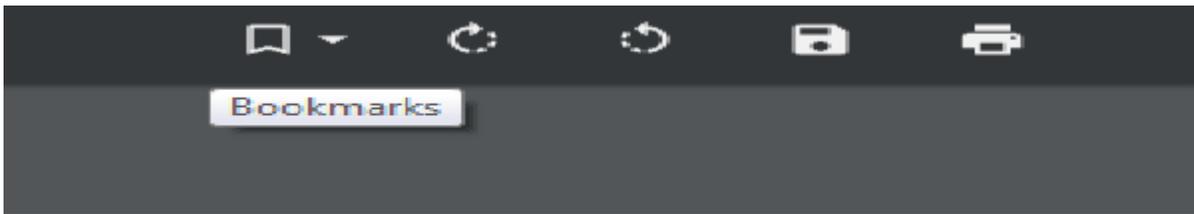


# Senate Budget and Fiscal Review

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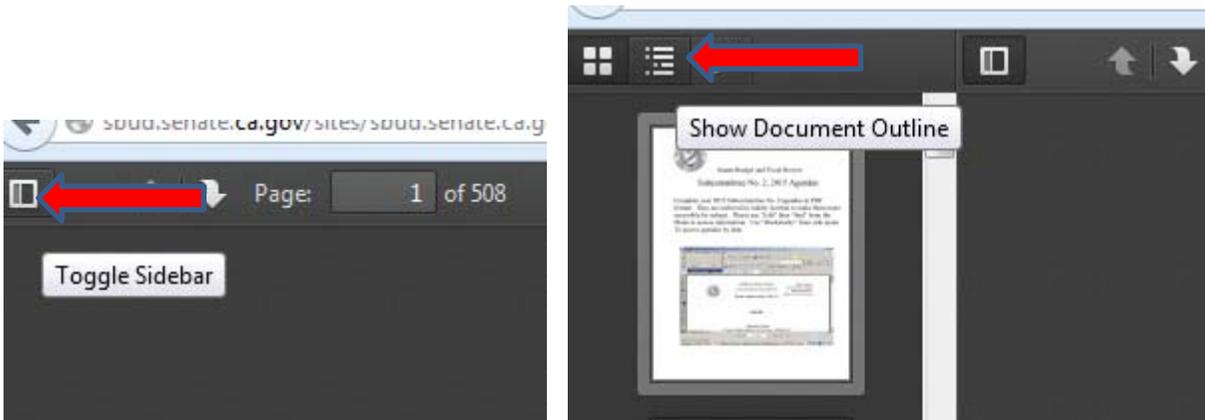
Chrome has access to Acrobat bookmark located in the upper right hand corner



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# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



**Thursday, March 7, 2019**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Christopher Francis, Ph.D.

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## Public Comment

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## ITEMS TO BE HEARD

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

**Governor's Budget.** The budget proposes an increase of \$28 million, or less than one percent, from the estimated 2018-19 spending level of \$12.5 billion. This increase reflects additional funding to (1) address deferred maintenance backlogs, (2) replace vehicles, and (3) support the ongoing preventative maintenance of CDCR facilities. The following table shows CDCR's total operational expenditures and positions for 2017-18 through 2019-20.

**CDCR – Total Operational Expenditures and Positions  
(Dollars in thousands)**

<b>Funding</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>
General Fund	\$11,468,357	\$12,218,640	\$12,257,546
General Fund, Prop 98	18,235	20,644	21,598
CA State Lottery Education Fund CA Youth Authority	54	96	96
Federal Trust Fund	1,652	2,047	1,999
Inmate Welfare Fund	68,451	74,610	83,652
Special Deposit Fund	1,400	1,825	1,825
Reimbursements	255,308	236,595	215,385
Mental Health Services Fund	237	1,182	1,182
State Community Corrections Performance Incentive Fund	-1,000	-1,000	-1,000
<b>Total</b>	<b>\$11,812,694</b>	<b>\$12,554,639</b>	<b>\$12,582,193</b>
<b>Positions</b>	<b>57,205.3</b>	<b>57,122.0</b>	<b>57,241.7</b>

Source: Department of Finance

**Background.** Effective July 1, 2005, the CDCR was created pursuant to the Governor's Reorganization Plan No. 1 of 2005 and SB 737 (Romero), Chapter 10, Statutes of 2005. All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include the California Department of Corrections, Youth Authority (now the Division of Juvenile

Justice), Board of Corrections (now the Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration
- Peace Officer Selection and Employee Development
- Juvenile: Operations and Offender Programs; Academic and Vocational Education; Health Care Services
- Adult Corrections and Rehabilitation Operations: Security; Inmate Support; Contracted Facilities; Institution Administration
- Parole Operations: Adult Supervision; Adult Community Based Programs; Administration; Sex Offender Management Board and State Authorized Risk Assessment Tool for Sex Offenders Review Committee
- Board of Parole Hearings: Adult Hearings; Administration
- Adult Rehabilitative Programs: Education; Cognitive Behavioral Therapy and Reentry Services; Inmate Activities; Administration
- Adult Health Care Services: Medical, Dental, and Mental Health Services; Psychiatric Programs; Ancillary Health Care Services; Medical, Dental, and Mental Health Services Administration

**Population Characteristics as of February 13, 2019.** The CDCR is responsible for overseeing 183,080 people. There are 126,711 people who are in custody and 56,369 who are on parole or not currently under CDCR's jurisdiction while they are confined in another state or out to court, for example. The institution population on February 21, 2019 was 117,325, which constitutes 130.7 percent of prison capacity. The most overcrowded male prison and overcrowded overall is California Substance Abuse Treatment Facility in Corcoran, which is currently at 163.0 percent of its capacity. The most overcrowded female prison is Central California Women's Facility in Chowchilla is currently the most overcrowded at 142.0 percent of its capacity.

***Adult in-state Population Estimates.*** The 2018 Budget Act projected an overall adult inmate average daily population of 126,890 in 2018-19. The average daily adult inmate population is now projected to be 128,334, an increase of 1.1 percent over spring projections. However, current projections show the adult inmate population is trending downward and is expected to decrease by approximately 1,360 offenders between 2018-19 and 2019-20.

***Out-of-state population.*** The 2018-19 Budget assumed all inmates will be returned from out-of-state facilities by the end of 2018. However, due to the higher-than-expected population in 2018-19, all inmates are now expected to return in June 2019 instead of January 2019, as projected in the 2018 Budget Act. There are currently 1,609 inmates out of state in Arizona.

***Parolee Population*** The 2018 Budget Act projected an overall parolee average daily population of 48,535 in 2018-19. The average daily parolee population is now projected to be 48,701, an increase of less than one percent over spring projections. Current projections show the parole population is trending upward and is expected to increase by 1,244 parolees between 2018-19 and 2019-20.

***Mental Health Program Caseload.*** The population of inmates requiring outpatient mental health treatment is projected to be 36,086 in 2018-19 and 35,796 in 2019-20. This is a decrease of 489 inmates in 2018-19 and an increase of 130 inmates in 2019-20. Based on the Mental Health Staffing Ratios, these changes will result in a reduction of \$2.7 million General Fund in 2018-19 and an increase of \$1.9 million in 2019-20.

***CDCR, Division of Juvenile Justice Population.*** The average daily juvenile population is 662 in the current year and 759 in the budget year which is an increase of 40 for 2018-19 and increase of 113 for 2019-20 when compared to the 2018 Budget Act. The increase in 2019-20 is driven by policy changes that were not incorporated in the prior projection, including the activation of the new Young Adult Program, raising the age of jurisdiction for juvenile court commitments from 23 to 25, and raising the age of confinement for adult court commitments from 21 to 25. These changes result in General Fund increases of \$2.9 million in 2018-19 and \$8.3 million in 2019-20.

