

SUBCOMMITTEE NO. 5

Agenda

Senator Nancy Skinner, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, May 3, 2018
9:30 a.m. or upon adjournment of Session
State Capitol - Room 113

Consultant: Christopher Francis

<u>Item</u>	<u>Department</u>	<u>Page</u>
Vote-Only Items		
5227	Board of State and Community Corrections (BSCC)	
Issue 1	Extend Sunset for County-to-County Transfer of Inmates Trailer Bill Language	3
Issue 2	Court Holding Cell Trailer Bill Language	3
8120	Commission on Peace Officer Standards and Training (POST)	
Issue 3	Learning Portal Conversion	3
5225	Department of Corrections and Rehabilitation (CDCR)	
Issue 4	San Quentin State Prison: New Boiler Facility Spring Letter	3
Issue 5	Correctional Training Facility, Soledad: Administrative Cell Door Retrofit Spring Letter	4
Issue 6	Pelican Bay State Prison: Facility D Yard Spring Letter	4
0250	Judicial Branch	
Issue 7	California Courts Protective Order Registry	4
0820	Department of Justice	
Issue 8	Antitrust Workload	4
Issue 9	Bureau of Gambling Control-Third-Party Providers Workload	5
Discussion Items		
8120	Commission on Peace Officer Standards and Training (POST)	
Issue 10	Update on Peace Officer Mental Health Training (SB 11 and SB 29)	6
Issue 11	Hate Crime Model Policy	6
5227	Board of State and Community Corrections (BSCC)	
Issue 12	California Violence Intervention & Prevention Grant Program (CalVIP)	8

Issue 13	Air Surveillance for Local Law Enforcement	11
5225	Department of Corrections and Rehabilitation (CDCR)	
Issue 14	Health Care Facility Improvement Program (HCFIP) Spring Letter	12
0820	Department of Justice	
Issue 15	Bureau of Environmental Justice	15
Issue 16	Civil Rights and Sex Equity in Education Enforcement	16

Public Comment

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

PROPOSED FOR VOTE ONLY**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS**

1. **Extend Sunset for County-to-County Transfer of Inmates Trailer Bill Language.** The purpose of the trailer bill language is to extend the sunset date on provisions of law that allow a county where adequate facilities are not available for prisoners in its adult detention facilities to enter into agreements with one or more counties that have adequate facilities, as specified. The authority sunsets on July 1, 2018, and the proposal extends the transfer to July 1, 2021. Criminal justice realignment under AB 109 (Committee on Budget and Fiscal Review), Chapter 15, Statutes of 2011, placed greater responsibility on county jails in the housing and rehabilitation of inmates. In order to adequately house and care for county jail inmates, budget trailer bill SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, included a provision to allow county jails with inadequate facilities to transfer inmates to other county jails. The purpose of this was to allow impacted jails time to adjust to realignment and to renovate or construct adequate housing and rehabilitation facilities to ensure the safety of inmates and staff and reduce recidivism. AB 1512 (Stone), Chapter 44, Statutes of 2014, allowed these counties to continue to transfer inmates by extending the sunset date established in SB 1021 from July 1, 2015 to July 1, 2018.
2. **Court Holding Cell Trailer Bill Language.** The proposed trailer bill language would include court holding facilities, within a superior court that is operated by or supervised by specified personnel, in the definition of a local detention facility. Currently, a local detention facility is defined as a city, county, city and county, or regional facility used for confinement of adults or both adults and minors. These facilities are subject to BSCC inspection biennially. It would not define areas within a courtroom or a public area in the courthouse to be a court holding facility.

