

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall



Wednesday, May 18, 2016
9:30 a.m. or upon call of chair
State Capitol - Room 2040

Consultant: Julie Salley-Gray

PART A OUTCOMES

<u>Item</u>	<u>Department</u>	<u>Page</u>
	Vote-Only Items	
0820	Department of Justice	
Item 1	Racial and Identity Profiling Act of 2015	3
Item 2	Consumer Protection Enforcement Initiative	3
Item 3	Major League Sporting Event Raffles	3
Item 4	Armed Prohibited Persons System	3
Item 5	Technical Adjustment	4
5225	California Department of Corrections and Rehabilitation	
Item 6	Spring Letter: Automated Reentry Management System	4
Item 7	Spring Letter: Deuel Vocational Institution: Solid Cell Fronts	4
Item 8	Segregated Housing Unit Conversion	4
Item 9	Long-Term Offender Programming	5
Item 10	Council on Mentally Ill Offenders	5
Item 11	Community Corrections Performance Incentive Grant	6
5227	Board of State and Community Corrections	
Item 12	Strengthening Law Enforcement and Community Relations Grants	6
Item 13	Executive Steering Committee Trailer Bill Language	6
Item 14	City Police Department Funding	6
Item 15	Jail Construction Funding	6
Item 16	Post Release Community Supervision Increase	7
0250	Judicial Branch	
Item 17	Court Innovations Grants	7
Item 18	Technical Adjustment	7
Item 19	Proposition 47 Workload and Savings	7

4440	Department of State Hospitals	
Item 20	May Revise Proposition 47 Savings	8
Item 21	Napa State Hospital Earthquake Repairs	8
Discussion Items		
0820	Department of Justice	
Issue 1	Rape Testing Kit Backlog	9
0250	Judicial Branch	
Issue 1	Trial Court Operations Funding	10
Issue 2	Civil Case Management System Replacement	10
Issue 3	Trial Court Emergency Reserve	11
Issue 4	Sargent Shriver Civil Counsel Act	11
5225	California Department of Corrections and Rehabilitation	
Issue 1	Population Adjustment	13
Issue 2	Electronic Health Records System	14
Issue 3	Basic Correctional Officer Academy	14
Issue 4	Leadership Training	14
Issue 5	Relief Factor Adjustment	16
Issue 6	Rehabilitative Programs Expansion	16
5227	Board of State and Community Corrections	
8120	Commission on Peace Officer Standards and Training	
Issue 1	General Fund Backfill	19
9285	Local Assistance – Trial Court Security	
Issue 1	Trial Court Security Funding	20
4440	Department of State Hospitals	
Issue 1	Incompetent to Stand Trial Caseload	22
Issue 2	Conditional Release Program	23
Issue 3	<i>Coleman</i> Monitoring Team	24

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PROPOSED FOR VOTE ONLY**Department of Justice**

1. **Racial Identify Profiling Act of 2015.** The Department of Justice requests a permanent augmentation of 41 positions and \$7.9 million General Fund for the workload associated with AB 953 (Weber) Chapter 466, Statutes of 2015, which requires local law enforcement agencies to report specified information on traffic stops to the Attorney General's office; and establishes the Racial and Identity Profiling Advisory Board (RIPA).

Action: Approve as budgeted. The budget request is consistent with the fiscal analysis of the implementing legislation.

Vote: 2 - 1 (Anderson "no.")

2. **Consumer Protection Enforcement Initiative.** The Department of Justice requests a permanent increase of seven positions and \$1.4 million from the Legal Services Revolving Fund for the purpose of reducing average case processing work time to work toward meeting the goals of the Department of Consumer Affairs Consumer Protection Enforcement Initiative.

Action: Conform to Subcommittee No. 4 action and reject the proposed funding.

Vote: 3 - 0

3. **Major League Sports Betting Event Raffles.** The proposed budget requests a three-year limited-term General Fund increase of \$335,000 beginning in 2016-17 and two positions to address the workload related to the implementation of the Major League Sporting Event Raffles Program.

Action: Create the Major League Sporting Event Raffle Fund and approve a General Fund loan of \$335,000 per year, for three years.

Vote: 3 - 0

4. **Armed Prohibited Persons System (APPS).** The budget proposes an on-going increase of \$4.7 million in Firearms Safety and Enforcement Special Fund (FS&E) to provide permanent funding for 22 positions for APPS investigations. Currently, all APPS-related activities are funded through the Dealer Record of Sale Special Account (DROS) account. The DROS fund requires an appropriation from the Legislature. The FS&E fund is continuously appropriated. Therefore, if the proposed funding shift is approved, the Department of Justice (DOJ) would not require future legislative authority to expend money deposited in the fund for APPS.

Action: Approve the budget proposal and adopt placeholder trailer bill language removing the continuous appropriation authority from both the FS & E fund and the Firearms Safety Account (FSA). In addition, provide the Attorney General's office with the authority to increase both the FS & E and the FSA fees at a rate not to exceed the Consumer Price Index (CPI).

Vote: 2 - 1 (Anderson "no.")

5. **Technical Adjustment.** The Department of Justice requests to adjust spending authority in three special funds in order to properly align program activities with fund sources. Specifically, the Department of Justice would like to increase spending authority in the Unfair Competition Law Fund by \$10,746,000, increase spending authority in the Public Rights Law Enforcement Fund by \$5,724,000 and reduce spending authority in the Legal Services Revolving Fund by \$16,470,000. This is a zero cost request.

Action: Approve as proposed.

Vote: 3 - 0

California Department of Corrections and Rehabilitation (CDCR)

6. **Spring Finance Letter: Automated Reentry Management System.** CDCR requests \$4.5 million (General Fund) in 2016-17 and 2017-18 to implement phase two of the Automated Reentry Management System (ARMS).

Action: Approve the spring finance letter request and adopt supplemental report language (SRL) requiring CDCR to report on any unspent rehabilitation funds and how those funds were redirected within the rehabilitation budget by January 10, 2017.