***Key Policy.*** In 2009, a federal three-judge panel declared that overcrowding in the state's prison system was the primary reason that CDCR was unable to provide inmates with constitutionally adequate health care. The court ruled that in order for CDCR to provide such care, overcrowding would have to be reduced. Specifically, the court ruled that by June 2013, the state must reduce the inmate population to no more than 137.5 percent of the design capacity in the 33 prisons operated by CDCR at the time. Design capacity generally refers to the number of beds CDCR would operate if it housed only one inmate per cell and did not use temporary beds, such as housing inmates in gyms. Inmates housed in contract facilities, fire camps, or community reentry facilities are not counted toward the overcrowding limit. In May 2011, the U.S. Supreme Court upheld the three-judge panel's ruling. Under the population cap imposed by the federal court, the state was required to reduce the number of inmates housed in its 33 state prisons by about 34,000 inmates relative to the prison population at the time of the ruling.

As a result of the court ruling and the requirement that the state maintain a prison population that remain under a 137.5 percent capacity cap, significant policy changes designed to reduce the number of people in prison have been implemented over the last eight years. The following are among the most significant changes:

***Public Safety Realignment.*** In 2011, the Legislature approved a broad realignment of public safety, health, and human services programs from state to local responsibility. Included in this realignment were sentencing law changes requiring that certain lower-level felons be managed by counties in jails and under community supervision rather than sent to state prison. Generally, only felony offenders who have a current or prior offense for a violent, serious, or sex offense are sentenced to serve time in a state prison. Conversely, under realignment, lower-level felons convicted of non-violent, non-serious, and

non-sex-related crimes (colloquially referred to as “non-non-nons”) serve time in local jails. In addition, of those felons released from state prison, generally only those with a current violent or serious offense are supervised in the community by state parole agents, with other offenders supervised by county probation departments. Responsibility for housing state parole violators was also shifted from state prisons to county jails.

In adopting this realignment the Legislature had multiple goals, including reducing the prison population to meet the federal court-ordered cap, reducing state correctional costs, and reserving state prison for the most violent and serious offenders. Another goal of realignment was to improve public safety outcomes by keeping lower-level offenders in local communities where treatment services exist and where local criminal justice agencies can coordinate efforts to ensure that offenders get the appropriate combination of incarceration, community supervision, and treatment. For many, realignment was based on confidence that coordinated local efforts are better suited for assembling resources and implementing effective strategies for managing these offenders and reducing recidivism. This was rooted partly in California's successful realignment reform of its juvenile justice over the last 20 years and the success of SB 678 (Leno), Chapter 608, Statutes of 2009, which incentivized evidence-based practices for felony probationers through a formula that split state prison savings resulting from improved outcomes among this offender population.

**Passage of Proposition 36.** The passage of Proposition 36 in 2012 resulted in reduced prison sentences served under the Three Strikes law for certain third strikers whose current offenses were non-serious, non-violent felonies. The measure also allowed resentencing of certain third strikers who were serving life sentences for specified non-serious, non-violent felonies. The measure, however, provides for some exceptions to these shorter sentences. Specifically, the measure required that if the offender has committed certain new or prior offenses, including some drug-, sex-, and gun-related felonies, he or she would still be subject to a life sentence under the three strikes law.<sup>1</sup>

**February 2014 Court Order.** On February 10, 2014, the federal court ordered the state to implement several population reduction measures to comply with the court-ordered population cap and appointed a compliance officer with the authority to order the immediate release of inmates should the state fail to maintain the final benchmark. The court reaffirmed that CDCR would remain under the jurisdiction of the court for as long as necessary to continue compliance with the final benchmark of 137.5 percent of design capacity and establish a durable solution.

The February 10, 2014, order required the CDCR to:

- Increase prospective credit earnings for non-violent second-strike inmates as well as minimum custody inmates.
- Allow non-violent second-strike inmates who have reached 50 percent of their total sentence to be referred to the Board of Parole Hearings for parole consideration.

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<sup>1</sup> Legislative Analyst's Office, “Proposition 36: Three Strikes Law. Sentencing for Repeat Felony Offenders. Initiative Statute.” July 18, 2012.

- Release inmates who have been granted parole by the Board of Parole Hearings but have future parole dates.
- Expand CDCR’s medical parole program.
- Allow inmates age 60 and over who have served at least 25 years of incarceration to be considered for parole (the “elderly parole” program).
- Increase its use of reentry services and alternative custody programs.

**Passage of Proposition 47.** In November 2014, the voters approved Proposition 47, the Reduced Penalties for Some Crimes Initiative, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing.

Proposition 47 requires that state savings resulting from the proposition be transferred into a new fund, the Safe Neighborhoods and Schools Fund. The new fund will be used to reduce truancy and support drop-out prevention programs in K-12 schools (25 percent of fund revenue), increase funding for trauma recovery centers (10 percent of fund revenue), and support mental health and substance use disorder treatment services and diversion programs for people in the criminal justice system (65 percent of fund revenue). The Director of Finance is required on or before July 31 of each fiscal year to calculate the state savings for the previous fiscal year compared to 2013-14.<sup>2</sup>

In the proposed budget, the Administration estimates that the 2017-18 savings associated with Proposition 47, will be \$64.4 million in 2017-18, an increase of \$18.8 million in savings over 2016-17. Ongoing savings are estimated to be approximately \$69 million.

**Passage of Proposition 57.** Approved by voters in November 2016, Proposition 57, the California Parole for Non-Violent Criminal and Juvenile Court Trial Requirements Initiative, brought three major changes to sentencing:

- Allowed individuals convicted of nonviolent felonies to be considered for parole after completing the sentence for their primary offense.
- Allowed CDCR to award additional sentence reduction credits for rehabilitation, good behavior or educational achievements.
- Required a judge’s approval before most juvenile defendants can be tried in an adult court.

In November 2017 the Administration filed final regulations with the Office of Administrative Law on credit earning. CDCR proposed new changes to its credit regulations in December of 2018, to further increase credits inmates earn for participating in rehabilitative and educational activities starting in May 2019. The changes include:

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<sup>2</sup> 2015-16 Governor’s Budget Summary

- Allowing youth parole hearing dates to be advanced by credits.
- Allowing credit awards or restorations to advance a release date to up to 15 days from the date of award or restoration. This is a decrease of the current policy which is 60 days. Individuals convicted of certain offenses face longer time periods.
- Increasing the rate at which Rehabilitative Achievement Credits (RAC) can be earned and the maximum that can be earned in one year.
- Allowing inmates who earn more than the maximum of 40 calendar days in RAC credits per year to roll the excess over to the next year.
- Increasing credits earned for completion of high school diploma or high school equivalency from 90 to 180 days.

**Legislative Analyst's Office's Assessment and Recommendations.** The LAO notes that CDCR's annual population related requests typically do not account for recent policy changes. CDCR releases projections of the inmate and parolee populations in the fall and spring of every year in order to make funding adjustments to both the current and budget years. These projections are based on historical trend data and typically do not include the effects of very recent policy changes or those planned for the near future. In certain circumstances, CDCR has adjusted its population projections to account for planned policy changes such as the implementation of Proposition 57. There are policy changes that are being currently implemented, including the aforementioned changes to Proposition 57 credit earning guidelines and resources allocated in the 2018-19 Budget Act, for CDCR to refer inmates to courts for possible sentence reduction due to sentencing errors or exceptional behavior. As such, the LAO makes the following recommendations to the Legislature:

- Require the population projections and budget requests account for recent policy changes to avoid approving resources that CDCR may not ultimately need.
- Due to CDCR's ability to make adjustments to credit earning under Proposition 57 that will likely impact the institutional and parolee population, require that CDCR notify the Legislature

**Staff Recommendation.** This is largely an overview item designed to provide an update on the correctional system prior to the subcommittee's in-depth review of the proposed CDCR budget. Staff recommends holding open adult institution and juvenile population proposals until the populations are updated during May Revision.

**Issue 2: Consolidated Legislative BCP**

**Governor's Budget.** The CDCR requests \$9 million General Fund and 42.5 positions in 2019-20 and \$8.3 million General Fund in 2020-21 and ongoing to comply with legal mandates established by Assembly Bills 2327, 2845, and Senate Bills 960, 1421, and 1447.