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)

3. **Learning Portal Conversion.** POST requests \$155,000 State Penalty Fund and one permanent position in 2018-19 and ongoing to convert online training courses from expiring technology. Adobe Flash software which was used to develop 17 of the Learning Portal courses and one performance support tool will no longer be supported by Internet browsers beginning 2020. Currently, 600 state and law enforcement agencies and 10,000 peace officers participate in POST and rely on online trainings to complete necessary trainings within budget restrictions.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

4. **San Quentin State Prison, San Quentin: New Boiler Facility Spring Letter.** The CDCR requests an adjustment of \$20.481 million General Fund to reflect the removal of the construction appropriation of this project to design and construct a new central high-pressure steam boiler facility at San Quentin State Prison. The working drawings phase has been delayed and CDCR now estimates the amount requested may be insufficient to complete the

project. They anticipate making a funding request for construction in a future budget. This proposal was originally heard in this Subcommittee on March 19, 2018.

5. **Correctional Training Facility, Soledad: Administrative Cell Door Retrofit Spring Letter.**

CDCR requests an adjustment of \$9.782 million General Fund to reflect the removal of the construction appropriation for this project to replace 144 barred cell fronts in the O Wing Administrative Segregation Unit of the Correctional Training Facility. This project has been delayed as CDCR finishes construction on a similar door retrofit project at Deuel Vocational Institute.

6. **Pelican Bay State Prison: Facility D Yard Spring Letter.** The CDCR is requesting to re-appropriate the fiscal year 2017-18 preliminary plans and working drawings appropriation in the amount of \$539,000, to ensure funding remains available for this project. Preliminary plans and working drawings were funded in the 2017 Budget Act, and construction funding is being proposed in the 2018 budget act. Initiation of preliminary plans were delayed for this project by approximately six months and are not anticipated to be completed during the 2017-18 fiscal year. The encumbrance availability for preliminary plans and working drawing will expire on June 30, 2018.

0250 JUDICIAL BRANCH

7. **California Courts Protective Order Registry.** The Judicial Council requests an augmentation of \$200,000 General Fund in 2018-19 and ongoing for one position to complete deployment of the California Courts Protective Order Registry (CCPOR) program to the seven largest trial courts. The CCPOR program provides a statewide repository of protective orders containing both data and scanned images of orders that can be accessed by judges, court staff, and law enforcement agencies across the state. With existing resources exhausted, funding is needed to onboard the remaining seven superior courts—Alameda, Contra Costa, Sacramento, San Bernardino, San Diego, San Mateo and Los Angeles. These courts, which are among the largest in the state, represent the remaining 49 percent of the total restraining protective orders (RPOs) issued throughout the state. Onboarding these courts will provide a statewide program and yield the full benefit of having a comprehensive central repository with scanned images of RPOs.

Staff Recommendations: Adopt placeholder TBL for item 1 and approve vote-only items 2-7 as proposed

0820 DEPARTMENT OF JUSTICE

8. **Antitrust Workload.** The Department of Justice (DOJ) Antitrust Law Section (Section) requests a permanent augmentation of 23.0 positions and Attorney General Antitrust Account spending authority of \$1,780,000 in FY 2018-19, \$3,488,000 in FY 2019-20, \$4,527,000 in FY 2020-21, \$4,419,000 in FY 2021-22 and ongoing to support the Section's increase in workload. Additional resources are needed to meet the increased workload. However (1) the total level of additional workload is unclear and (2) whether sufficient resources will be

available to support requested positions. This item was heard in Senate Budget Subcommittee 5 on April 19, 2018.

Staff Recommendation: Adopt the LAO recommendations and provide the nine positions and \$1.8 million to support increased Antitrust Law Section activities in 2018-19. Additionally, adopt placeholder TBL direct DOJ to submit a report by December 1, 2020, on certain fiscal and performance measures (such as number of cases pursued and litigated as well as the amount of monetary recoveries generated) to monitor the impact of these provided positions.

9. **Bureau of Gambling Control-Third-Party Providers Workload.** The Department of Justice's Bureau of Gambling Control requests \$1,564,000 in permanent funding from the Gambling Control Fund to retain 12.0 positions granted in fiscal year 2015-16 with three-year limited-term funding. The full impact of the previously approved 32 limited-term resources remains unclear. This is because 2017-18 is the first year in which nearly all 32 analytical positions were filled. Therefore, it is difficult to determine the appropriate level of ongoing resources needed to (1) eliminate the backlog and (2) prevent the creation of an extensive backlog. This item was heard in Senate Budget Subcommittee 5 on April 19, 2018.

