$1.4 million ongoing to begin the development of an eDiscovery platform to centrally retrieve, manage, and store various forms of ESI and enable secure delivery to both internal and external entities that are part of the litigation, discovery, and PRA processes.

Previously, CDCR had been dependent on outdated, disparate applications and manual, labor-intensive processes to track, retain, store, redact and provide ESI. These older processes negatively affected various components of ESI requests, ranging from PRA requests, litigation, investigations, contraband interdiction efforts, and human resource needs. The lack of a comprehensive eDiscovery platform required individual units to attempt to solve their own retention and data evidence management and collection strategies individually, which split workload ineffectively and created incompatible practices.

Although CDCR had a system to support the department's ability to manage ESI stored only as email data, a significant amount of ESI exists in mobile devices, computers, and cloud elements, none of which CDCR was able to holistically retain or produce.

Ultimately, CDCR's new comprehensive ESI eDiscovery program will:

- 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.

### **Current Project Status – Positions**

With the one-time resources provided in the 2022 Budget Act, CDCR was able to begin working through the IT procurement process, in collaboration with the California Department of Technology (CDT), to identify the best possible eDiscovery and data storage solution.

Currently, CDCR has hired 9 of the 11 limited-term positions included in the 2022-23 eDiscovery BCP, and will have the remaining 2 hired by the end of January 2023, to manage, configure, administer, train, and maintain the eDiscovery software solution. Specifically, these positions

## **Analysis of Problem**

include one Information Technology (IT) Manager I, two IT Specialists II, six IT Specialists I, and two IT Associates totaling \$1.8 million.

The 2022 Budget Act also provided 10 permanent positions for PRA Unit (PRAU) expansion to 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 litigation. These staff function as the Department's subject matter experts in redaction software programs used for the processing of PRA requests.

The DAI saw a dramatic increase in PRA requests in 2021-22. CDCR established the PRAU because of the complexity and increasing number of PRAs. PRAU is responsible for processing and redacting Video and Audio Recordings (VAR) and other records in response to a PRA request.

The Department estimated the workload of processing PRAs and VAR redaction hours based on average use of redaction software equating to 10 minutes of redaction time for each minute of audio, and 20 minutes of redaction time for each minute of video, and to ensure that all camera angles are reviewed.

As of October 2022, DAI has hired the three Lieutenants and four of the seven Associate Governmental Program Analysts (AGPA) that constituted the 10 approved positions.

### **Current Project Status – Software Licensing and Storage**

CDCR has contracted with NICE Investigate to store and manage centralized video content and has developed a working environment to begin implementation and configuration. CDCR will continue to walk through test elements and discovery sessions to compare against business, regulatory, and legal needs to determine how the final system will be set up.

As a storage provider, NICE Investigate charges by the number of "cases" that CDCR opens in addition to baseline storage costs. A case, for example, is a request for an audio/video file, or creating a repository for investigation documents, such as those related to an allegation of staff misconduct. Currently, CDCR's Enterprise Information Services (EIS) Division anticipates total ongoing storage cost needs of approximately \$4.6 million General Fund ongoing.

Specifically, CDCR anticipates a baseline storage need of 1,500 terabytes with archive and retention costs of approximately \$1.8 million annually. In addition, CDCR projects 250,000 cases associated with cell phone interdiction data, rules violation report reviews, staff misconduct allegation reviews, and public records act requests. Based on the agreement with NICE Investigate, CDCR projects a need for an additional \$2.8 million annually. As CDCR implements the eDiscovery platform and various record retention, retrieval, and review policies statewide, CDCR will gain data regarding the actual numbers of cases requested.

### **Current Project Status – Forensic Software Needs**

CDCR has entered into contracts with Cellebrite Premium and Cellebrite Universal Forensics Extraction Device (UFED) to extract data or digital evidence from devices, regardless of whether they are locked, encrypted, or password protected. Retrieved data is then stored with NICE Investigate, where it is regarded as a case.

The Department intends to use a new tool, Pathfinder, to expand these existing processes to compile and identify patterns within the extracted data to analyze connections and linkages between data and digital evidence extracted from multiple devices. Without the use of an analytical tool such as Pathfinder, CDCR would need to dedicate a significant number of staff hours to manually identify and establish these types of connections.