**Background.** The CDCR is requesting resources to comply with various California legal mandates that will create various workload increases. A description of these pieces of Legislation are below:

1. Assembly Bill 2327 (Quirk), Chapter 966, Statutes of 2018. This bill requires every State and local agency that employs peace officers to make and retain a record of any investigation of misconduct involving a peace officer in his or her general personnel file or a separate file designated by the agency. In addition, this bill requires a peace officer seeking employment with a department or agency in California which employs peace officers to give written permission for the hiring agency to view his or her general personnel file and any separate file designated by the department or agency.

The Office of Legal Affairs requests four positions to implement the duties associated with Assembly Bill 2327.

2. Assembly Bill 2845 (Bonta), Chapter 824, Statutes of 2018, known as the Pardon and Commutation Reform Act of 2018 makes it clearer that the board submits recommendations to the Governor, and that this can be done at any time. In addition, the statute modifies the existing pardon and commutation process by requiring the following:
  - The Governor must make the application for a pardon and commutation available on their website.
  - All applications for a direct pardon received by the Governor must be promptly forwarded to the Board of Parole Hearings (BPH) for an investigation and recommendation.
  - BPH must consider applications, with a certificate of rehabilitation issued by a court and forwarded to BPH for an investigation and recommendation by the Governor within one year of receipt.
  - BPH shall consider expedited review of a pardon or commutation application if the petitioner indicates an urgent need in the application.

The CDCR requests seven positions to implement duties associated with AB 2845.

3. Senate Bill 960 (Leyva), Chapter 782, Statutes of 2018, requires CDCR to submit an annual report to the Legislature which describes CDCR's progress and efforts in the following areas:
  - Meeting departmental goals relating to sufficient completion of suicide risk evaluations.
  - Meeting departmental goals relating to sufficient completion of 72-hour treatment plans.

- Ensuring that all required staff receive the training related to suicide prevention and response.
- Implementing the Special Master's recommendations regarding inmate suicides in addition to the results of any audits CDCR implements as a result of those recommendations. Identifying and implementing initiatives designed to reduce risk factors associated with suicide.
- Expanding its notification process pursuant to Penal Code Section 5022, including expansion of those notifications in cases of suicide attempts, when deemed appropriate by the department, and when inmates have consented to the release of that information.

CDCR requests one Senior Psychologist-Specialist for the Statewide Mental Health Program. This position will ensure all reporting requirements are met and that the report is posted on the CDCR website.

4. Senate Bill 1421 (Skinner), Chapter 988, Statutes of 2018, amends Penal Code Sections 832.7 and 832.8, making peace officer and custodial officer investigation and personnel records available for public inspection, pursuant to the California Public Records Act (PRA), when those records relate to reports, investigations, and findings of officer involved incidents, including discharge of a firearm at a person; use of force resulting in death or great bodily injury (GBI); and sustained findings of sexual assault or acts of dishonesty directly relating to the reporting, investigation, or prosecution of crime, or misconduct by a fellow officer. Additionally the bill would authorize redaction where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. The bill would allow the delay of disclosure, as specified, for records relating to an open investigation or court proceeding, subject to certain limitations.

The Office of Internal Affairs and Office of Legal Affairs requests 26 and 4.5 positions respectively (total of 30.5 positions) to implement the duties associated with SB 1421.

5. Senate Bill 1447 (Hernandez), Chapter 666, Statutes of 2018 modifies the prescription authorization requirements for prescriptions administered through an Automated Drug Dispensing System (ADDS) and creates additional workload for the pharmaceutical staff. Because the relative system-wide monthly counts of urgent and non-urgent prescriptions are not known at the present time, California Correctional Health Care Services is requesting two temporary Pharmacist positions in order to begin authorizing urgent after-hours prescriptions while it gathers data on these counts.

CCHCS is requesting these temporary positions for one year and will submit a Budget Change Proposal for additional (or fewer) permanent positions pending the outcome of the prescription survey effort.

**Staff Recommendation.** Hold open.

**Issue 3: Allocation for Deferred Maintenance**

**Governor's Budget.** The budget includes a one-time increase of \$25 million in fiscal year 2019-20 to the Special Repair (SR)/Deferred Maintenance (DM) funding allocation. Additionally, CDCR is requesting Provisional Language to allow the funding to be available for encumbrance until June 30, 2021.

**Background.** Facilities require routine maintenance, repairs, and replacement of parts to keep them in acceptable condition and to preserve and extend their useful lives. When such maintenance is delayed or does not occur, we refer to this as deferred maintenance. The CDCR states that its existing \$28 million SR/DM funding baseline is inadequate; existing funds must address both urgent new needs and backlogged critical projects. At current funding levels, CDCR is unable to do either effectively and the backlog continues to grow. Currently, CDCR has a SR/DM project funding request backlog exceeding \$1 billion. This is more than 35 times CDCR's current \$28 million annual baseline funding.

SR/DM project development and funding processes address the following categories and types of building and site-wide infrastructure needs: 1) Unplanned Emergency or Urgent Major Repair and/or System Replacement, and 2) Preventive Major Repair and/or System Replacement. The former refers to a group of needs results from sudden catastrophic or imminent major system and/or system component failures while the latter refers to and includes systems that require major repair, but which have not completely failed. These preventative needs can be identified and the required work can be scoped, designed, scheduled and funded according to system and CDCR priority.

**Previous funding.** With the exception of several one-time augmentations the Legislature had historically funded adult and juvenile SR/DM at \$13 million annually. CDCR's SR/DM funding was increased from \$13 million to \$49 million in 2007-08. The 2007-08 increase was intended to begin addressing the backlog of critical existing deferred repair, replacement, renewal and regulatory compliance related needs at CDCR's adult institutions. In 2008-09, CDCR's SR/DM project backlog totaled \$478.5 million. Due in part to the baseline reduction of \$21 million that occurred in 2011-12, the outstanding unfunded project needs grew to more than \$1 billion as of September 2018.

The substantial increase in SR/DM funding approved in 2007-08 was influenced by the fact that the CDCR constructed seven new facilities between 1985 and 1989 and an additional eleven new facilities between 1990 and 1996. These facilities are aging at the same time and experiencing similar deferred maintenance and repair issues as a result. Many building systems are already approaching the end of their rated useful life. Performance of the required work avoids or minimizes the following: 1) Collateral damage to other systems or structures, 2) Increased demand for recurring maintenance resources and/or minor repairs, and 3) Regulatory fines.

SR/DM project needs are typically extraordinary in scope, amount and/or occurrence and the process of needs identification, prioritization, project development and funding allocation is managed centrally by CDCR through Facility Planning, Construction and Management Division. SR/DM funding is utilized for all project phases including pre-design studies, architectural and engineering design, and construction and inspection.

**LAO Assessments.** CDCR had not provided the LAO with a list of the specific deferred maintenance projects it plans to fund with the proposed \$25 million. In the LAO's view, the absence of a prioritized

list of projects makes it impossible for the Legislature to determine whether the proposed funding would go to the projects that it thinks most important. For example, the Legislature may wish to prioritize funding certain types of projects—such as those that address fire, life, and safety issues or reduce future state costs—over other types of projects—such as those that would address aesthetic concerns or occur at facilities the Legislature may no longer consider necessary.

**LAO Recommendations.** The LAO recommends that the Legislature use its budget hearings this spring to gather more information from CDCR. First, they recommend that the Legislature require CDCR to report at budget hearings on the approach it is taking to prioritize projects. This would enable the Legislature to ensure that it is comfortable that the department’s approach would result in the selection of projects that are consistent with legislative priorities.

Second, the LAO recommends that the Legislature require CDCR to provide a specific list of projects that it plans to undertake with the requested \$25 million in 2019-20. This list is important for the Legislature to have in order to assess whether the specific proposed projects are consistent with its priorities—such as projects that prevent future costs or address fire, life, or safety risks. If the list includes projects that it deems to be of lower priority, the LAO recommends that the Legislature direct CDCR to reprioritize projects or adjust the funding level accordingly. If CDCR fails to provide a list of proposed projects or is unable to justify its proposed projects to the Legislature’s satisfaction, the LAO recommend that the Legislature reject the Administration’s proposed \$25 million augmentation for CDCR. The LAO notes that it should generally not be difficult for CDCR to provide a list of proposed projects since the Department of Finance (DOF) issued a budget letter in July 2018 directing departments to provide prioritized lists of projects by September 2018 in preparation for the 2019-20 budget process. (DOF also provided departments with similar direction in previous years.)