Staff Recommendation: Adopt the LAO recommendation and provide \$1.6 million from the Gambling Control Fund to support the 12 positions provided in 2015-16 for one additional year, rather than on an ongoing basis as proposed by the Governor.

ITEMS TO BE HEARD**8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)****Issue 10: Update on Peace Officer Mental Health Training (SB 11 and SB 29)**

Background. People with mental illnesses or intellectual disabilities are involved in nearly half of all police shootings.

SB 11 (Beall). Prior to SB 11 (Beall), Chapter 468, Statutes of 2015, the California Peace Officer Standard and Training Curriculum mandates only six hours of mental health training; and there is no requirement to include mental health training in an officer's continuing education. SB 11 mandates stronger evidence-based behavioral health training that has proven to reduce volatile confrontations between peace officers and people with mental illnesses or intellectual disabilities. Equally important, SB 11 acknowledges California's diverse populations by requiring training to be culturally appropriate. Specifically, the bill:

1. Required POST to establish a training course, of at least 15 hours, on law enforcement interaction with persons with mental illness.
2. Required POST to have a three-hour continuing education course on the same subject matter.

SB 29 (Beall). SB 29 (Beall), Chapter 469, Statutes of 2015, requires law enforcement field training officers (FTOs) to have training from POST regarding law enforcement interaction with persons with mental illness or intellectual disability.

Staff Recommendation. This is an informational item. No action is to be taken.

Issue 11: Hate Crime Model Policy

Proposal. This proposal requests a one-time, \$45,000 augmentation to the Commission on Peace Officer Standards and Training budget to allow POST to update its model hate crimes policy and guidelines pursuant to Penal Code Section 13519.6.

Background. According to the DOJ's 2016 report, Hate Crimes in California, the total number of hate crime events (an occurrence when a hate crime is involved) decreased 34.7 percent from 2007 to 2016. Filed hate crime complaints decreased 30.5 percent from 2006 to 2015. That being said, hate crime events in California have been on the rise; there was a 10.4 percent rise from 2014 to 2015, and then another 11.2 percent rise from 2015 to 2016. The total number of hate crime events, offenses, victims, and suspects had all increased in 2016.

According to its 2015 report, "The DOJ requested that each law enforcement agency establish procedures incorporating a two-tier review (decision-making) process. The first level is done by the initial officer who responds to the suspected hate crime incident. At the second level, each report is

reviewed by at least one other officer to confirm that the event was, in fact, a hate crime.” Even with the two-tiered system in place, the DOJ still lists the policies of law enforcement agencies as one of four factors possibly influencing the volume of hate crimes reported. Out of the three areas mentioned in the bill as having the greatest concentrations of hate groups—Sacramento, San Francisco Bay, and Los Angeles—the only policy language covering procedures for hate crimes that this Committee was able to locate online, was a General Order (524.04) posted by the Sacramento Police Department (SPD).

With the rise in hate and intolerant rhetoric coming from the federal government, there is a need for enforcement agencies to respond to the growing number of hate crimes. It has been 10 years since POST, working with law enforcement associations, civil rights groups, and other subject-matter experts, developed its current model policy and guidelines. While the POST work product was generally excellent, advocates argue that it does not meet the challenges posed by the spreading plague of hate crimes in the last three years and does not adequately deal with some special problems, such as anti-disability hate crimes. Few, if any, local law enforcement agencies adopted the POST model, either relying on the less comprehensive Lexipol model or continuing to use locally developed policies that in some cases do not reflect current law. Some local agencies reportedly have no hate crime policies at all.

AB 1985 (Ting). Introduced in 2018, AB 1985 (Ting) states that local law enforcement agencies must include certain requirements and definitions into a hate crimes policy manual if they decide to adopt or update a hate crimes policy manual. AB 1985 provides a framework on how law enforcement agencies should update their hate crime policy protocols, resources, and responsibilities, and help prevent future incidents.