The total ongoing costs associated with forensic software are \$1.8 million annually.

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### Current Project Status – Other Considerations

As CDCR continues through the development and implementation process, the Department has identified several additional factors that will affect the resources necessary for the successful implementation of the new eDiscovery platform.

Specifically, CDCR anticipates:

- Integration between NICE Investigate systems and existing CDCR case management systems, such as Strategic Offender Management Systems, Business Information Systems, and the Allegation Against Staff Tracking System. CDCR estimates a one-time cost at approximately \$250,000.
- Potential need for additional resources to establish coordination between eDiscovery platform and the Office of Legal Affairs (OLA) to ensure that the new platform meets OLA's case management need. CDCR estimates that additional licensing costs of \$315,000 ongoing may be needed for this functionality.

Additionally, CDCR notes the costs cited above are estimates generated in the initial stages of the Project Approval Lifecycle process. It is possible that the actual suite of solutions for which CDCR contracts may result in higher or lower costs, which will become known as CDCR progresses through the PAL and procurement processes. Accordingly, CDCR is requesting a placeholder amount of \$10 million annually, including the ongoing costs associated with making the 11 limited-term positions permanent through this request. However, CDCR may refine this request once more information is known about actual contract costs associated with the eDiscovery systems.

### 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

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.

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 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

## Analysis of Problem

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.

This request implements a more automated eDiscovery process, which has many benefits, including creating significant efficiencies for litigation and PRA request response processes and expanding 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 continue implementing a comprehensive ELMMS and DEM that, once fully implemented, will allow internal and external collaborators to request litigation hold, eDiscovery, and PRA data, from a single electronic platform

### F. Analysis of All Feasible Alternatives

**Alternative 1:** Provide 11 positions and \$10 million General Fund in 2023-24 and ongoing to continue to develop and implement the Department's comprehensive eDiscovery platform.

#### Pros:

- Provides for comprehensive coverage of disparate 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.
- Deters the permanent deletion of necessary data.
- Provides an objective, forensically intact record of case activity and data that can be used in litigation defense for CDCR and its personnel.
- Establishes a portfolio of solutions towards an eDiscovery Program for other units to collaborate and leverage accordingly.
- Allows CDCR to implement a centralized, end-to-end retention and case management solution to retaining data in its proper state for legal and investigative needs.

#### Cons:

- Will require ongoing monitoring of needs to accomplish project in phased approach.
- Results in additional General Fund expenditures.

**Alternative 2:** Do not provide additional resources to establish an eDiscovery platform.

#### Pros:

- Does not require additional General Fund expenditures.

#### Cons:

- Ceases the phased approach initiated through the one-time resources provided in the 2022 Budget Act.
- Risks delays or incompleteness to establish CDCR's comprehensive eDiscovery platform.
- CDCR could remain out of compliance with statutory and legal mandates.
- CDCR could still require additional General Fund resources to fund multiple discovery program objectives in a bifurcated and disparate manner by different units throughout the Department, potentially implementing the same business need multiple times over.

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### G. Implementation Plan

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

Task	Estimated Completion Date
Complete Hiring Process	February 2023
Procurement Completion	February 2023
Configure, install, test systems and validate workflows	August 2023
Complete Administrator and Trainer Training (CPRA units, OLA, DOJ)	October 2023
Operationalize ELMMS	December 2023
Operationalize redaction automation modules (Text, Video)	July 2023
Operationalize extensible integration modules (OneDrive, OneNote, M365.)	December 2023
All modules operationalized	December 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 to provide 11 positions and \$10 million General Fund in 2023-24 and ongoing to continue to develop and implement the Department's comprehensive eDiscovery platform.