Vote: 3 - 0

- ~~7. **Deuel Vocational Institution: Solid Cell Fronts.** This proposal requests \$11.6 million to replace the existing barred cell fronts in the K-Wing Administrative Segregation Unit (ASU) at the Deuel Vocational Institution (DVI) with solid cell fronts. The K-Wing contains 143 cells, one Americans with Disabilities Act (ADA) cell, and six showers that do not currently have solid cell fronts. The scope of work will include new locking mechanisms, solid fronts on the six showers that serve the unit, modifications to the existing heating/ventilation system, upgrades to the electrical system, asbestos and lead paint abatement, and the addition of local fire alarm and fire suppression systems.~~

~~The renovation of ASUs with solid cell fronts addresses an important security need within prison facilities. In addition, the replacement of barred cell fronts and cell modifications related to heating/ventilation systems reduces suicide risks, which is of interest to the federal court in *Coleman v. Brown*.~~

~~Preliminary plans were funded in the 2007 Budget Act and working drawings were funded in the 2015 Budget Act. This proposal requests project funding for the construction phase, which has been updated to include current fire code requirements identified during design. The total estimated project cost is \$12,814,000.~~

~~**Previous Subcommittee Hearing:** This item was discussed during the subcommittee's May 5th hearing.~~

~~**Staff Recommendation:** No recommendation.~~

8. **Segregated Housing Unit Conversion.** The Governor's budget proposes to reduce General Fund support for CDCR by \$16 million in 2015-16 and by \$28 million in 2016-17 to account for savings from a reduction in the number of inmates housed in segregated housing units. According

to the department, the policy changes it is implementing pursuant to the Ashker v. Brown settlement will reduce the number of inmates held in ASUs and SHUs, allowing it to convert several of these units to less expensive general population housing units. For example, CDCR estimates that the number of inmates held in SHUs could decline by around 1,000, or about one-third of the current population.

In addition, the Administration requests \$3.4 million General Fund for 2015-16, and \$5.8 million General Fund for 2016-17 to increase the number of staff in the Investigative Services Unit (ISU), which would offset the above 2016-17 savings. The redirected funding would support the addition of 48 correctional officers to the ISU.

Action: Reject the request for \$3.4 million General Fund for 2015-16, and \$5.8 million General Fund for 2016-17, and the addition of 48 correctional officer positions for the Investigative Services Unit. Approve the remainder of the proposal.

Vote: 3 - 0

9. **Long-Term Offender Programming.** The budget proposes an increase of \$10.5 million General Fund for the expansion of several programs for life-term and long-term offenders.

Action: Approve the \$10.5 million General Fund increase. In addition:

- Augment the funding by \$5 million General Fund in 2016-17, and \$10 million General Fund in 2017-18 and on-going for CDCR to provide permanent funding to nonprofit organizations currently working in state prisons as volunteers or innovative program grant recipients who are providing restorative justice and offender accountability programs that have proven to be successful for long-term, life-term inmates.
- Adopt draft trailer bill language requiring CDCR to convene an on-going workgroup comprised of senior staff from organizations currently providing successful rehabilitative programming through private resources and funds provided by the Innovative Programming Grant program to assist CDCR in developing the scope of the offender responsibility/restorative justice programming, a method for evaluating the success of the programs, a plan for implementing the expanded programming at institutions with the greatest need, and to operate as a liaison between non-profit organizations providing innovative programming and CDCR headquarters to assist with any on-going implementation concerns. In addition, the language will require that inmates successfully completing these programs will receive milestone credits for their participation.
- Adopt placeholder trailer bill to allow inmates serving life terms to have extended family visits, if otherwise eligible.

Vote: 3 - 0

10. **Council on Mentally Ill Offenders (COMIO).** The May Revision requests \$233,000 Mental Health Services Fund and two positions to support COMIO's activities including data collection and analysis regarding the service utilization by individuals with mental illness in the criminal justice system, and promotion of strategies to reduce criminalization of persons with mental illness.

Action: Approve as proposed.

Vote: 3 - 0

11. **Community Corrections Performance Incentive Grant.** The May Revision proposes reducing community corrections performance incentive grant funding by \$4,344,000, based on a full year of actual data for calendar year 2015, pursuant to SB 678 (Leno), Chapter 608, Statutes of 2009.

Action: Approve as proposed.

Vote: 3 - 0

Board of State and Community Corrections

12. **Strengthening Law Enforcement and Community Relations Grants.** The Governor has proposed \$6 million in ongoing General Fund to continue providing community relations grants.

Action: Conform to Assembly Budget Subcommittee No. 5 action and reject the proposed funding.

Vote: 2 -1 (Anderson “no.”)

13. **Executive Steering Committee (ESC) Trailer Bill Language.** As discussed during the April 7th subcommittee hearing, BSCC has staff advised prospective Proposition 47 ESC members that employees of nongovernmental entities or service providers that “might receive Prop 47 funding” are “financially interested” individuals for purposes of Government Code Section 1090 and, as a result, are prohibited from participating in the ESC process. In addition, nongovernmental stakeholders were advised that they would be regarded as “financially interested” and ineligible for ESC participation if they “serve with an organization that might make a contribution” to the Proposition 47 fund. BSCC sent a similar notice the members of the Strengthening Law Enforcement and Community Relations Grant ESC. These limitations have been applied by the BSCC only to persons who are employees of nongovernmental entities.

Action: Adopt draft trailer bill language repealing the statutory changes that were adopted in the 2013 Public Safety Trailer Bill (SB 74 (Committee on Budget and Fiscal Review) Chapter 30, Statutes of 2013), which exempts government employees from certain conflict laws when they serve on committees under the board.

Vote: 3 - 0

14. **City Police Department Funding.** The Governor’s budget includes \$20 million General Fund for city police departments. The Legislature has not received any details on how the funding will be distributed, its purpose or justification for its inclusion in the budget.

Action: Reject the \$20 million GF augmentation for city police departments.

Vote: 2 -1 (Anderson “no.”)

15. **Jail Construction Funding.** The Governor’s budget includes \$250 million General Fund for jail construction funding for those counties that have not received previous funding or were only

Action: Reject the Governor’s proposed jail construction funding and instead, approve the following General Fund augmentations and necessary budget bill and trailer bill language for investments designed to reduce people’s involvement in the criminal justice system. Specifically:

➤ Community Services Infrastructure Grants	\$100 million
➤ Development of a continuum of children's mental health crisis services	\$80 million
➤ Law Enforcement Assisted Diversion Pilot Project	\$21 million
➤ Teen pregnancy prevention for at-risk youth	\$10 million
➤ Sexually Transmitted Disease Prevention for areas with high rates of STDs	\$10 million
➤ Adolescent Family Life Program (AFLP)	\$6 million
➤ Implicit Bias Training for local law enforcement	\$5 million
➤ Drug Overdose Prevention Services for local law enforcement	\$3 million
➤ Medical Model - Substance Use Disorder Pilot Project in CDCR	\$2.5 million
➤ Prevention and treatment of hepatitis B (HBV) and hepatitis C (HCV)	\$2 million
➤ Underground Scholars Outreach	\$500,000

Vote: 2 -1 (Anderson “no.”)

16. **Post Release Community Supervision.** The May Revision requests an increase of \$4.2 million General Fund to reflect a revised estimate of the temporary increase in the average daily population of offenders who have been placed on post release community supervision as a result of a court ordered expansion of two-for-one credits to eligible offenders.