Staff Recommendation. Hold Open.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS**Issue 12: California Violence Intervention & Prevention Grant Program (CalVIP)**

Proposal. This proposal requests a reauthorization of the California Violence Intervention and Prevention (CalVIP) program and ongoing appropriation of \$18.43 million to the program, which is an additional \$9.215 million above the 2017-18 funding level.

Background. The CalVIP program began in 2007 when then-Governor Schwarzenegger created the Governor's Office of Youth Violence Policy (OGYVP) to help communities support strategies to reduce gang and youth violence. The program was first administered by the OGYVP, and later transferred to the California Office of Emergency Services (OES). Initially, program was named the California Gang Reduction, Intervention, and Prevention (CalGRIP) program and provided anti-gang funding to many state departments including the OES, the Employment Development Department, the Board of State and Community Corrections (BSCC), the California Highway Patrol.

In July 2012, as a result of AB 1464 (Blumenfield), Chapter 21, Statutes of 2012, the BSCC acquired sole administrative responsibility for the program. The administrative responsibility of the \$9.2 million annual grant program came to BSCC along with an increased level of accountability. Under BSCC, the CalGRIP allocation is based upon an applicant's ability to demonstrate that funding is used to implement evidence-based prevention, intervention and suppression programs.

From 2007 to 2017, California's Budget Acts appropriated \$9.215 million per year to operate the CalGRIP program, which provided dollar-for-dollar matching grants to cities for initiatives to reduce youth and gang-related crime. The Budget Acts guaranteed one million dollars annually for the City of Los Angeles, with the remainder distributed to other cities of all sizes through a competitive application process, overseen by the Board of State and Community Corrections (BSCC). The grant program also requires that grantees distribute at least 20 percent of CalGRIP funds toward community-based organizations. According to BSCC records, in recent years cities have chosen to direct a majority of CalGRIP funding to community-based organizations.

Program Impact. In recent years, this program leveraged state dollars and local funding matches to support some of California's most effective violence reduction initiatives. Examples of the program's impact include:

- From 2015-17, the program provided the City of Los Angeles \$3 million to help fund the Gang Reduction and Youth Development (GRYD) program. Los Angeles has seen a 38 percent reduction in homicides and 46 percent reduction in aggravated assaults since launching GRYD in 2007.¹ A 2015 report by the Urban Institute found that recipients of GRYD violence prevention services reported significant reductions in violent behaviors.² And a March 2017 assessment by researchers at Cal State University, Los Angeles found that GRYD incident

¹ Compiled using Offense Table 8 of 2004-2015 Uniform Crime Reports data. "Crime in the U.S.," Federal Bureau of Investigation, <https://ucr.fbi.gov/crime-in-the-u.s>.

² Meaghan Cahill, et al, "Evaluation of the Los Angeles Gang Reduction and Youth Development Program: Year 4 Evaluation Report," Urban Institute, 35-37 (Sept. 2015). <http://www.urban.org/sites/default/files/publication/77956/2000622-Evaluation-of-the-Los-Angeles-GangReduction-and-Youth-Development-Program-Year-4-Evaluation-Report.pdf>.

response teams—just one of many GRYD programs—had prevented an estimated 185 gang retaliations citywide from 2014-15, resulting in estimated savings of \$110.2 million over two years.³

- From 2015-17, the program provided the City of Richmond \$1.5 million to help fund the Office of Neighborhood Safety, an innovative city agency dedicated exclusively to the prevention of violence. Richmond has seen a 53 percent drop in gun homicides and a 45 percent drop in non-fatal shootings since that Office launched Operation Peacemaker Fellowship, a comprehensive street outreach and mentoring program, in 2010.⁴
- From 2015-17, the program provided \$1.5 million to the City of Oakland to fund Oakland Ceasefire, which is focused on reducing gun violence. Since launching Ceasefire in 2012, Oakland has seen a remarkable 43 percent drop in homicides and a 49 percent reduction in non-fatal injury shootings.⁵ Last year, Oakland experienced its lowest number of homicides in 20 years and its second lowest number in the last four decades.

