
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2028 **Hearing Date:** June 26, 2018
Author: Rodriguez
Version: May 25, 2018
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Prisons: Security Assessments*

HISTORY

Source: Author

Prior Legislation: None

Support: City of Chino; City of Chino Hills; Chino Police Department; Chino Valley Fire District Board of Directors; Pomona Police Department

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to require the California Department of Corrections and Rehabilitation (CDCR) to conduct security inspections and audits of each state prison, as specified, to develop remediation plans for any security deficiencies, and to report annually to the Joint Legislative Audit Committee on the results of those inspections and audits as well as the remediation plans for any security deficiencies.

Existing law vests the supervision, management, and control of the state prisons in the Secretary of CDCR. (Pen. Code, § 5054.)

Existing law authorizes the Director of CDCR to prescribe and amend rules and regulations for the administration of the prisons. (Pen. Code, § 5058, subd. (a).)

Existing law provides that an escape or attempt to escape, by force or violence, by an inmate in a CDCR facility, is punishable by imprisonment in the state prison for a term of two, four, or six years. (Pen. Code, § 4530, subd. (a).)

Existing law provides that an escape or attempt to escape, without force or violence, by an inmate in a CDCR facility, is punishable by imprisonment in the state prison for 16 months, or two or three years, to be served consecutively. (Pen. Code, § 4530, subd. (b).)

Existing law provides that the Director of CDCR shall require each state prison to develop a Mutual Aid Escape Pursuit Plan and Agreement with local law enforcement agencies, which

shall be submitted for annual review to the city council of the city containing or nearest to the institution and to the county board of supervisors of the county containing the prison. (Pen. Code, § 5004.5.)

Existing law provides that CDCR has full power to erect, alter, or improve any building or structure it deems necessary, paid from the fund appropriated for the use or support of the prisons, without advertising or contracting. (Pen. Code, § 2052, subd. (a).)

This bill includes the following legislative declarations and findings:

- 1) The security of our state prisons is vital for the safety of staff, inmates, and the community at large.
- 2) Investment in security measures at our state prisons, many of which are 50 years or older, reduces the risk of prisoner breaches and escapes, thereby reducing the risk of crime in surrounding communities.
- 3) Adequate oversight, regular inspections, and timely repairs of our state prisons promote public trust in California's correctional system.

This bill requires CDCR to conduct a security inspection and audit of each of its prisons and its other facilities that house inmates at regular intervals to be determined by the department.

This bill requires the inspection and audit of a facility to include, but not be limited to, a physical inspection of the facility and grounds, observation of facility operations, a review of procedures and other documentation, and interviews with staff. Requires the inspection and audit to cover, without limitation, inmate counts, inmate movement, inmate searches, inmate visiting, inmate mail, transportation, key control, tool control, institution access, and armory and restraint equipment, as applicable.

This bill requires, no later than 60 days after the conclusion of each security inspection and audit, that CDCR prepare a summary of the inspection and audit, any findings, any deficiencies found, and a plan to address those deficiencies, including the prioritization of addressing those deficiencies.

This bill requires that CDCR take reasonable steps to remediate security deficiencies to the extent that resources are available.

This bill does not limit the authority of CDCR to immediately address or remediate any security deficiency of a critical nature or any deficiency that may be addressed without significant cost, planning, or expenditure.

This bill requires that CDCR, by March 1, 2020, and annually thereafter, prepare and submit a confidential report to the chair and vice-chair of the Joint Legislative Audit Committee, detailing the findings of the inspections conducted during the previous calendar year. Requires the report to include any security deficiencies identified at each facility and plans for remediation of those deficiencies, including an estimate of the cost and time required to implement those remedial measures and updates on any remediation plans submitted in previous years.

This bill requires the recipients of CDCR's report keep confidential any information related to the locations, nature, and details of security deficiencies identified in the report. Exempts this information from disclosure under the California Public Records Act and the Legislative Open Records Act. Requires the recipients, upon request, to provide a copy of a report to a member of the Legislature. Requires any member who receives a copy of the report to maintain the confidentiality of the information, as provided.

This bill makes the following legislative finding to demonstrate the interest protected by limiting the public's right of access to the meetings of public bodies or the writings of public officials and agencies and the need for protecting that interest:

- 1) In order to maintain the security and integrity of state prisons, to protect the public by preventing escapes, and to protect prison staff and inmates by limiting the infiltration of contraband and weapons, it is necessary to keep confidential the details of any security deficiencies that may be exploited.

COMMENTS

1. Need for This Bill

According to the author:

Sound security of California's correctional institutions is paramount to community safety and trust in the correctional system. In January of this year, an inmate had successfully breached a fence at one of California's oldest institutions, the Chino Institution for Men. This event led to a high speed car chase ending in Encinitas causing much fear, danger and anxiety throughout the communities affected. In addition, many resources were utilized by a number of police departments to recover the inmate and bring him back into custody. Upon further investigation the breached fence had a broken sensor that had been intermittently operational for 15 years. Greater oversight and enforcement of security audits and subsequent repairs will help ensure that our correctional institutions are secure and prevent other escapes from occurring.