**Monitor Accumulation of Deferred Maintenance.** The LAO also recommends that the Legislature adopt Supplemental Report Language (SRL) requiring that, no later than January 1, 2023, CDCR and the judicial branch identify how their deferred maintenance backlog has changed since 2019. We further recommend that the SRL require that, to the extent a department’s backlog has grown in the intervening years, the department shall identify (1) the reasons for the increase, and (2) specific steps it plans to take to improve its maintenance practices on an ongoing basis. This is because, if a department experienced a large increase in its backlog, it might suggest that its actual routine maintenance activities are insufficient to keep up with its annual needs and that it should improve its maintenance program to prevent the further accumulation of deferred maintenance.

**Staff Recommendation.** Hold Open.

**Issue 4: Prison Maintenance Funding Methodology**

**Governor's Budget.** The CDCR's Division of Facility Planning, Construction and Management, requests (1) replacement of the existing methodology for funding prison maintenance, which adjusts funding annually based on changes in the prison population, with a formula based on square footage, and (2) an increase in funding for maintenance and plant operations of \$18.5 million General Fund in 2019-20, \$37.1 million in 2020-21, and \$55.6 million in 2021-22 and ongoing.

**Background.** CDCR's adult institution portfolio currently encompasses over 24,000 acres of land, which includes approximately 5,000 buildings comprising over 42 million square feet. While the number of buildings and types of infrastructure vary at each prison, it is estimated there are more than 22,000 individual pieces of equipment and utility system components required to operate each prison. Prison maintenance and plant operations funding is the sole source of funds provided to CDCR for a wide variety of activities such as preventive maintenance, major periodic maintenance and equipment replacement, planned and emergency minor repairs, and the purchase of parts and material supplies necessary for these functions.

Prison maintenance and plant operations funding is also utilized for maintenance and repair contracts for equipment such as air handling units, water and steam systems, fire alarm and suppression systems, high voltage electrical systems, boiler and chiller maintenance and repair, and emergency generators required for emergency operations and health facility licensure. Many prisons have water and/or wastewater plants and fuel storage tanks that require annual expenditures for supplies, repairs, regulatory testing, and adherence to standards required by state and local enforcement agencies. Spare parts are necessary to ensure the equipment and systems used for day-to-day prison operations can be quickly repaired. Funding is also used to provide the parts and materials necessary for standard activities such as replacing air filters, light bulbs, painting, and other building repairs.

For approximately 20 years, CDCR's prison maintenance and plant operations funding level has been calculated based on a per-inmate rate of \$277 applied to the projected Average Daily Population for adult institutions. This is the same manner in which funding for food and inmate clothing is calculated. The funding needed for food and clothing at a prison is directly correlated with the number of inmates. However, prison maintenance and plant operations needs are dependent upon the number, type, and age of buildings and systems, not the number of inmates who use the buildings.

The current per-inmate funding formula assumes prison maintenance and plant operations costs fluctuate based on the number of inmates housed at each prison. The fixed costs associated with performing annual service on major systems such as high voltage electrical and fire alarm/suppression systems, operating water/wastewater systems and fuel storage tanks pursuant to regulatory requirements, and purchasing parts and materials needed for minor repairs and for planned major equipment replacements must also be considered. An institutional survey of maintenance and plant operation purchases indicates that the current level of funding is significantly less than what is necessary for prison maintenance and plant operations activities.

Prison maintenance and repair needs are separated into three distinct categories: contracts required for specialized maintenance, repair, and rental services in case of equipment breakdown; required annual fees to regulatory agencies; and parts and materials necessary to provide for the planned level of repairs and equipment replacements during the fiscal year. The current funding available for prison maintenance

and plant operations is insufficient to meet required preventive maintenance needs or support service contracts for specialized systems. By having to ration and prioritize the existing funding institutions often must defer the planned replacement of significant pieces of equipment such as air handling units, pumps, water heaters, etc.

**Justification.** With baseline funding based on square footage and a standard rate for contracts, fees and supplies, the institutions' maintenance and operations funding needs will be properly met. This proposal recommends a formula that multiplies the total square footage of CDCR's institutions - 40.4 million square feet - by a base rate of \$2.20 for contracts, fees, and supplies. The funding amount of \$2.20 per institution square foot was determined based on a CDCR Annual Work Plan survey across 33 institutions - excluding California Health Care Facility, Stockton and the infill facilities at Mule Creek State Prison and Richard J. Donovan – that aggregated contract, fee, and supply expenditures needed by institutions for facility maintenance and plant operations. This amount was then compared with external benchmarks, including a 2016 Building Owners and Managers Association (BOMA) International report that indicated U.S. private sector office buildings expend about \$2.25 per square footage for road, ground, and facility repair and maintenance. This new funding methodology would be instituted incrementally over three years and augment the current \$33.3 million budget by \$18.5 million in 2019-20, \$37.1 million in 2020-21 and \$55.6 million in 2021-22, for a total funded amount of \$88.9 million. Future adjustments to this funding level will rise or decline dependent on the total square footage of CDCR's institutions.

**Outcomes.** According to the CDCR, the increased baseline funding level for prison maintenance and plant operations would allow for prioritization of annual maintenance and repair activities, and multi-year funding decisions resulting in more efficient spending. Additionally, the increase will give the facilities the ability to schedule regular equipment replacement, avoiding the high cost of emergency replacements or equipment rental.

**Staff Recommendation.** Hold Open.

<b>Issue 5: Various Capital Outlay</b>
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**Governor’s Budget.** The Governor’s budget proposes total expenditures of \$148 million (\$93 million General Fund) for CDCR capital outlay projects in 2019-20. This amount includes (1) \$77 million in additional General Fund support to continue previously approved projects and to begin one new project at existing CDCR facilities, (2) \$55 million in General Fund lease revenue bonds for various counties to construct or renovate juvenile correctional facilities through a program first authorized by SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, and (3) \$16 million previously appropriated from the General Fund to support previously approved projects. The 16 proposals are documented below:

Priority Number	Project Title	Purpose of Request	Requested Amount	Total Project Cost
1	California Correctional Center, Susanville (CCC): Health Care Facility Improvement Program--Central Health Services Building Renovation	Construction phase of Phase II of the CCC Prison’s Health Care Facility Improvement Project.  Includes additional work at the Central Health Services building including renovations to the Inmate Waiting Area and Staff Workroom, Specialty Care area, and mechanical/fire alarm upgrades to the building.	\$8.06 million General Fund	\$8.06 million General Fund
2	California Institution for Men: Health Care Facility Improvement Program—Primary Care Clinics B and C	Funding is being requested for the construction phase of Phase II. Phase II includes renovations to the Primary Care Clinics in Facilities B and C.	\$9.7 million General Fund	\$9.7 million General Fund
3	Correctional Training Facility, Soledad: Health Care Facility Improvement Program—Specialty Care Clinic	Funding is being requested for the construction phase of Phase II. Phase II includes renovations to the Specialty Care Clinic in Facility C.	\$10.4 million General Fund	\$10.4 million General Fund
4	Sierra Conservation Center, Jamestown: Health Care Facility Improvement Program—Central Health Services Building Renovation	Funding is being requested for the construction phase of Phase II. Phase II includes renovations to the Central Health Services building.	\$12 million General Fund	\$12 million General Fund