Program changes and narrowed focus. Last year, the Legislature amended the name of the program from CalGRIP to CalVIP—therefore shifting the program away from initiatives targeting gang crime and affiliation toward a narrower and more objective focus on evidence-based violence prevention programs, like those implemented in Los Angeles, Richmond, and Oakland. Through local funding matches, CalVIP will have leveraged over \$55 million dollars in investments in 19 cities across the state from 2015-2017.

Legislators also acted to (1) direct CalVIP grants to localities with the highest rates of violence; (2) require CalVIP grantees to set clear, quantifiable goals for their program; (3) ensure community-based organizations can apply directly for CalVIP grants and receive a greater portion of cities' awards; (4) strengthen grantees' data reporting and transparency requirements; and (5) require BSCC to report to the Legislature on the effectiveness of CalVIP-funded programs.

However, the proposed 2018-19 Governor's budget does not provide any funding for the CalVIP program.

Need for proposed funding. This year, BSCC received CalVIP grant applications from over 120 cities and community-based organizations but will distribute its \$9.215 million appropriation in small grants to fewer than 20 applicants stretched over a two-year period. Fewer than 20 percent of applicants will receive any funding for violence prevention efforts in their communities and none will receive more than \$250,000 per year, no matter how great their demonstrated need. BSCC has identified 101 California cities that rank in the top five percent for rates of homicide, aggravated assault, or robbery, and there are 36 California cities in the top five percent for at least two of these violent crime indicators. CalVIP is currently unable to make meaningful or sustained investments in many of these

³ P. Jeffrey Brantingham, et al, "GRYD Intervention Incident Response & Gang Crime," GRYD Research and Evaluation Team, 23 (Mar. 30, 2017).

http://www.jjresearch.com/docs/IR%20and%20Gang%20Crime_GRYD%20Symposium%202017.pdf.

⁴ Compiled using the following sources: "2013 Summary Report," Office of Neighborhood Safety, <http://www.ci.richmond.ca.us/DocumentCenter/View/28431>; Wayne Drash and Tawanda Scott Sambou, "Paying kids not to kill," CNN, May 20, 2016, <http://www.cnn.com/2016/05/19/health/cash-for-criminals-richmondcalifornia>.

⁵ Oakland City End of Year Crime Reports for 2012 and 2017.

<http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak050910.pdf>.

disproportionately impacted communities. The infusion of funds, it is argued, will enable California to replicate the successes of other states' targeted violence prevention and intervention initiatives and to better meet the enormous, unmet need in our state for resources to address serious violence in the most impacted communities.

Comparison with other states. Other states have achieved much larger reductions in violence by making strong investments in violence prevention and intervention grant programs and strategically narrowing the focus of those programs by directing services to individuals most at risk for engaging in or becoming the victims of serious violence. While California spends roughly 23 cents per capita annually on CalVIP, in recent years, Massachusetts and New York have spent \$2.01⁶ and 94 cents⁷ per capita, respectively, on their statewide violence prevention grant programs. Both states are expected to increase their investment in these programs this year.

Massachusetts and New York's more effectively targeted programs support initiatives that interrupt cycles of violence by engaging "proven risk" individuals who are most likely to perpetrate, or be the victim of, shootings and homicides. This cohesive focus has encouraged grantees to work together to develop and export best practices and has allowed the state to hold grantees accountable for their progress in achieving and sustaining objectively measurable reductions in shootings and homicides. This approach has contributed to reductions in violence and significant cost-savings:

- Between 2010 and 2016, Massachusetts's gun homicide rate fell by 32 percent, while at the national level, gun homicides were increasing by 24 percent.⁸ Researchers estimate that state taxpayers have saved as much as \$7.35 for every dollar invested in Massachusetts's violence prevention and intervention grant program.⁹ Moreover, New York's gun homicide rate fell by 27 percent, led by a 34 percent decline in gun homicides among young people aged 14-24.¹⁰
- By comparison, in California gun homicide rates increased by four percent between 2010 and 2016, driven by an 18 percent increase between 2014 and 2016.¹¹ By 2016, California's gun homicide rate was nearly three times as high as Massachusetts's and nearly double New York's.