Action: Approve as proposed.

Vote: 3 - 0

Judicial Branch

17. **Court Innovation Grants.** The Governor’s budget proposes \$30 million in one-time General Fund support to create a new Court Innovations Grant Program.

Action: Reject the \$30 million augmentation for innovation grants.

Vote: 2 -1 (Anderson “no.”)

18. **Technical Adjustment.** The May Revise requests an increase of \$531,000 General Fund to reflect updated health benefit and retirement rate costs for trial court employees.

Action: Approve as proposed.

Vote: 3 - 0

19. **Proposition 47 Workload and Savings.** The Governor’s budget requests a one-time General Fund augmentation of \$21.4 million to address the increased workload associated with Proposition 47. In addition, the Governor’s budget notes the trial courts will save \$1.7 million General Fund a year as a result of the reduced workload associated with Proposition 47. The proposed budget does not reflect those savings.

Action:

1. Approve the one-time General Fund increase of \$21.4 million

Vote: 3 - 0

2. Reduce the on-going trial court budget by \$1.7 million General Fund.

Vote: 2 - 1 (Anderson “no.”)**Department of State Hospitals (DSH)**

20. **Updated Proposition 47 Savings.** The updated estimate for Proposition 47 included in the May Revise estimates that the Department of State Hospitals will save \$8.9 million General Fund as a result of the reduced patient caseload due to Proposition 47.

Action: Increase the savings in the DSH budget to reflect the updated savings estimate of \$8,851,042.**Vote:** 2 - 1 (Anderson “no.”)

21. **Napa State Hospital Earthquake Repairs.** The May Revision requests a General Fund decrease of \$989,000 to reflect updated costs associated with the repair of damages sustained at the Napa State Hospital during the August 2014 earthquake.

Action: Approve as proposed.**Vote:** 3 - 0

ITEMS TO BE HEARD

0820 DEPARTMENT OF JUSTICE

Issue 1: Rape Kit Testing Backlog

Background. Current law requires an adult arrested for or charged with a felony, and a juvenile adjudicated for a felony, to submit DNA samples. It also specifies that law enforcement should do one of the following for any sexual assault forensic evidence received by the law enforcement agency on or after January 1, 2015:

1. Submit sexual assault forensic evidence to the crime lab within 20 days after it is booked into evidence; or
2. Ensure that a rapid turnaround DNA program is in place to submit forensic evidence collected from the victim of a sexual assault directly from the medical facility where the victim is examined to the crime lab within five days after the evidence is obtained from the victim.

Current law encourages DNA analysis of rape kits within the statute of limitations, which states that a criminal complaint must be filed within one year after the identification of the suspect by DNA evidence, and that DNA evidence must be analyzed within two years of the offense for which it was collected. Current law also encourages crime labs to do one of the following:

1. Process rape kits, create DNA profiles when possible, and upload qualifying DNA profiles into CODIS within 120 days of receipt of the rape kit; or
2. Transmit the rape kit to another crime lab within 30 days to create a DNA profile, and then upload the profile into CODIS within 30 days of being notified about the presence of DNA.

Current law also requires law enforcement agencies to inform victims in writing if they intend to destroy a rape kit 60 days prior to the destruction of the rape kit, when the case is unsolved and the statute of limitations has not run out.

SAFE-T was created by the Department of Justice in 2015, based on voluntary data input from law enforcement agencies, to help track how many rape kits were not being tested. However, a recent report by the California State Auditor found that law enforcement agencies rarely document reasons for not analyzing sexual assault evidence kits. The audit found 45 cases in which the kits were not submitted for analysis. Upon a more in-depth review of the individual cases, the report found that analysis of the kits would not have been likely to further the investigation of those cases. Even though the individual reasons for not testing the kits was found to be reasonable, the report still stressed the need for more information about why agencies decide to send some kits for testing but not others.

Staff Comment. This is an oversight item. No action is necessary at this time. DOJ and the Legislative Analyst's Office will provide an update on the status of the testing of rape kits.

0250 JUDICIAL BRANCH**Issue 1: Trial Court Operations Funding**

Governor's Budget. The Governor's budget proposes a \$20 million (or one percent) General Fund base augmentation for trial court operations. In addition, the proposed budget includes a trailer bill proposal to shift four vacant judgeships from one area of the state to another.

Staff Comments. Overall trial court funding and the funding shortfall were discussed in detail in this subcommittee on March 10th. Among the concerns raised by the subcommittee members was the lack of adequate funding for dependency counsel. In addition, the Judicial Counsel noted that while the Administration proposed an hourly wage increase for appellate attorneys, no increased funding was provided for the six appellate projects. The March 10th agenda notes that the Judicial Counsel argues that "while the costs of rent, employee benefits, mandatory professional and fiduciary insurance, the need for improved technology, and all other costs of doing business have increased substantially, the amount of funding available for these projects has not increased since FY 2007-08."

Action.

1. Approve as budgeted and adopt as placeholder the Administration's proposed trailer bill language shifting four judgeships from Santa Clara and Alameda superior courts to San Bernardino and Riverside superior courts.
2. Reject the Governor's January budget proposed \$700,000 General Fund augmentation to counties for increased trial court security levels resulting from the reallocation of the trial court judgeships and their staffing complements.
3. Augment the trial courts budget for the dependency counsel by \$29 million General Fund and \$2.2 million General Fund to increase funding for the appellate projects. Approve budget bill language requiring \$7 million to be used on an on-going basis to hold those counties with lower client-to-attorney ratios harmless.

Vote: 3 - 0**Issue 2: Civil Case Management System Replacement**

May Revision Proposal. The May Revision requests a one-time General Fund augmentation of \$24.8 million. The request is for \$12.4 million in fiscal year (FY) 2016-2017; \$9.2 million in FY 2017- 2018; and \$3.2 million in FY 2018-2019 to replace the V3 Court Case Management System in the superior courts of Orange, Sacramento, San Diego, and Ventura counties.

Justification. Funding would support transition for four courts from the V3 case management system to modern, commercial off-the shelf case management systems:

- Odyssey from Tyler Technologies, in the Superior Courts of Orange, San Diego, and Ventura Counties.
- C-Trak from Thomson-Reuters, in the Superior Court of Sacramento County.

Both case management systems were selected by the courts following a Request for Proposal vetting and evaluation by the branch that resulted in Master Services Agreements for three vendors. Each court further evaluated the three vendors, selected the case management system that best fits the court needs, and plans to convert all cases to a single vendor, as resources and funding are available.