2. Escapes from State Prisons

As of June 13, 2018, CDCR housed around 118,000 adult inmates in the state's prisons and conservation camps. (https://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/TPOP1A/TPOP1Ad180613.pdf.) According to CDCR's 2012 Annual Escape Report, the adult institution and camp escape total rate per 100 average daily population has remained at 0.01 since 2001. (https://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/BEH4/BEH4d2012.pdf.) Between 1977 and 2012, 98.5 percent of all offenders who had escaped from an adult institution, camp or community-based program had been apprehended. (*Id.*)

In January 2018, an inmate escaped from the California Institute for Men (CIM) in Chino and was apprehended in Encinitas the following day by special agents from CDCR's Office of Correctional Safety (OCS). (<https://news.cdcr.ca.gov/news-releases/2018/01/16/inmate-who-escaped-from-california-institution-for-men-apprehended-in-encinitas/>.) For months later in May 2018, two inmates escaped from Salinas Valley State Prison.

(<https://news.cdcr.ca.gov/news-releases/2018/05/06/two-inmates-escape-from-minimum-support-facility-at-salinas-valley-state-prison/>.) They were apprehended the next day by OCS's special agents. (<https://www.thecalifornian.com/story/news/2018/05/06/cdcr-2-inmates-escape-salinas-valley-prison/585005002/>)

3. Security at CDCR Institutions

CDCR regulations state that the primary objectives of correctional institutions are to protect the public by safely keeping persons committed to the custody of CDCR and to afford such persons opportunities to participate in rehabilitative activities. (Cal. Code Regs., tit. 15, § 3270.) Consistent efforts are made to ensure the security of the institutions. (*Id.*) Inmate and public safety take precedence over all other considerations in the operation of all the programs and activities of CDCR institutions. (*Id.*)

In general, these regulations guide CDCR staff to keep track of and control inmates. The regulations do not address CDCR infrastructure, other than the lethal electrified fences. This bill would require CDCR to periodically conduct security inspections and audits at all of the state's correctional institutions. These inspections shall include, but are not limited to, physical examinations of the facilities, interviews with staff, audits of records, policies, and procedures, and observation of facility operations.

General Safety and Security

Institution heads are required to maintain procedures for controlling safety and security hazards within facilities, including control of tools, armory and armaments, such as firearms, ammunition, chemical agents, and explosives under the institution's control, and control of keys and security locking devices. (Cal. Code Regs., tit. 15, § 3303.) Persons are not permitted to be on institution grounds or in community correctional centers without a legitimate purpose for being there and are not allowed to contact inmates without authorization to do so. (Cal. Code Regs., tit. 15, § 3283.)

Each warden must have in effect at all times a plan of operations for the reporting of escapes, and for the pursuit and apprehension of escapees. (Cal. Code Regs., tit. 15, § 3296.) Each employee must be instructed in procedures that he or she is to follow. (*Id.*) Such plans must be in writing and be reviewed annually by the warden. (*Id.*)

A lethal electrified fence is a high voltage fence installed for the lethal infliction of injury to escaping inmates. (Cal. Code Regs., tit. 15, § 3270.1, subd. (a).) Precautions relating to lethal electrified fences require, but are not limited to, the posting of warning signs on the inner and outer perimeters of the facility informing staff, inmates, and the public of the presence of a lethal electrified fence; visual inspection of the lethal electrified fence area at least once per shift areas; the presence of a staff person trained in energizing and deenergizing the fence prior to any authorized person entering the lethal electrified fence area, and; inspections of lethal electrified fences as specified by a routine maintenance schedule. (Cal. Code Regs., tit. 15, § 3270.1, subd. (b).)

Responsibility of Employees

Every employee, regardless of his or her assignment, is responsible for the safe custody of the inmates confined in the institutions of the department. (Cal. Code Regs., tit. 15, § 3271.) It is

the duty of every employee to do everything possible to prevent the escape of an inmate. (Cal. Code Regs., tit. 15, § 3295.) Employees must not permit inmates or others to use hostages to escape from custody or otherwise interfere with orderly institutional operations. (Cal. Code Regs., tit. 15, § 3304.) Hostages are not recognized for bargaining purposes. (*Id.*)

Limitations on Inmates

Every institution head is required to maintain a system to account at all times for all inmates under their jurisdiction. (Cal. Code Regs., tit. 15, § 3274, subd. (a).) A physical count of all inmates must be taken at least four times a day. (*Id.*) Inmate activities are prohibited from being scheduled at a time which would disrupt a facility count. (*Id.*) At least one daily count is a standing count, which requires inmates to stand at their cell door or sit on their assigned bed during the designated count time. (Cal. Code Regs., tit. 15, § 3274, subd. (a)(1).) If staff determines an inmate may be missing, an emergency count shall be conducted to determine whether an escape has occurred and, if so, the identity of the escapee. (Cal. Code Regs., tit. 15, § 3274, subd. (a)(2).) When an emergency count is announced, inmates are required to return to their assigned housing. (*Id.*)