5	Pelican Bay State Prison, Crescent City: Facility D Yard	This proposal requests funding to construct a recreation yard for Facility D at Pelican Bay State Prison (PBSP). PBSP Facility D Security Housing Unit has been repurposed to a level II housing unit. This yard will provide inmates with the necessary space to participate in recreational and physical education programs.	\$3.9 million General Fund	\$4.5 million General Fund
6	Correctional Training Facility, Soledad: Administrative Segregation Cell Door Retrofit	This proposal requests funding to replace the existing 144 barred cell fronts with more secure cell fronts with vision panels in the O-Wing Administrative Segregation Unit at the Correctional Training Facility (CTF) outside Soledad. The renovation of ASUs with new cell fronts addresses an important security need within prison facilities. In addition, the replacement of barred cell fronts and cell modifications related to heating and ventilation systems reduces suicide risks, which is of interest to the federal court in <i>Coleman v. Brown</i> .	\$15.7 million General Fund	\$16.9 million General Fund
7	Folsom State Prison, Folsom: Water Storage Tanks	Funding is being requested for the construction phase of this project. This proposal requests funding to construct two new 750,000 gallon water storage tanks necessary to support building fire suppression requirements as part of the Health Care Facility Improvement Program Improvements.	\$9.6 million General Fund	\$9.6 million General Fund
8	Deuel Vocational Institution, Tracy: New Boiler Facility	This proposal requests funding for the design and construction of a new central high-pressure steam boiler facility. Boiler replacement is required for compliance with the San Joaquin Valley Air Pollution Control District regulations for gas-fired boiler emissions standards.	\$4 million General Fund	\$4 million General Fund

9	Medication Distribution Improvements - Phase II	The requested funding is for the working drawings phase of the 13 separate projects, each subject to project authority separately and individually. These improvements will increase staff productivity and safety as well as ensure compliance with the <i>Plata Court</i> by providing timely inmate-patient access to medication.	\$3.7 million General Fund (total)	\$37 million General Fund (total)
10	California Institution for Men, Chino: Air Cooling Facility A	This proposal requests funding for the working drawings phase of the project. This proposal requests funding to install air cooling systems with required fire/life/safety improvements in Facility A housing units at the California Institution for Men to ensure that indoor temperatures will be maintained at or below 89° Fahrenheit in accordance with the CDCR's Design Criteria Guidelines.	\$931,000 General Fund	\$11.9 million General Fund
11	California State Prison, Sacramento: New Cognitive Behavioral Treatment Classrooms	This proposal requests funding for the working drawings phase to design and construct three 1,300 square foot classrooms with inmate and staff restrooms and staff offices to support the Cognitive Behavioral Treatment program at California State Prison, Sacramento.	\$491,000 General Fund	\$6.4 million General Fund
12	San Quentin State Prison, San Quentin: Cognitive Behavioral Treatment Space	This proposal requests funding for the working drawings phase of the project for the remodel of approximately 8,000 square feet of Vocational Building 32 for Cognitive Behavioral Treatment programs at San Quentin State Prison.	\$484,000 General Fund	\$7.1 million General Fund

13	Valley State Prison, Chowchilla: Arsenic Removal Water Treatment Plant	This proposal requests funding for the preliminary plans phase of the project. This proposal requests funding for the design and installation of an arsenic removal water treatment plant at Valley State Prison (VSP) due to the increase in arsenic levels in the wells at VSP and the adjacent Central California Women's Facility.	\$1.5 million General Fund	\$21 million General Fund
14	Statewide: Budget Packages and Advanced Planning	This request provides funding to perform advanced planning functions and prepare budget packages for capital outlay projects to enable the Department to provide detailed information on scope and costs on requests for planned projects.	\$250,000 General Fund	\$250,000 General Fund
15	Reappropriation of AB 900 General Fund	<p>Requesting a reappropriation of the unexpended funding. This reappropriation is necessary to ensure the balance of this appropriation remains available for completion of these projects.</p> <p>Assembly Bill 900 as amended appropriated \$300,000,000 General Fund for design and construction of infrastructure, dental, medication distribution improvements and for projects in the Health Care Facility Improvement Program (HCFIP) at prisons statewide. Five HCFIP projects and multiple medication distribution improvement projects are authorized from this funding source. Preliminary plans and working drawings have been completed for these projects; however, construction has been delayed due to fire alarm system connectivity issues, delayed approvals of fire sprinkler submittals, and phasing to maintain</p>	\$11.8 million General Fund	\$249 million General Fund

		safe prison and medical operations during construction.		
16	Stateside: Master Plan for Renovation/Replacement of Original Prisons— Study	Extend reversion date of funding provided in 2016 to complete a study of the prisons constructed prior to 1980 from June 30, 2019 to June 20, 2020 to allow for time to process invoices and close out contracts.	\$0	\$5.41 million General Fund

**Staff Recommendation.** Hold Open.

**5225 CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES****Issue 6: Overview of Inmate Health Care and Mental Health Services**

**Background.** On June 30, 2005, the United States District Court ruled in the case of *Marciano Plata, et al v. Arnold Schwarzenegger* that it would establish a receivership and take control of the delivery of medical services to all California prisoners confined by CDCR. In a follow-up written ruling dated October 30, 2005, the court noted:

*By all accounts, the California prison medical care system is broken beyond repair. The harm already done in this case to California's prison inmate population could not be more grave, and the threat of future injury and death is virtually guaranteed in the absence of drastic action. The Court has given defendants every reasonable opportunity to bring its prison medical system up to constitutional standards, and it is beyond reasonable dispute that the State has failed. Indeed, it is an uncontested fact that, on average, an inmate in one of California's prisons needlessly dies every six to seven days due to constitutional deficiencies in the CDCR's medical delivery system. This statistic, awful as it is, barely provides a window into the waste of human life occurring behind California's prison walls due to the gross failures of the medical delivery system.*

On February 14, 2006, the federal court appointed a receiver to manage medical care operations in the prison system. The current receiver was appointed in January of 2008. The receivership continues to be unprecedented in size and scope nationwide.

The receiver is tasked with the responsibility of bringing the level of medical care in California's prisons to a standard which no longer violates the U.S. Constitution. The receiver oversees 11,830.4 prison health care employees, including doctors, nurses, pharmacists, psychiatric technicians and administrative staff. Over the last thirteen years, healthcare costs have risen significantly. The estimated per inmate health care cost for 2017-18 (\$25,936) is three times the cost for 2005-06 (\$7,668). The state spent \$1.2 billion in 2005-06 to provide health care to 162,408 inmates. The state estimated that it spent approximately \$3.1 billion in 2017-18 for 119,202 inmates. Of that amount, \$2.2 billion is dedicated to prison medical care under the oversight of the receivership.

Since the appointment of the receivership, spending on inmate health care has almost tripled. A new prison hospital has been built, a new Electronic Health Records System was implemented in the fall of 2017, and new procedures are being created that are intended to improve health outcomes for inmates. According to CCHCS, in the month of November 2017, over 565,000 health care appointments were requested for inmates. The rate of preventable deaths has dropped significantly since 2006 (from 38.5 per 100,000 inmates in 2006 to 14.0 per 100,000 inmates in 2016).

**Chief Executive Officers for Health Care.** Each of California's 34 prisons has a chief executive officer (CEO) for health care who reports to the receiver. The CEO is the highest-ranking health care authority within a CDCR adult institution. A CEO is responsible for all aspects of delivering health care at their respective institution(s) and reports directly to the receiver's office.

The CEO is also responsible for planning, organizing, and coordinating health care programs at one or two institutions and delivering a health care system that features a range of medical, dental, mental health, specialized care, pharmacy and medication management, and clinic services.

Serving as the receiver's advisor for institution-specific health care policies and procedures, the CEO manages the institution's health care needs by ensuring that appropriate resources are requested to support health care functions, including adequate clinical staff, administrative support, procurement, staffing, and information systems support.

**Process for Delegating Responsibility to State.** In March 2015, the Plata court issued an order outlining the process for transitioning responsibility for inmate medical care back to the state. Under the order, responsibility for each institution, as well as overall statewide management of inmate medical care, must be delegated back to the state. The court indicates that, once these separate delegations have occurred and CDCR has been able to maintain the quality of care for one year, the receivership would end. To date, the Receiver has transitioned oversight of 19 institutions back to the state.

**Staff Comment.** This is an item intended to provide the subcommittee with an update on the state of inmate healthcare and to serve as an introduction to the budget request that follows.