The requested funding will be used to purchase case management system software, related software licenses and hardware, and changes to the new case management system to provide levels of functionality and performance that are similar to existing levels. It will also be used to configure the systems for each court, convert existing case data and electronic documents to the new system, and fund implementation costs, including limited-term staff, in each court.

Background. The judicial branch spends approximately \$6.5 million annually to maintain the V3 case management system (CMS) that is used by four courts—the Superior Courts of Orange, Sacramento, San Diego, and Ventura Counties—to manage approximately 25 percent of civil, small claims, probate, and mental health cases statewide. These courts made substantial contributions to the development of a case management system intended for use by all courts. The project to deploy the statewide system was terminated in March 2012, leaving these four courts with an aging case management system that cannot be improved without legislative approval.

Action. Approve as proposed and required DOF, LAO, Judicial Council and staff to draft provisional language related to providing JLBC with a Department of Technology review of the four projects, if the review can be done in a timely manner that does not delay the projects.

Vote: 3 - 0

Issue 3: Trial Court Emergency Reserve

Governor's Budget. The proposed budget includes \$10 million General Fund on a one-time basis to establish a state level reserve for emergency expenditures for the trial courts. Any funding used in the first year would be replenished through the Trial Court Trust Fund.

Trailer Bill Proposal. The Governor's budget includes trailer bill language modifying the current emergency reserve funding policy for the trial courts. Under this proposal, the Judicial Council would maintain \$10 million in a reserve to be used by individual trial courts in the event of an emergency. In addition, the language requires the Judicial Council to report to the Legislature and the Department of Finance by October 1 of each year all requests for funding and allocations made during the preceding year.

Under current law, the Judicial Council sets aside two percent of trial court funding for local trial court emergencies and is required to report to the Legislature on all requests and allocations by April 15 of each year.

Action. Approve as budgeted.

Vote: 3 - 0

Issue 4: Sargent Shriver Civil Counsel Act

Trailer Bill. Authorizing statute for the Sargent Shriver Civil Counsel Act (Government Code Section 70626) is set to sunset on July 1, 2017. The Governor’s budget does not include trailer bill language extending or eliminating the sunset.

Background. Since enactment of the Sargent Shriver Civil Counsel Act, AB 590 (Feuer), Chapter 457, Statutes of 2009, the Judicial Council has chosen seven pilot projects to provide legal representation to a selected number of low-income Californians. The Legislature has funded these projects at \$9.5 million per year (starting in 2011). The pilots are administered by the Judicial Council. These seven pilot projects, each in a different area of the state, target cases involving critical legal issues that affect basic human needs such as housing, custody, conservatorship, and guardianship. In these kinds of disputes, low-income litigants are, for the most part, unrepresented—and often unaware of the various options open to them. The pilots target cases in which one side is represented by a lawyer and the other is not.

Each project is a partnership of a lead legal services nonprofit corporation, the court, and other legal services providers in the community. The projects provide legal representation to low-income Californians at or below 200 percent of the federal poverty level. When selecting cases, the agencies consider the complexity of the case and whether the potential client has special challenges, such as limited English proficiency, illiteracy, or disabilities. They also review how serious the case is and whether the client has a good chance of prevailing. In addition, the agencies look at whether providing assistance might save money in the long run by reducing the costs of social services such as homeless and domestic violence shelters.

Since the need for services is expected to outpace available funding, it is not possible to provide all eligible low-income parties with attorneys. Thus, the court partners also receive funding to change procedures and practices to ensure those parties who still lack attorneys have meaningful access to the courts, have their cases heard on the merits, and do not unintentionally give up their rights. These court services include expanded mediation assistance, language interpreters, a probate facilitator, a housing inspector, special parenting workshops, and other creative methods to address these important and challenging cases.

The legal services agencies selected for the pilot projects screen litigants to identify eligible clients and contract with other legal services providers in the community to provide services. Staff attorneys were hired, but pro bono work by outside attorneys is also encouraged. The lead legal services agency is the main point of contact for referrals from the court and other agencies. Some projects also provide assistance from social workers to help address the issues that clients face.

As one of the first programs in the country to combine representation for low-income persons in these types of cases with court innovation, the Sargent Shriver Civil Counsel Act has attracted national attention. The lessons learned should be helpful to other courts working on innovations—and to everyone interested in the best ways of ensuring that all persons coming to court get an appropriate level of legal assistance in these critical cases.

Funding. Total available funding for all projects is \$9.5 million per year, funded by a special \$10 supplemental filing fee on certain post judgment motions. New projects may be added by competitive grants if funds become available as the result of the termination or nonrenewal of a project.

Action: Adopt placeholder trailer bill language repealing the sunset of the Sargent Shriver Civil Counsel Act.

Vote: 2 – 1 (Anderson “no.”)

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**Issue 1: Population Adjustments**

May Revise Proposal. The May Revision requests the following population adjustments based upon updated caseload projections, delays in construction, and additional alternative custody program placements:

- **Adult Population Adjustment** – The population adjustment includes a net decrease of \$9,977,000, which is comprised of a \$9,798,000 General Fund decrease and a \$179,000 Inmate Welfare Fund decrease.

The May Revision reflects an estimated average adult daily population of 128,821 in fiscal year 2016-17. This is 13 fewer than projected in the Governor’s budget. The projected adult parolee average daily population is 42,601 in 2016-17. This is an increase of 30 from the Governor’s budget projection.

- **Juvenile Population Adjustment** – The population adjustment includes a General Fund decrease \$259,000 and reimbursement increase of \$4,000 to reflect revised juvenile population projections. The May Revision reflects an estimated average daily population of 709 wards in 2016-17, which are 10 less than projected in the Governor’s budget.
- **RJ Donovan Correctional Facility Adjustment** – The population adjustment includes a reduction of \$10.3 million and 84.3 positions in 2015-16, and a net reduction of \$64,000 and 1.3 positions related to a six-month delay in the activation of the 792-bed infill project.
- **Alternative Custody Program (ACP) Population** – The population adjustment includes \$1.8 million General Fund and 9.5 positions to include supervision of the Alternative Custody Program participants in the calculation for the parole population, which is adjusted on an ongoing basis in the Fall Population and May Revision processes. The cost reflects the supervision of both male and female ACP participants.
- **Female Community Reentry Expansion** – The population adjustment includes the expansion of the Custody to Community Transitional Reentry Program (CCTRP) to include a new 50-bed facility in Sacramento. The cost of that expansion is \$2.8 General Fund and five positions in 2016-17, and an estimated \$2.5 million General Fund and five positions for 2017-18.

Additionally, the CCTRP adjustment includes a decrease of \$2.1 million General Fund and 3.8 positions in 2015-16 to reflect the updated population housed at the current CCTRP facilities.