⁶ Massachusetts's Safe and Successful Youth Initiative, Shannan Community Safety Initiative grants, and Department of Public Health youth violence prevention program grants provided at least \$13.9 million in grant funding in FY 2017.

⁷ New York's Gun Involved Violence Elimination and SNUG programs awarded \$18.535 million in grant funding in FY 2016.

⁸ Based on CDC Fatal Injury Reports, available at <https://webappa.cdc.gov/sasweb/ncipc/mortrate.html>.

⁹ Patricia E. Campie, et al., "Massachusetts Safe and Successful Youth Initiative, Benefit-to-Cost Analysis of Springfield and Boston Sites," American Institutes for Research and WestEd, Nov. 26, 2014. <http://www.air.org/sites/default/files/downloads/report/Benefit%20to%20Cost%20Analysis%20of%20Boston%20and%20Springfield%20SSYI%20Programs.pdf>.

¹⁰ Ibid.

¹¹ Ibid.

SB 934 (Allen). In the current legislative session, SB 934 was introduced to write the framework for CalVIP into law.

Staff Recommendation. Hold Open.

Issue 13: Air Surveillance for Local Law Enforcement

Proposal. This proposal requests a General Fund appropriation of \$3 million to purchase a helicopter to provide air support to law enforcement and other purposes to serve the greater Stockton metropolitan area. According to the proposal, there is no Patrol air support in San Joaquin County, the closest California Highway Patrol Air Support is 65 miles away in Auburn, and the National Police Foundation's Review of a Stockton Police Department incident strongly recommends patrol air support.

Staff Recommendation. Hold Open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION**Issue 14: Health Care Facility Improvement Program (HCFIP) Spring Letter**

Spring Letter. The CDCR requests trailer bill language to increase the lease revenue appropriation authorized by Government Code Section 15819.403(a) by \$73 million to complete construction of Health Care Facility Improvement Program (HCFIP) projects and proposes legislation for allocating funds for the projects. Individual HCFIP projects at 25 prisons have been established by the State Public Works Board utilizing the lease revenue bond financing authority in Government Code Sections 15819.40-15819.404.

Background. Since 2006, the medical care provided in state prisons operated by the California Department of Corrections and Rehabilitation (CDCR) has been under a federal court receivership for failing to provide constitutionally adequate care. Among the obstacles to providing this level of care identified by the court were inadequate and insufficient health care facilities. The Administration created HCFIP, which is overseen by the federal Receiver, to renovate and expand treatment spaces at most prison facilities in order to improve access to medical care.

SB 1022 (Committee on Budget and Fiscal Review), Chapter 42, Statutes of 2012 authorized the use of \$900.4 million in existing lease revenue authority from AB 900 (Solorio), Chapter 7, Statutes of 2007, to support HCFIP projects, as well as nine specific mental health facility projects at existing prisons.

SB 1022 attempted to streamline completion of projects. In an attempt to expedite the completion of HCFIP projects and address the lack of adequate health care treatment space in state prisons, SB 1022 established a separate project approval process. This process differs from the state's normal capital outlay process in two ways. First, the process established under SB 1022 did not require the administration to seek legislative approval of the original scope and cost for individual HCFIP projects or request funding from the Legislature as the individual projects progressed. Rather, the Joint Legislative Budget Committee (JLBC) was only notified by the Administration when the scope of each project was established and when preliminary plans were completed. Under the state's normal capital outlay process, each individual project requires legislative approval to fund each phase of the project.