**Issue 7: Receiver: Educational Partnerships Program Staffing**

**Governor's Budget.** The budget includes \$1.8 million General Fund for three years beginning in 2019-20 and an additional \$1.2 million General Fund for two years beginning in 2020 to expand and evaluate the Educational Partnerships Program (EPP).

**Background.** CCHCS faces significant challenges hiring and maintaining a large primary care provider (PCP) workforce. This is reflective of national trends, particularly with respect to underserved populations. The Health Resources and Services Administration (HRSA) projects that by 2020 there will be a national shortage of over 20,000 PCPs. CCHCS strives to maintain a 90 percent fill rate goal for PCPs, but CCHCS' current vacancy rate for PCPs is approximately 18 percent. CCHCS started the EPP in 2017 with existing resources in an effort to take innovative approaches to solving this problem.

The EPP places medical professional students and recent graduates in temporary residency and internship positions within state prisons to develop critical on-the-job skills and to improve recruitment and retention. Within one year of establishment of this resident rotation program, the number of Educational Partners (medical schools and universities) increased from 4 to 19. In the 2017-18 school year, CCHCS reports that EPP on-boarded 109 medical students, residents, and Masters of Public Health students from 14 educational partners at 14 CDCR/CCHCS sites.

Despite this success, CCHCS continues to experience challenges in recruitment of PCPs. Nurse Practitioners (NPs), a valuable complement to physicians and surgeons, have also been difficult to recruit because qualified applicants with sufficient clinical experience relevant to CCHCS's needs are hard to find. And, currently, the EPP is using existing staff borrowed temporarily from other assignments to facilitate the program. These staff oversee the medical student/resident rotation schedules, provide support and training, and coordinate with educational partners. While this borrowed staff were sufficient to stand up the program, it has grown to the point where they can no longer manage the increased workload. As the EPP matures and expands, it is critical to have full-time staff dedicated to the program.

Overall the long-term goal of the EPP is to create a workforce pipeline to address the ongoing recruitment and retention of health care providers in CCHCS. CCHCS would like to become an organization of choice.

**Justification and outcomes with proposed funding.** CCHCS states that with the increased funding it would be able to onboard full-time dedicated staff to match the program's current and anticipated growth. Moreover, they state that they will expand the EPP to include NPs. The Nurse Practitioner Residency Training Program (NPRTP), which was developed based on a review of similar programs in other health care organizations, seeks to address this problem by providing a one-year training and mentorship program for NPs within the correctional health care system, in the program, NP residents will be trained by CCHCS preceptors and will therefore be familiar with CCHCS medical services if they choose to apply for a position. During the course of the program, NP residents will have a reduced patient caseload which grows over time, and be under close supervision and mentorship by preceptors. They will also receive structured educational and quality improvement training, including consistent evaluation and feedback, The NPRTP will begin with two NP residents in In 2019-20, and will be expanded to eight residents in 2020-21. They anticipate increases in onboarding/training medical students and residents, educational partners, CCHCS sites, clinical preceptors, and clinical faculty in the 2019-20 and ongoing with the proposed funding.

**Staff Recommendation.** Approve as budgeted.

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



**Thursday, March 14, 2019**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Christopher Francis, Ph.D.

<u>Item</u>	<u>Department</u>	<u>Discussion Items</u>	<u>Page</u>
<b>0250</b>	<b>Judicial Branch</b>		
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Issue 2	Oversight of Trial Courts' Funding		4
Issue 3	Deferred Maintenance BCP		5
Issue 4	Court Appointed Counsel in Juvenile Dependency Proceedings Proposal		7
Issue 5	Pre-Trial Decision-Making Pilot		8

## Public Comment

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*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.*

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## ITEMS TO BE HEARD

### 0250 JUDICIAL BRANCH

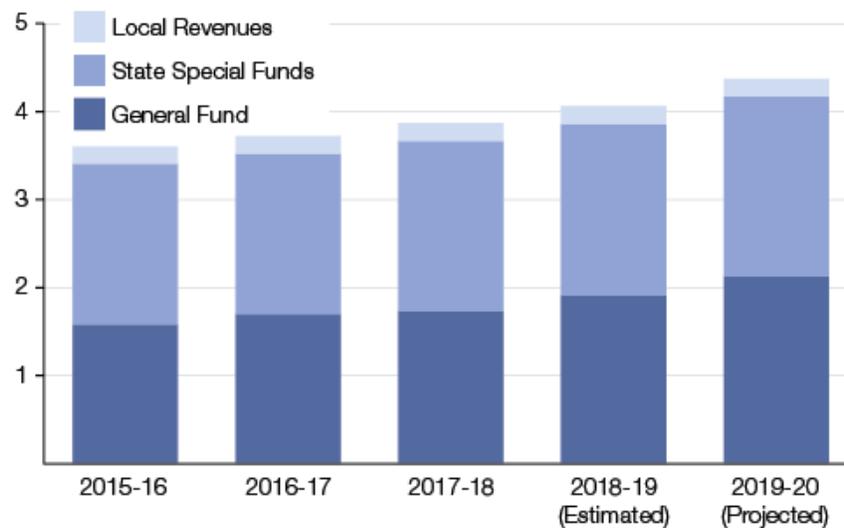
The judicial branch is responsible for the interpretation of law, the protection of individual rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the state’s 58 counties, and statewide entities of the branch (the Judicial Council, Judicial Branch Facility Program, and the Habeas Corpus Resource Center). The branch receives revenue from several funding sources, including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

Due to the state’s fiscal situation, the judicial branch, like most areas of state and local government, received a series of General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. A number of these offsets were one-time solutions, such as the use of trial court reserves and, for the most part, those options have been exhausted. In addition, trial courts partially accommodated their ongoing reductions by implementing operational actions, such as leaving vacancies open, closing courtrooms and courthouses, and reducing clerk office hours. Some of these operational actions resulted in reduced access to court services, longer wait times, and increased backlogs in court workload.

**Budget Overview:** The Governor’s budget proposes an increase of \$310 million, or eight percent, above the revised amount for 2018-19. Overall, about \$4.2 billion from all state funds is proposed (General Fund and state special funds) to support the operations of the judicial branch in 2019-20.

### Total Judicial Branch Funding

(In Billions)



Source: LAO

**Issue 1: Special Panel on Collaborative Courts**

**Background.** Collaborative justice courts, also known as problem-solving courts, combine judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery to reduce recidivism and improve offender outcomes.<sup>1</sup> Collaborative courts have a dedicated calendar and judge for specific types of offenders.

Adult criminal collaborative court programs combine intensive judicial supervision and collaboration among justice system partners with rehabilitation services to reduce recidivism and improve outcomes for moderate- and high-risk offenders with significant treatment needs. Although program models differ among court types and local jurisdictions, adult criminal collaborative courts are generally led by a judge and include an interdisciplinary team consisting of a defense attorney, a prosecutor, a representative from probation or parole, and treatment staff and/or case managers or other representatives specific to the particular court.

Collaborative courts focus on high risk/high needs cases and utilize evidence-based practices. Collaborative court participants are typically assessed for their risk of recidivating and for their mental health issues, substance-use disorders, and other treatment needs. Community supervision and treatment plans are created based on the information obtained from these assessments. Participants also attend regularly scheduled court sessions—usually one to four times a month—to discuss their adherence to individualized supervision/treatment plans and other program requirements. Graduated sanctions (e.g., admonishments, increased frequency of court sessions, and jail sanctions) are used to respond to noncompliant behaviors, and incentives (e.g., verbal praise, reduced frequency of court hearings, and transportation or food vouchers) are used to reward prosocial behaviors and encourage participants' progress.

**History.** In January 2000, then Chief Justice Ronald M. George appointed the Collaborative Justice Courts Advisory Committee to explore the effectiveness of such courts and advise the Judicial Council about the role of these courts in addressing complex social issues and problems that make their way to the trial courts. Formation of the committee expanded the scope of the Oversight Committee for the California Drug Court Project, which was appointed by Chief Justice George as of July 1, 1996, and continued until December 31, 1999. On August 3, 2000, the Conference of Chief Justices and the Conference of State Court Administrators passed a resolution to support collaborative justice courts.