Staff Comment. The subcommittee received an overview of the Governor’s January budget, including population projections, during its March 3rd hearing. In addition, the subcommittee had an in-depth discussion of CDCR’s alternative custody and housing programs during its March 17th hearing. Details and agendas from both hearings are available on the Senate Budget and Fiscal Review Committee’s website.

Action. Approve as proposed.

Vote: 3 - 0

Issue 2: Electronic Health Records System (EHRS)

May Revision Proposal. The May Revision includes an increase of \$35.9 million General Fund to provide expanded functionality of the new electronic health record system to include dental patient and scheduling information. The May Revision commits \$80.6 million over the next three years for this purpose, and \$5.8 million on-going.

Background. The EHRS was developed to provide an electronic health record that would be available at all institutions without having to transport documents across institutions and would provide real-time data on the level of care provided to inmates. When the project was initially approved by the California Department of Technology in 2013, it estimated a total project cost of \$182 million. The project began in 2013 and was originally slated for completion in 2017. The initial design of the system was completed for testing in late 2015 and rolled out to pilot institutions to determine whether the system functioned as planned. The receiver indicates that during rollout problems were identified resulting in further implementation being postponed.

Action. Approve as proposed.

Vote: 3 - 0

Issue 3: Basic Correctional Officer Academy

May Revision Proposal. The May Revision requests a General Fund decrease of \$21,487,000 and 265 positions to reduce the annual capacity for the Basic Correctional Officer Academy from approximately 3,300 to 2,100 cadets and align ongoing academy resources with current attrition rates. This adjustment includes two-year limited-term resources to operate two training academies annually for both the Division of Juvenile Justice and the Division of Adult Parole Operations.

Action.

1. Approve the requested decrease.

Vote: 3 - 0

2. In addition, adopt placeholder trailer bill language requiring the Commission on Correctional Peace Officer Standards and Training (CPOST) to do the following:

- Consider including additional training in the areas of mental health and rehabilitation, as well as coursework on the theory and history of corrections as part of their review of the correctional officer academy training curriculum.
- Partner with the Office of the Chancellor of the California Community Colleges to develop a plan to affiliate the Department of Corrections and Rehabilitation with the community colleges for purposes of assisting in the training state correctional peace officer apprentices.
- Report to the Legislature on both of the above requirements.

- Establish and maintain an Internet Web site that includes specific information about the work of CPOST.

Vote: 2 – 1 (Anderson “no.”)

Issue 4: Leadership Training

May Revision Proposal. The May Revision includes \$4 million General Fund for CDCR to increase its leadership training efforts, evaluate its current workforce, and create a succession management plan. Primarily, the funding will be used for the following:

- \$2,296,000 to effectively implement a successful Leadership Training course. Through contract funding, CDCR will explore partnerships with the academic community to develop and deliver training that will improve the knowledge and skills of existing executive management while also preparing supervisory and managerial staff to assume higher-level executive positions.
- \$1,268,000 and nine positions for the Advanced Learning Institute, which includes travel costs, and training tools for the sergeants' academies.
- \$421,000 and four positions to develop, implement, and evaluate workforce and succession management for the department.

Background. Earlier this year, CDCR released an *Updated Plan for the Future of Corrections* as a follow-up to their 2012 blueprint. In the updated plan, CDCR noted:

Like most entities throughout state government, retention and succession planning has been an ongoing challenge for the Department. Succession planning provides the ability to forecast future workforce needs and develop strategies to promote a talented, competent workforce, and to mitigate the loss of institutional knowledge through attrition. The Department is currently underprepared for the impending retirement of highly skilled and experienced custody and technical supervisors, managers, and executives and previous efforts have not been robust enough to address the problem. The Department currently has 7,465 employees in supervisory, managerial and exempt classifications. Recent data show that approximately 74 percent of those employees will be at or reach retirement age in the next ten years. Furthermore, of the 74 percent, approximately 71 percent of those employees will be at or will reach retirement age in the next five years.

To address this issue, the Department will work with other agencies to design staff development programs. Specifically, the Department plans to create improved leadership training curricula which will enhance leadership skills and support continuous organizational development. The training will focus on executives as well as prepare employees for positions such as Warden and Superintendent. This training is imperative to prepare the Department's supervisory and managerial staff to assume executive-level positions as more executives retire. An effective succession management plan will help prepare staff to be successful future leaders.

This proposal is designed to begin addressing the shortfalls discussed in that report.

Action. Approve the proposed funding and concept, pending further discussion between the Administration and the Legislature on specific budget bill and trailer bill language. Ensure that leadership training includes training in cultural competency. In addition, include the following augmentations:

- \$2 million one-time General Fund for CDCR to work with the National Institute of Corrections to develop a new cadet mentor pilot project designed to train CDCR sergeants and lieutenants to serve as mentors to new correctional officers.
- \$1 million one-time General Fund for Innovative Management Grants for the support of the department, including wardens committed to institution-based management initiatives which promote workforce excellence. Areas of innovation may include programs that provide resilience training and occupational wellness for correctional staff; programs that employ intra-institution collaborations to measure and improve the effectiveness of prison yard programming and security for staff and inmates; programs that assess and promote the occupational, personal and family well-being of the department's workforce; and any other promising approaches designed to support the capabilities of the department's workforce.
- Adopt placeholder trailer bill language creating a senior warden position and giving Governor, upon recommendation of the secretary the authority to appoint a senior warden for a state prison in place of a warden.

Note: The action did not include the requested positions, just the funding for the leadership package.

Vote: 3 - 0

Issue 5: Relief Factor Adjustment

May Revision Proposal. The May Revision requests a General Fund increase of \$11,897,000 and 107.5 positions to afford the California Department of Corrections and Rehabilitation (CDCR) sufficient time to standardize statewide relief utilization policies that will provide additional time off for correctional peace officers.

Background. The 2014 Budget Act changed the methodology CDCR uses to calculate the relief factor. Under the proposal, the relief factor would be calculated based solely on statewide actual leave usage rather than a combination of actual leave usage and accrual rates. In addition, the proposed methodology would incorporate types of leave (such as furlough days) that are not accounted for in the current relief factor.

Action. Approve as proposed.

Vote: 3 – 0

Issue 6: Rehabilitative Programs Expansion

May Revision Proposal. The May Revision includes \$24.5 million General Fund (\$3 million Proposition 98) for increased rehabilitative programming. The increases include investments in the following:

- eReader Community College Content (\$3 million Proposition 98 General Fund) – CDCR is currently using approximately 7,500 eReaders to provide inmates enrolled in community colleges

with access to textbook content. This funding will allow inmates to continue accessing these materials through eReaders and open educational resources.