Second, the SB 1022 process allows the Administration to consider all of the individual projects funded with the \$900.4 million as one project—meaning both HCFIP projects and the nine mental health projects—rather than as separate projects for the purposes of augmentations. Accordingly, the Administration can approve augmentations up to \$90 million (10 percent) without having to notify JLBC. With JLBC notification no less than 20 days prior to State Public Works Board (SPWB) approval, the Administration can approve augmentations up to \$180.1 million (20 percent). The SPWB is responsible for the review and approval process for all capital outlay projects to ensure they adhere to legislatively approved scope and budget. This responsibility includes reviewing and approving project cost augmentations and changes to project scope. By contrast, under the normal capital outlay process, these augmentation thresholds would be based on the legislatively approved budget for each individual project, which would limit the amount any specific project could be augmented.

HCFIP Projects Have Experienced Significant Cost Increases and Delays. After the enactment of SB 1022, the Receiver hired a consultant to identify the specific treatment space needs at each prison. Based on these assessments, the Administration allocated lease revenue authority totaling \$193.1 million of \$900.4 million was allocated for nine mental health infrastructure projects (such as

Enhanced Outpatient Program treatment and office space and Intermediate Care Facilities). These nine mental health infrastructure projects have been completed. The remaining \$707.3 million was allocated to 25 HCFIP projects.

Status of projects. One project (California State Prison-Los Angeles County) was completed in 2017; the remaining projects are scheduled for completion in 2018, 2019 and 2020. At the time of this request, the Administration had already approved a total augmentation of \$167.1 million—18.6 percent of the total \$900.4 million authorized—to cover cost increases associated with each of the 25 HCFIP projects.

Issues driving requested increase in lease revenue authority. According to the Administration, the requested increase in lease revenue authority is mostly related to two factors focusing on design changes.

1. Some of the design changes were likely related to the CDCR's expedited design process for HCFIP projects that gave design firms less time than under the typical process.
2. The Administration indicates that architectural and design firms also made errors. Due in part to the above design changes, all of the HCFIP projects have been delayed. Specifically, these projects were originally anticipated to be completed in over three years on average, but are now expected, on average, to be completed in over five years.

Once each project is completed, the Administration indicates that it will review the project to determine whether any identified design errors are significant enough to hold the design firm accountable, such as by withholding a portion of the firms' payments. Without additional funding, the CDCR projects that further cost increases in HCFIP projects will cause it to exhaust the \$13 million that currently remains below the 20 percent augmentation limit at some point in 2018-19. The Administration indicates that if this occurs, any projects that need additional funding would be delayed until more resources were approved by the Legislature.

Proposal details. The Administration is requesting \$73 million in additional lease revenue authority to prevent any delays. Of this amount, \$42.8 million is tied to estimated cost increases for specific projects at 14 prisons. The remaining \$30.2 million is proposed as increased contingency funds to address unforeseen challenges which the department has not yet identified and is not tied to specific projects.

The Administration also proposes budget trailer legislation that would allow any of the HCFIP projects to receive a portion of the proposed \$73 million. In addition, the proposed language would require Department of Finance to notify JLBC no more than 30 days *after* the SPWB approves such an allocation. This notification would include the following information: (1) which project is receiving the allocation, (2) the amount allocated, (3) the reason for the allocation, (4) the estimated date that the project receiving the allocation will be completed, and (5) the amount remaining to be allocated to other projects.

Legislative Analyst's Office (LAO). The LAO believes that there is inadequate justification for the proposal. The Administration was unable to provide the LAO with an adequate amount of information justifying the need for the proposed increase in authority. For example, while the Administration identified the 14 projects that might receive \$42.8 million of the proposed funds, it was not able to

provide information on why each of those projects needed additional funds or how the funds would be used. The Administration also indicates that the projects could receive a different amount of funding than the level identified in the proposal. In addition, the Administration was not able to provide any information on how it estimated that it needs \$30.2 million in contingency funding or how such funding might be used.

As mentioned above, the Administration indicated that it is proposing additional lease revenue authority to ensure that projects are not delayed when its believes its current authority will be exhausted in 2018-19. However, it was unable to provide any information on when in 2018-19 this might occur or on the amount of additional authority it would need over the course of 2018-19. As a result, it is not clear what the consequences would be if the Legislature did not approve the Administration's proposal or which projects might be affected if the authority was not provided.