**Numbers and types of collaborative courts.** The number of collaborative courts has increased substantially since the creation of the Judicial Council's Collaborative Justice Courts Advisory Committee in 2000. California currently has more than 425 collaborative courts in all but three small jurisdictions, with many jurisdictions having four or more court types. The most numerous types of collaborative courts include adult drug courts (85), juvenile drug courts (33), dependency drug courts (37), adult mental health courts (44), juvenile mental health courts (12), veterans' courts (34), homeless courts (13), adult reentry courts (17), DUI courts (16), community courts (12), and peer/youth courts (72). Newer courts such as girls' courts and CSEC courts for commercially sexually exploited children are also growing. The balance of collaborative courts includes dual diagnosis courts, family law drug courts, truancy courts, prop 36 courts, and unique courts, as well as veterans' stand-down programs.

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

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<sup>1</sup> Citation: <http://www.courts.ca.gov/programs-collabjustice.htm>

**Issue 2: Oversight of Trial Courts' Funding**

**Background.** The 2018 Budget Act included a \$123 million General Fund augmentation to general purpose funding for trial court operations—the Judicial Council’s priorities and equalization of trial court funding levels. The ongoing augmentations included the following:

- \$75 million discretionary funding for allocation to trial courts by the Judicial Council. The Administration stated that it anticipated that the Judicial Council would rely on recommendations made by the Commission on the Future of California’s Court System to improve the accessibility and efficiency of court operations. The Administration also states that it expects the Judicial Council to report on any anticipated outcomes.
- \$47.9 million for allocation to certain trial courts that are comparatively underfunded relative to other trial courts.

***Workload Allocation Funding Methodology (WAFM) and equalization of trial court funding levels.*** The Judicial Council utilizes the Workload Allocation Funding Methodology (WAFM) to allocate funds for trial court operations. WAFM was intended to distribute funding based on workload instead of the historic “pro rata” approach because the pro rata approach generally maintained funding inequities among trial courts. WAFM uses the Resource Allocation Study, which estimates the number of personnel needed for each court primarily based on the number of filings for various case types and the amount of time it takes staff to process such a filing. Each court’s estimated staffing need is then converted to a cost estimate using various assumptions and is combined with various other cost factors to determine the total estimated workload-driven costs for each trial court. The resulting total is the amount the judicial branch believes is needed to fully operate each trial. In addition, the Judicial Council may allocate any augmentations in the state budget for trial court operations and not designated for a specific purpose through WAFM.

In 2018, Judicial Council approved significant changes related to WAFM. First, in years where increased funding is provided by the state, the funding would be first allocated to the fifteen smallest trial courts to ensure they received 100 percent of their WAFM-identified costs. Up to fifty percent of the remaining augmentation would be allocated to courts below the statewide average funding ratio. The remaining amount would be allocated to all trial courts according to WAFM. Second, in the first year in which there are no general-purpose funding augmentations provided for trial court operations, allocations would remain the same. In the second year in which no increased funding is provided, up to one percent of funding allocated to trial courts that are more than two percent above the statewide average funding ratio could be reallocated to those courts that are more than two percent below the statewide average funding ratio. Trial courts receiving this funding would have complete flexibility in how to use these funds.

***Legislative intent expressed for court reporter funding.*** As part of the Budget Act of 2018, budget bill language was attached to the \$75 million by the Legislature. The language expressed the following: “it is the intent of the Legislature that \$10,000,000 be utilized to increase the level of court reporters in family law cases. Further, it is the intent of the Legislature that the \$10,000,000 not supplant existing trial court expenditures on court reporters in family law cases.”

**Staff Recommendation.** This is an oversight item meant to provide the subcommittee with an update on 2018-19 trial court and court reporter expenditures as well as discuss 2019-20 expenditures.

**Issue 3: Deferred Maintenance BCP**

**Governor's Budget.** The budget proposes a one-time General Fund augmentation of \$40 million to address the most vital deferred maintenance in trial courts and appellate courts. These funds will support fire alarm systems repair and replacement.

**Background.** The Judicial Council's (JCC) Office of Facilities Services administers a portfolio of 470 facilities which house the Supreme Court, Courts of Appeal, Superior Courts, the Habeas Corpus Resource Center, and the Judicial Council. Roughly 44 percent of these facilities (208) are fully managed by the JCC, 30 percent (139) are managed by the county; 19 percent (91) are leased; and seven percent (32) are delegated by the JCC to either the county or the court. The portfolio includes a variety of building types: courthouses, jails, offices, parking structures and parking lots. Facilities were transferred to the JCC from counties beginning in 2007, ten years after the Trial Court Funding Act began the process of shifting financial responsibility for support of trial courts from the counties to the state. This time lag in transfer led to facility degradation due to postponed or decreased maintenance. Accordingly, the facilities all include an extensive backlog of deferred maintenance, which contributes to the challenges of bringing the facilities up to industry standards for system maintenance.

**Base Funding for Facility Modifications and Deferred Maintenance.** In 2018-19 the Judicial Council has an allocation of \$65 million, \$40 million from the State Court Facilities Construction Fund (SCFCF) and \$25 million from the Immediate and Critical Need Account, to be used for facilities modifications in trial courts only. Facility modifications range from major repairs to renovations and system lifecycle replacements. This funding is ongoing at the current level until 2024-25 when the total amount funded from the SCFCF will reduce to \$25 million for a total of \$50 million. In addition, the Judicial Council received one-time General Fund in 2016-17 of \$45 million and in 2018-19 of \$50 million to address deferred maintenance needs in the trial courts.

**Justification.** The 2018-19 Deferred Maintenance Report reflects a backlog of \$2.8 billion in deferred maintenance across the portfolio. The deferred maintenance backlog continues to grow due to insufficient funding to address system lifecycle replacements. As a result, the JCC uses the limited ongoing funding available to address only those most urgent, prioritized building system needs.

A General Fund augmentation of \$40 million allows for repairs and replacement of fire alarm systems, a small subset of the current deferred maintenance in the Judicial Branch portfolio. Fire alarm systems provide the essential first alarm on a fire/life/safety event to the building occupants and first responders, so that evacuation can be completed in an appropriate amount of time. System failures create a higher cost due to the urgent nature of the work, and the lack of time to plan the effort. In 2018, one such example occurred when the Burbank Courthouse experienced a fire alarm system failure. Due to the fire/life/safety implications of the failure, a 24/7 fire watch was required to ensure the safety of the building, court employees, and public. The fire watch requirement, and urgent nature of the system replacement, increased the costs of the project to over \$1.08 million for the 58,000 square foot courthouse. Due to insufficient funding for system lifecycle replacements, the JCC operates on a run-to-failure mode for some building systems. Failure of fire/life/safety systems results in a significant risk of loss of life in the event of an emergency.

**LAO Recommendation. *Monitor Accumulation of Deferred Maintenance.*** The LAO recommends that the Legislature adopt Supplemental Report Language (SRL) requiring that, no later than January 1, 2023, the judicial branch identifies how their deferred maintenance backlog has changed since 2019.

The LAO further recommends that the SRL require that, to the extent a department's backlog has grown in the intervening years, the department shall identify (1) the reasons for the increase and (2) specific steps it plans to take to improve its maintenance practices on an ongoing basis. This is because, if a department experienced a large increase in its backlog, it might suggest that its actual routine maintenance activities are insufficient to keep up with its annual needs and that it should improve its maintenance program to prevent the further accumulation of deferred maintenance. In such cases, it will be important for the Legislature to understand this so it can direct departments to take actions to improve their maintenance programs.

***Require Future Reporting of Projects Completed.*** In the LAO's budget report, [\*The 2019-20 Budget: Deferred Maintenance\*](#), they recommend that the Legislature adopt additional SRL requiring DOF to report, no later than January 1, 2023, on which deferred maintenance projects all departments undertook with 2019-20 funds. This would provide greater transparency and accountability of the funds by ensuring that the Legislature has information on what projects were ultimately implemented and that the funds were spent consistent with any legislative directive given.