- Internet Protocol Television Integration Maintenance and Operations Support (\$3.7 million) – These resources will enable CDCR to create the necessary infrastructure at each prison to support a television network to deliver rehabilitative programming to more inmates. Ongoing resources will allow CDCR to support the infrastructure and develop additional program content.
- Cognitive Behavioral Therapy (\$2.2 million) – Expands Cognitive Behavioral Therapy programs currently offered at 13 reentry hubs to all institutions. This expansion will provide more inmates an opportunity to participate in rehabilitative programs, such as criminal thinking, anger management, and family relations.
- Substance Use Disorder Treatment (\$3.7 million) – This proposal adds 950 substance use disorder treatment slots to existing programs, thereby allowing CDCR to serve more inmates identified as having a substance use disorder.
- Career Technical Education Programs (\$2.3 million) – Adds 12 career technical education programs statewide to reduce the current waiting lists at institutions that have available classroom space to support these programs.
- Arts in Corrections (\$4 million) – The Arts in Corrections program is currently available at 19 institutions through a partnership with the California Arts Council. This proposal expands the program to all institutions to provide more inmates with an opportunity to participate in programs that have proven successful in changing behavior.
- Innovative Programming Grants (\$3.1 million) – Continues one-time funding to expand non-profit programs that have demonstrated success, and focus on offender responsibility and restorative justice principles to prisons with fewer volunteer programs available.
- Third Watch Overtime (\$2.5 million) – Provides funding for custody coverage on third watch to alleviate program space constraints on second watch.

Staff Comment. CDCR’s rehabilitation programming was discussed in detail by this committee on April 7th. Among the items heard were an update on the implementation of SB 1391 (Hancock), Chapter 695, Statutes of 2014, and overviews of Arts in Corrections, innovative programming grants, and inmate education.

Action.

Approve the following –

- eReader Community College Content (\$3 million Proposition 98 General Fund)
- Internet Protocol Television Integration Maintenance and Operations Support (\$3.7 million)
- Cognitive Behavioral Therapy (\$2.2 million)
- Career Technical Education Programs (\$2.3 million)
- Third Watch Overtime (\$2.5 million)

Approve with the following with modifications –

- Innovative Programming Grants (\$3.1 million) – Approve the May Revision request. In addition, make the funding on-going and require that the grants be awarded for a three-year period, rather than one year.

- Substance Use Disorder Treatment (\$3.7 million) – Approve both the Governor’s January budget augmentation (\$15.2 million) and the May Revision request. In addition, require CDCR to develop a plan to either move substance use disorder treatment from the Division of Rehabilitative Services to the Division of Correctional Healthcare Services (DCHS), consistent with the mental health treatment, which is currently under DCHS, or to fully integrate both healthcare services and rehabilitation services as it relates to providing substance use disorder treatment to inmates. Require CDCR to provide their plan (which should include a review of best practices) to the Joint Legislative Budget Committee and the budget committees in the Assembly and the Senate by January 10, 2017.

Approve, in addition to the May Revision proposal –

- Expand the SB 1391 pilot to include five additional prisons and two permanent positions in the Community Colleges Chancellor’s Office (CCCO) to coordinate community college programs within the state prison system. Specifically, CDCR shall provide the following funding to CCCO:
 - \$2 million in one-time General Fund over two years for five additional community college pilot programs.
 - \$1 million in on-going General Fund to create a permanent infrastructure at the Chancellor’s Office for staff and administrative expenses related to inmate education.

Hold open –

- Arts in Corrections (\$4 million) – This item will be taken up by the full budget committee next week in the context of a larger proposal to increase funding for the arts. Specifically, the budget committee will consider the following augmentations:
 - ✓ In community – Augmenting California Arts Council programs that expand access to art and art education in underserved communities.
 - ✓ In prison – Increasing the Arts in Corrections program to all 34 institutions as proposed in the May Revision and reinstating the artist facilitator positions at all prisons and expanding the duties of the artist facilitators to include facilitating innovative programming.
 - ✓ Reentry/Bridging – Establishing a pilot program within the California Arts Council to facilitate and expand arts programs designed to help former inmates with the transition from prison back into their community.

Vote: 3 - 0

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)
8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)****Issue 1: General Fund Backfill****May Revision Proposals.**

Commission on Peace Officers Standards and Training (POST). The Governor's May Revision proposes to shift an additional \$3.5 million in costs from the Peace Officers Training Fund (POTF) to the General Fund. This would be in addition to the \$13 million cost shift to the General Fund proposed in January.

The Governor's May Revision proposes to further reduce the amount transferred from the Driver Training Penalty Assessment Fund to POTF by nearly \$2 million. This would be in addition to the \$3 million reduced transfer proposed in January.

Board of State and Community Corrections (BSCC). The Governor's May Revision proposes to shift \$3.1 million in costs from the Corrections Training Fund (CTF) to the General Fund. This would be in addition to the \$490,000 reduction in expenditures from CTF proposed in January.

Action. Approve as proposed.

Vote: 2 - 0 (Beall not voting.)

9285 LOCAL ASSISTANCE – TRIAL COURT SECURITY**Issue 1: Trial Court Security Funding**

May Revision Proposal. The May Revision proposes a \$2 million General Fund increase for trial court security funding, in addition to the \$3 million increase proposed in the Governor’s January budget.

Governor’s Budget. The Governor’s proposed budget includes a \$3 million General Fund increase to offset the trial court security costs for those courts completing construction after October 9, 2011. Total funding in the budget for trial court security local assistance is \$5 million General Fund.

Background. As part of public safety realignment in 2011, trial court security and a constitutionally-protected revenue stream to fund those security costs were shifted to the county sheriffs. The Governor’s May Revision assumes that there will be \$543.8 million in realigned revenue available for trial court security in 2016-17. In addition to that base amount, the budget assumes that there will be an additional \$13.6 million in growth funding. That constitutes a \$25 million increase over the 2014-15 funding level.

In the Administration’s May Revision letter they argue that construction projects occupied on or after October 9, 2011, that modify or create building features that increase the overall trial court security costs constitute a higher level of service and, therefore, require the state to provide annual funding to cover those costs.

Prior Budget Actions. The 2014 budget included an increase of \$1 million General Fund to address potential increased court security costs associated with new courthouse construction. In order to receive additional funding, counties are required to demonstrate that they have an increased need for security staff. The 2015 budget increased the funding to \$2 million General Fund.