# BCP Fiscal Detail Sheet

BCP Title: eDiscovery Ongoing Needs

BR Name: 5225-079-BCP-2023-GB

Budget Request Summary

## Personal Services

Personal Services	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
Positions - Permanent	0.0	11.0	11.0	11.0	11.0	11.0
<b>Total Positions</b>	<b>0.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>
Salaries and Wages Earnings - Permanent	0	1,088	1,088	1,088	1,088	1,088
<b>Total Salaries and Wages</b>	<b>\$0</b>	<b>\$1,088</b>	<b>\$1,088</b>	<b>\$1,088</b>	<b>\$1,088</b>	<b>\$1,088</b>
Total Staff Benefits	0	532	532	532	532	532
<b>Total Personal Services</b>	<b>\$0</b>	<b>\$1,620</b>	<b>\$1,620</b>	<b>\$1,620</b>	<b>\$1,620</b>	<b>\$1,620</b>

## Operating Expenses and Equipment

Operating Expenses and Equipment	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
5301 - General Expense	0	85	85	85	85	85
5302 - Printing	0	13	13	13	13	13
5304 - Communications	0	26	26	26	26	26
5306 - Postage	0	6	6	6	6	6
5320 - Travel: In-State	0	33	33	33	33	33
5322 - Training	0	6	6	6	6	6
5340 - Consulting and Professional Services - Interdepartmental	0	3	3	3	3	3
5340 - Consulting and Professional Services - External	0	10	10	10	10	10
5368 - Non-Capital Asset Purchases - Equipment	0	61	38	38	38	38
539X - Other	0	8,137	8,160	8,160	8,160	8,160
<b>Total Operating Expenses and Equipment</b>	<b>\$0</b>	<b>\$8,380</b>	<b>\$8,380</b>	<b>\$8,380</b>	<b>\$8,380</b>	<b>\$8,380</b>

## Total Budget Request

Total Budget Request	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
<b>Total Budget Request</b>	<b>\$0</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>

## Analysis of Problem

### Fund Summary

#### Fund Source

Fund Source	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
State Operations - 0001 - General Fund	0	10,000	10,000	10,000	10,000	10,000
<b>Total State Operations Expenditures</b>	<b>\$0</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>
<b>Total All Funds</b>	<b>\$0</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>

### Program Summary

#### Program Funding

Program Funding	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
4500039 - Information Technology	0	10,000	10,000	10,000	10,000	10,000
<b>Total All Programs</b>	<b>\$0</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>	<b>\$10,000</b>



## Analysis of Problem

### Personal Services Details

#### Positions

Positions	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
1401 - Info Tech Assoc (Eff. 07-01-2023)	0.0	2.0	2.0	2.0	2.0	2.0
1402 - Info Tech Spec I (Eff. 07-01-2023)	0.0	6.0	6.0	6.0	6.0	6.0
1405 - Info Tech Mgr I (Eff. 07-01-2023)	0.0	1.0	1.0	1.0	1.0	1.0
1414 - Info Tech Spec II (Eff. 07-01-2023)	0.0	2.0	2.0	2.0	2.0	2.0
<b>Total Positions</b>	<b>0.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>	<b>11.0</b>

#### Salaries and Wages

Salaries and Wages	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
1401 - Info Tech Assoc (Eff. 07-01-2023)	0	156	156	156	156	156
1402 - Info Tech Spec I (Eff. 07-01-2023)	0	580	580	580	580	580
1405 - Info Tech Mgr I (Eff. 07-01-2023)	0	124	124	124	124	124
1414 - Info Tech Spec II (Eff. 07-01-2023)	0	228	228	228	228	228
<b>Total Salaries and Wages</b>	<b>\$0</b>	<b>\$1,088</b>	<b>\$1,088</b>	<b>\$1,088</b>	<b>\$1,088</b>	<b>\$1,088</b>

#### Staff Benefits

Staff Benefits	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
5150450 - Medicare Taxation	0	16	16	16	16	16
5150500 - OASDI	0	67	67	67	67	67
5150600 - Retirement - General	0	229	229	229	229	229
5150800 - Workers' Compensation	0	25	25	25	25	25
5150820 - Other Post-Employment Benefits (OPEB) Employer Contributions	0	25	25	25	25	25
5150900 - Staff Benefits - Other	0	170	170	170	170	170
<b>Total Staff Benefits</b>	<b>\$0</b>	<b>\$532</b>	<b>\$532</b>	<b>\$532</b>	<b>\$532</b>	<b>\$532</b>

### Analysis of Problem

#### Total Personal Services

Total Personal Services	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
<b>Total Personal Services</b>	<b>\$0</b>	<b>\$1,620</b>	<b>\$1,620</b>	<b>\$1,620</b>	<b>\$1,620</b>	<b>\$1,620</b>