Proposed Legislative Notification Process Limits Legislative Input and Oversight. The legislative notification process in the proposed budget trailer legislation does not provide the Legislature with adequate oversight of the funds. This is because the proposed process requires the notification to occur after SPWB has made an allocation. As such, the process does not provide the Legislature the ability to ensure funds are spent in a manner that is consistent with its goals for the project.

LAO Recommendation. Given the lack of justification included with the request, the LAO recommends that the Legislature reject the \$73 million increase in lease revenue authority for HCFIP projects and direct the department to use the \$13 million remaining under the 20 percent limit until it can submit a new request with adequate justification. They also recommend that the Legislature directs the Administration to include the following information to justify any new request: (1) the amount of funding each project would receive, (2) how the additional funding would be used on each project, (3) data justifying any proposed contingency funds, (4) how much additional lease revenue authority is needed to prevent projects from being delayed, and (5) what projects would be delayed without additional funding.

Staff Comments. Staff believes that approval of this proposal should be held until important pieces of information are presented to the Legislature. For example, the proposal lacks a timeline for using these funds, an explanation of the amount of funds each project would receive, as well as a justification of the proposed contingency funds. Moreover, there is insufficient justification for the proposal method of approving fund allocation of projects—which is different for the current method outlined in SB 1022 and limits Legislative input and oversight. Why is a notification process proposed to come after the SPWB has made an allocation and how does this improve the project completion timeline?

Staff Recommendation. Hold open pending presentation of information.

0820 DEPARTMENT OF JUSTICE**Issue 15: Bureau of Environmental Justice**

Proposal. This proposal requests a General Fund appropriation of \$3.5 million for FY 2018-19 for the California Attorney General’s Bureau of Environmental Justice.

Background. Earlier this year, California Attorney General Xavier Becerra established the Bureau of Environmental Justice within the Environmental Section at the California Department of Justice. This new Bureau’s mission is to protect people and communities that endure a disproportionate share of environmental pollution, through investigation and enforcement of violations of environmental laws. In many cases, the same communities that are most impacted by pollution lack the resources to investigate or litigate cases to address those environmental concerns and improve their health.

Since FY 2016-17, the California Environmental Protection Agency has received funding to convene its boards and commissions to coordinate enforcement and compliance efforts in the state’s environmental justice communities. Existing law requires the Secretary to work with the Attorney General on enforcement efforts; however, it has been argued that the Legislature has not appropriated any funding to assist the Attorney General with investigation and enforcement efforts in environmental justice communities.

Staff Recommendation. Hold open.

Issue 16: Civil Rights and Sex Equity in Education Enforcement

Proposal. This proposal requests a \$1.9 million General Fund and ten positions for the DOJ Civil Rights Enforcement Section to actively engage in investigations of, and enforcement actions against, higher education institutions that have not taken prompt and effective steps to respond to sexual harassment.

Background. Title IX protections apply to all schools, public and private, that receive federal funding. This federal civil rights law and its implementing regulations are enforced by the Office for Civil Rights (OCR) within the United States Department of Education. In 2011, OCR issued a detailed guidance document in the form of a “Dear Colleague” letter updating the interpretation of Title IX and explaining that sexual harassment covers all physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent, including forms of sexual violence such as rape, sexual assault, sexual battery, and sexual coercion. The guidance document reminds schools of their responsibilities to take affirmative steps to respond to sexual violence in accordance with Title IX. Sexual harassment and sexual violence impedes a student’s right to pursue and receive an education in a safe, non-discriminatory environment. The civil rights and protections enshrined in Title IX and its implementing regulations have been an important tool for student victims, survivors, and advocates, helping to make California’s campuses a safe space for students.

This request would provide the DOJ with resources, focused on sexual assault and Title IX investigations, to engage in investigation and enforcement actions.

Staff Recommendation. Hold open.