Trailer Bill Language. In addition to the \$1 million in funding, the 2014 budget included statutory language limiting eligible courts that have an occupancy date on or after October 9, 2011. Based on the current list of construction projects, there are potentially 39 courthouses that may be able to argue the need for a General Fund augmentation for trial court security. The language further outlined a process the courts would need to go through in order to establish that they had increased trial court security costs as a result of construction.

Legislative Concerns. The state’s trial courts have faced significant cuts in recent years which have resulted in the closing of courtrooms throughout the state and a reduction in court-related services. As courtrooms are closed, the need for trial court security is reduced. However, despite a reduction in workload, the revenue provided to counties for trial court security has continued to grow under the realignment formula. In addition, according to the Judicial Council and the Administration, one of the benefits of the new court construction is that they generally require less security than the older courthouses that have multiple entrances.

The Legislature expressed concern with providing the \$1 million in 2014 because of the potential that the General Fund commitment for realigned trial court security would continue to increase year after year, similar concerns were expressed when the funding was doubled in 2015. The request to add an additional \$5 million in funding this year suggests that those concerns were not unfounded.

Legislative Analyst's Office (LAO). The LAO recommended rejecting the initial proposal during the May Revision process in 2014. They acknowledged that some courts may be experiencing an increased trial court security need; they were unable to determine whether there was a statewide net increase in the cost of court security. For example, they note that a number of trial courts closed courtrooms and/or courthouses to address their ongoing budget reductions—thereby reducing the trial court security need and generating cost savings that could be redirected to courts with increased costs. In addition, the 2011 realignment legislation did not envision the state providing each county funding based on its actual court security costs. As such, they argued, the proposal is not consistent with the original intent of the legislation.

Staff Comment. Informal discussions between staff and legislative counsel suggest that it is not certain that this would be a higher level of service. Members may wish to ask for a legislative counsel opinion before acting on any assumptions in this regard. In addition, the Legislature may wish to direct the Administration to use the Trial Court Security growth funding in realignment each year to cover any increased demands on trial court security related to courthouse construction.

Action. No action taken. May Revision augmentation not adopted.

4440 DEPARTMENT OF STATE HOSPITALS (DSH)**Issue 1: Incompetent to Stand Trial Caseload**

May Revision Proposal. The May Revision includes three proposals relating to treating people who have been deemed incompetent to stand trial (IST). Total requested funding for all three is approximately \$21 million General Fund and 175.5 positions. Specifically, the May Revision requests:

- \$12.9 million General Fund and 113.8 positions to activate 60 additional beds at Napa State Hospital. In addition, the May Revision proposes trailer bill language increasing the number of forensic patients that can be treated at Napa State Hospital.
- \$5.3 million General Fund and 61.7 positions to activate 25 IST beds at Metropolitan State Hospital. In addition, the May Revision includes a request for \$2.3 million in reimbursement authority to add 11 Lanterman-Petris-Short (civil commitment) beds at Metropolitan.
- \$2.7 million General Fund and one position to contract for 25 additional jail based restoration of competency beds.
- Budget bill language authorizing expenditures for the restoration of competency beds once the contracts have been executed.

Staff Comments. Expanding this program, which allows people who have been deemed incompetent to stand trial by reason of insanity to receive mental health services in the county jail, rather than being transferred to a state hospital, should help to reduce the IST waiting list for placement in a state hospital.

In addition, expanding the program to more counties allows county jails to properly assess and treat inmates who have been found incompetent and are waiting in county jails for a bed in the state hospital system. By treating those individuals who are easier to restore either in a community mental health facility or in a jail, counties should be able to reduce the pressure on their jail systems and more quickly move individuals with serious mental illnesses through the court system and either into long-term treatment or, if found guilty, to begin serving their jail or prison terms.

Currently, three county sheriffs (Riverside, San Bernardino and Sacramento) have restoration of competency programs serving Los Angeles, Fresno and San Joaquin counties, in addition to the three counties running the programs. Currently, the JBCT program is only available in a county jail setting and not in community mental health facilities, despite language that allows for restoration of competency in either or jail or a community setting. While the Legislature has pushed DSH to prioritize jail and community-based restoration programs over state hospital expansions, progress continues to be slow. This difficulty comes despite significant interest on the part of the county sheriffs to find ways to treat and restore people on the IST waiting list.

The annual cost of the restoration of competency program is approximately \$78,000 per bed, as opposed to an IST bed in a state hospital that costs approximately \$250,000 per year. Staff has recently learned that DSH and San Diego are entering into negotiations for a 40 bed restoration program for San Diego. However, this proposal does not include funding for San Diego. Given the significant General Fund savings associated the planned program in San Diego, the Legislature may wish to reduce the state

hospital expansion by 40 beds and redirect \$4.9 million General Fund to the jail-based competency program to fund the San Diego program or other programs that may be ready to open during 2016-17.

Action:

1. Approve the proposal to expand forensic beds at Metropolitan State Hospital and Napa State Hospital and adopt the Administration's trailer bill language related to Napa State Hospital as draft, placeholder language.
2. Adopt draft, placeholder trailer bill language clarifying that jail and community-based restoration programs are part of the state hospitals' continuum of care.
3. Adopt supplemental reporting language requiring DSH to submit a report detailing the outcomes DSH uses to measure successful treatment and its progress toward successfully treating its entire patient population.

Vote: 3 - 0

Issue 2: Conditional Release Program (CONREP)

May Revision Proposal. The May Revision requests \$1.6 million General Fund to activate up to 26 transitional beds for CONREP patients. These beds provide temporary housing for CONREP patients that require direct supervision to live in the community.

Governor's Budget. The proposed budget includes an additional \$3.8 million General Fund in 2016-17 for increased costs related to the DSH Conditional Release Program (CONREP). The increased costs are primarily related to an expected increase in the CONREP-sexually violent predator (SVP) caseload (\$3 million General Fund). The remaining amount (\$800,000 General Fund) is due to a change in the contracting, away from an allocation-based methodology to a service-based methodology.

Previous Subcommittee Action. On April 28th the subcommittee held open the Governor's budget request and directed DSH to provide the committee with updated estimates based upon phasing in the new CONREP-SVP cases and reducing the inpatient funding for the SVP caseload.

Background. CONREP provides community treatment and supervision for individuals who have been found to be not guilty by reason of insanity (NGI), incompetent to stand trial (IST), or have been designated as mentally disordered offenders (MDO) or sexually violent predators (SVP).

CONREP offers individuals direct access to mental health services during their period of outpatient treatment. These services are provided by specialized forensic mental health clinicians and include individual and group therapies, home visits, substance use disorder screening and psychological assessments. Currently, DSH contracts with 11 providers for these services. DSH estimates that the non-SVP CONREP caseload will be 654 individuals in both 2015-16 and 2016-17.