Inmate passes are issued to inmates approved for movement to scheduled non-routine appointments. (Cal. Code Regs., tit. 15, § 3274, subd. (b)(1).) If unscheduled movement of an inmate is necessary, such movement may not take place unless the inmate is escorted by staff, or an inmate pass has been issued by staff authorizing the movement. (*Id.*) Gate passes are maintained for each inmate assigned to work outside a facility's security area. (Cal. Code Regs., tit. 15, § 3274, subd. (b)(3).) Gate passes include the inmate's identification photo, name, CDC number, housing assignment, custody designation, assignment requiring the gate pass, effective date of the pass, times the inmate is authorized to pass through the gate, and the signature of a facility official authorized to approve gate passes. (Cal. Code Regs., tit. 15, § 3274, subd. (b)(3)(B).) Inmates are prohibited from handling gate passes. (Cal. Code Regs., tit. 15, § 3274, subd. (b)(3)(A).) A gate pass shall be rescinded if staff determines from the inmate's behavior that the inmate may require increased supervision or if staff receives information indicating an inmate's increased escape potential. (Cal. Code Regs., tit. 15, § 3274, subd. (b)(3)(C).) When visibility at a facility is severely restricted or a state of emergency is declared, inmates are confined to their housing units, except as otherwise authorized by the official in charge, and in such circumstances, all inmate movement occurs under direct and constant supervision of staff. (Cal. Code Regs., tit. 15, § 3274, subd. (d).)

4. Security Audits

The American Correctional Association provides accreditation to correctional facilities that comply with national standards it promulgates. Accreditation is intended to improve correctional facility operations through adherence to clear standards relevant to all areas and operations of the facility, including safety, security, order, inmate care, programs, justice, and administration. The American Correctional Association facilitates the accreditation process through a series of reviews, evaluations, audits and hearings. All of CDCR's adult correctional facilities are accredited.

(http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards_and_Accreditation/SAC_AccF acHome.aspx?WebsiteKey=139f6b09-e150-4c56-9c66-284b92f21e51&hkey=f53cf206-2285-490e-98b7-66b5ecf4927a&CCO=2#CCO.)

In 2017, CDCR began conducting internal Security Audits through the Office of Audits and Court Compliance (OACC). These Security Audits are intended to replace the previous security reviews provided under the American Correctional Association and will identify weaknesses, deficiencies, and areas of vulnerability that create risks to the safety and security of the institutions, including identifying any safeguards and control systems that are no longer operable, appropriate, or adequate. The Security Audit tool contains 15 components that were developed using the California Code of Regulations, Title 15; the Department Operations Manual; and various policy memoranda as the primary sources of operational standards. (<https://www.cdcr.ca.gov/FPCM/docs/2017-Master-Plan-Annual-Report.pdf>.)

The first audit occurred at CMF on July 30, 2017. It is anticipated that each institution will complete one round of Security Audits by October 2019. (<https://www.cdcr.ca.gov/FPCM/docs/2017-Master-Plan-Annual-Report.pdf>)

As described in CDCR’s 2017 Master Plan Annual Report, CDCR has a significant workload of capital outlay and special repair and deferred maintenance projects, driven by safety and security requirements, infrastructure systems that have been strained by capacity demands, the general age of many facilities, and inadequate maintenance funding. (<https://www.cdcr.ca.gov/FPCM/docs/2017-Master-Plan-Annual-Report.pdf>.) The impact of public safety realignment through AB 109 and several voter-approved initiative measures have provided relief as the number of inmates housed in CDCR has been reduced. However, the failing infrastructure systems throughout CDCR continue to require major repairs and replacements regardless of the number of inmates housed in the facility. (*Id.*) In its “Future of California Corrections” report, CDCR claims that “the vast majority of [its] facilities are over 30 years old and require major repairs and capital replacements to continue to operate effectively.” (<https://www.cdcr.ca.gov/Blueprint-Update-2016/An-Update-to-the-Future-of-California-Corrections-January-2016.pdf>.)

5. Argument in Support

The City of Chino supports this bill writing:

[T]he City of Chino has two prisons in its jurisdiction, the California Institution for Men (CIM) and the California Institution for Women (CIW). . . .The City shares a strong partnership with both prisons and wishes to improve the security features which, due to their age, have become outdated. . . .

. . .By making the Legislature and the California Department of Corrections and Rehabilitation (CDCR) aware of current prison conditions, AB 2028 helps to directly improve CIM and CIW’s security standards. Not only will this promote local trust and public security, but will also ensure that local resources are not strained in efforts to locate escapees. Overall, the City of Chino recognizes that prison security standards impact everyone from local government to CDCR. . . .

-- END --