CONREP for Sexually Violent Predators. SVP patients in the state hospital system are individuals who are convicted of a sex offense and also found to have a mental disorder that makes him a danger to others and likely to engage in sexually violent behavior in the future. After the completion of the prison term of a

person convicted of committing a sexually violent crime, both DSH and the CDCR evaluate the individual to determine whether or not he meets the criteria to be designated as an SVP. If a person is designated as an SVP, and the courts agree with the designation, that individual is then committed to DSH upon completion of their prison term. Every year, DSH will evaluate their SVP patients to determine whether or not they meet the criteria to be released to CONREP or conditionally discharged. That consideration includes whether the release is in the best interest of the individual and whether or not conditions can be imposed upon the release that would adequately protect the community.

For SVPs, state law requires that all SVPs who are conditionally released into their original communities must be provided with both treatment and supervision. Currently, DSH contracts with one provider who provides both the required specialized treatment and supervision for these individuals. DSH estimates that there will be 14 SVP-designated individuals in CONREP in 2015-16. However, there are currently 12 additional SVP-designated individuals who have court petitions for release into CONREP. If the court approves all of the petitions, DSH assumes the CONREP-SVP caseload will grow to 26 individuals in 2016-17.

The cost for the CONREP-SVP cases is significantly higher than regular CONREP cases, primarily due to the security requirement. Courts may order 24 hour-a-day, seven day a week security of people in the CONREP-SVP for time-limited period during transition from state hospital to community setting (several weeks to several months, depending on circumstances). Currently, one individual has been receiving 24 hour-a-day security for over a year due to safety concerns. DSH does not know when security for this individual can be suspended. The 2014-15 average cost-per-case, excluding security, is approximately \$258,000 for CONREP-SVP services and treatment. The cost rose to an average of \$310,000 per year when security was included. In contrast, the annual cost-per-case for the regular CONREP cases during 2014-15 was \$34,000 per year.

Action. Approve the CONREP funding increase as one-time funding and require DSH to transition the funding for the eligible treatment costs associated with CONREP to Medi-Cal by July 1, 2017.

Vote: 3 - 0

Issue 3: Coleman Monitoring Team

May Revision Proposal. The May Revision requests \$876,000 and four positions to establish a Coleman monitoring team within the Department of State Hospitals to coordinate and monitor implementation of the Special Master's recommendations to improve inpatient care of Coleman patients at each facility.

The Coleman Class. As of April 18, 2016, there are currently 37,431 inmates in the Coleman class (35,335 men and 2,096 women). According to a December 24, 1998, court ruling on the definition of the class, the plaintiffs' class consists of all inmates with serious mental disorders who are now, or who will in the future be, confined within CDCR. A "serious mental disorder" is defined as anyone who is receiving care through CDCR's Mental Health Services Delivery System (MHSDS).

MHSDS provides four levels of care, based on the severity of the mental illness. The first level, the Correctional Clinical Case Management System (CCCMS), provides mental health services to inmates with serious mental illness with "stable functioning in the general population, an administrative segregation unit (ASU) or a security housing unit (SHU)" whose mental health symptoms are under control or in "partial remission as a result of treatment." As of April 18, 2016, 28,773 mentally ill inmates were at the CCCMS level-of-care.

The remaining three levels of mental health care are for inmates who are seriously mentally ill and who, due to their mental illness, are unable to function in the general prison population. The Enhanced Outpatient Program (EOP) is for inmates with “acute onset or significant decompensation of a serious mental disorder.” EOP programs are located in designated living units at “hub institution[s].” As of April 18, 2016, 6,940 inmates with mental illness were receiving EOP services and treatment.

Mental health crisis beds (MHCBS) are for inmates with mental illness in psychiatric crisis or in need of stabilization pending transfer either to an inpatient hospital setting or a lower level-of-care. MHCBS are generally licensed inpatient units in correctional treatment centers or other licensed facilities. Stays in MHCBS are limited to not more than ten days. Currently, there are 414 inmates receiving this level-of-care.

Finally, several inpatient hospital programs are available for class members who require longer-term, acute care. These programs are primarily operated by the Department of State Hospitals (DSH), with the exceptions of in-patient care provided to condemned inmates and to female inmates. There are three inpatient psychiatric programs for male inmates run by DSH that are on the grounds of state prisons. Those programs are DSH-Stockton, on the grounds of the Correctional Healthcare Facility; DSH-Vacaville, on the grounds of Vacaville State Prison; and DSH-Salinas Valley, on the grounds of Salinas Valley State Prison. There are currently approximately 1,100 patients in those facilities and the DSH budget for those inmates is approximately \$245 million General Fund per year. As of April 18, 2016, 1,304 inmates were receiving inpatient care, 45 of those patients were women and 36 were condemned inmates housed at San Quentin State Prison. The remaining 1,223 are receiving care in a DSH facility.

In addition to the patients in the prison-based psychiatric programs, approximately 250 Coleman class inmates are receiving care at Atascadero State Hospital and Coalinga State Hospital. The DSH budget for those patients is \$52 million General Fund per year.

Staff Comment. This subcommittee held an in-depth oversight hearing on the status of the Coleman-class inmate patients under the care of both CDCR and DSH on April 28th. The agenda and details of that hearing can be found on the Senate Budget and Fiscal Review Committee’s website.

In recent years, the Senate has expressed concern with the appropriateness of having DSH provide mental health treatment to CDCR’s inmates. Under the current system, the special master has found that DSH is providing an inadequate level of treatment both due to lack of available staffing and out of apparent fear of the dangers related to providing services and treatment to inmates; the clear demonstration by CDCR that they are better suited to treat even the most potentially dangerous inmate patients, as evidenced by the robust services and treatment being provided to condemned inmate-patients at the San Quentin psychiatric inpatient program (PIP) (discussed in detail in the April 28th subcommittee agenda); and the fact that CDCR does not appear to take a holistic approach to meeting increases in the need for care, as evidenced by the potential for the increased California Men’s Colony crisis level beds to reduce the availability of clinicians at DSH-Atascadero who treat Coleman patients needing acute levels of care (discussed in detail in the April 28th subcommittee agenda). On top of those issues, there appears to be an ambiguity regarding the healthcare provided to the Plata class inmates being housed in the co-located DSH PIP facilities needs to meet the same standards of care as that in CDCR’s state-run prisons.

Given the on-going concern with the DSH-run PIPs, the question remains as to whether or not CDCR should resume control over the longer-term treatment of Coleman inmate-patients. Dedicating permanent resources toward a workload that could be short-term in nature appears to be unnecessary.

Action. Approve the funding and the positions on a two-year limited term basis.

Vote: 3 – 0