**Staff Recommendation.** Hold Open.

**Issue 4: Court Appointed Counsel in Juvenile Dependency Proceedings Proposal**

**Governor's Budget.** The budget includes \$20.0 million General Fund in 2019-20 and ongoing to support court-appointed dependency counsel workload. This augmentation increases the total funding for this workload to \$156.7 million, which represents 76 percent of the funding need determined by the Judicial Council.

**Background.** Court-Appointed Dependency Counsel became a state fiscal responsibility through the Brown-Presley Trial Court Funding Act AB 1197 (W. Brown), Chapter 944, Statutes of 1988, and SB 612 (Presley), Chapter 945, Statutes of 1988, which added section 77003 to the Government Code and made an appropriation to fund trial court operations. Welfare and Institutions Code section 317(c) requires the juvenile court to appoint counsel to represent all children in dependency proceedings absent a finding that the particular child will not benefit from the appointment. The court must also appoint counsel for all indigent parents whose children have been placed out of the home or for whom out-of-home placement is recommended, and may appoint counsel for all other indigent parents.

The statewide funding need for court-appointed counsel is based primarily on the number of children in court-ordered child welfare supervision. The Judicial Council has established a caseload standard of 141 clients per full time equivalent attorney and a total funding need of \$207.0 million to achieve this standard.

Inadequate funding and subsequent high caseloads lead to high attorney turnover and lack of retention of qualified advocates for children. Effective counsel will ensure that the complex requirements in juvenile law for case planning, notice, and timeliness are adhered to, thereby reducing case delays, improving court case processing and the quality of information provided to the judge, and ultimately shortening the time children spend in foster care.

**Justification.** According to the proposal, the funding will help reduce the attorney caseloads statewide. This augmentation increases the total funding for this workload to \$156.7 million, which represents 76 percent of the funding need determined by the Judicial Council. The total need, based on the current workload model to achieve the Judicial Council's statewide caseload standard of 141 clients per attorney, is \$207.0 million<sup>2</sup>.

**Staff Recommendation.** Hold Open

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<sup>22</sup> In 2016 the Judicial Council approved an updated workload and funding methodology for court-appointed juvenile dependency counsel as detailed in *Juvenile Dependency: Court-Appointed Dependency Counsel Workload and Funding Methodology* (Apr. 1, 2016) see <https://jcc.legistar.com/View.ashx?M=F&ID=4382676&GUID=E8BCCA8A-5DED-48C3-B946-6E21EBB0BEAF>

**Issue 5: Pre-Trial Decision-Making Pilot**

**Governor’s Budget.** The budget proposes budget bill language outlining a pre-trial decision-making pilot. The language proposes a \$75 million allocation to the Judicial Council to fund the implementation, operation, or evaluation of programs or efforts in eight to ten courts related to pretrial decision-making.

Per proposed budget bill language: “Funds may be used for the support of activities associated with the validation of the use of risk assessment tools on local populations, exchange of pretrial risk assessment information between the courts and county probation departments, data exchanges among the courts and county probation departments prior to arraignment, contracts between the courts and county probation departments to conduct pretrial risk assessments, judicial officer release and detention decision-making prior to arraignment, court reminders, and other projects related to pretrial decision-making that enhance public safety, appearance in court, and the efficient and fair administration of justice. In selecting its pilot courts, the Judicial Council should seek a diversity in court size, location, court case management systems, and other appropriate factors. Funds may be used for local costs and a county match of resources is not required. Of these funds, ten percent shall be used by the Judicial Council for costs associated with implementing and evaluating these programs, including, but not limited to: facilitating the exchange of information between probation departments and courts, identifying effective pretrial risk assessment tools and potential bias in the tools, and aiding the courts in implementing the pilots. The amount allocated shall be available for encumbrance or expenditure until June 30, 2021.”

**Background.** Pretrial release generally refers to an arrested individual being released from jail prior to their trial. A common way that this occurs is by requiring individuals to pay bail.

**Recent Efforts to Change Pretrial Release.** In recent years, significant concerns have been raised by criminal justice stakeholders, civil rights organizations, and others related to how pretrial release is determined. Specifically, questions have been raised about the fairness of individuals remaining in custody pretrial because they cannot afford bail as well as along socioeconomic lines. Additionally, questions have been raised about whether pretrial risk assessment tools accurately identify those individuals who are likely to fail to appear in court or represent a risk to public safety and whether they have built-in implicit biases. These concerns have led to a variety of efforts to change the pretrial release decision-making process. These efforts include the following:

**Statewide Judicial Branch Initiatives.** In 2016, the Chief Justice convened the Pretrial Detention Reform Workgroup to study current pretrial release and detention practices and provide recommendations for potential reforms. This workgroup issued a report in October 2017 with ten recommendations, including implementing a risk-based pretrial assessment and supervision system to replace the current monetary bail system. In January 2019, the Chief Justice convened a Pretrial Reform and Operations Workgroup to review the progress of pretrial reforms and identify next steps to continue reform efforts.

**Individual Trial Court Initiatives.** A number of individual trial courts and/or their county criminal justice partners have implemented various pretrial programs and pilots. According to a 2015 survey of counties, 46 of 58 counties had some type of pretrial program, with 70 percent being established within the past five years. Some counties—such as San Francisco, Riverside, and Santa Cruz—have had pretrial programs for many years. This survey also indicated that at least 49 counties use a type of pretrial risk assessment tool that provides judges with information about the risk of releasing a defendant before trial.

**Recidivism Reduction Fund (RRF) Pretrial Pilots.** The 2014-15 and 2015-16 budgets appropriated a total of \$16.3 million from the RRF for a competitive grant program to support projects known to reduce offender recidivism, including the use of risk and needs assessments and the use of evidence-based practices. (The RRF was supported by one-time savings resulting from the underutilization of funding provided to CDCR in 2013-14 for contract prison beds.) The LAO notes that \$5.7 million was allocated specifically to support 11 pretrial pilot projects. Nine of these projects indicate that they are continuing to operate even after the RRF grant program ended. Judicial Council is required to submit a report in 2019 on the outcomes of the funded projects, including their effectiveness and impact on public safety and offender outcomes.

**SB 10 (Hertzberg), Chapter 244, Statutes of 2018.** SB 10 eliminates money bail in California and replaces it with a process in which individuals would be released on their own recognizance. While some arrested individuals would be released automatically (predominantly for certain misdemeanors), others would be released based on their level of risk to reoffend and fail to appear in court as determined by a pretrial risk assessment. Based on these assessments, an individual could be (1) released on their own recognizance but required to adhere to certain conditions of release, (2) detained until a judge can review the case prior to arraignment, or (3) detained until arraignment (typically within 48 hours of arrest) when a judge would determine whether the individual should be released on his or her own recognizance or detained until trial. On January 16, 2019, the Secretary of State certified that sufficient signatures were collected to qualify a referendum on SB 10 for the November 2020 ballot. This placed the implementation of SB 10 on hold.

**Pending Court Cases.** There are several court cases pending in the federal and state courts challenging the use of bail related to pretrial releases. For example, the state Court of Appeal ordered a new bail hearing for a specific individual—who was unable to pay the bail set by a judge and remained detained prior to his trial—as it found that the rules used to set his original bail were unconstitutional. The Court of Appeal also ruled that a judge must consider this individual’s ability to pay bail as well as consider alternatives to bail that could ensure public safety or that he returns to court as ordered. This case is currently pending review at the California Supreme Court.

According to the judicial branch, the Pretrial Reform and Operations Workgroup would develop recommendations for allocating the above funding.

#### **LAO Comments.**

**Lack of Detail on Proposed Grant Program.** While it is possible that the Governor’s proposed grant program could be worthwhile, the Legislature currently lacks sufficient information to effectively evaluate the proposal and weigh the proposed funding relative to its other General Fund priorities. This is because it is unclear (1) what specific goals the program is intended to achieve, (2) whether the eligible projects that could be funded are aligned with these goals, (3) how the proposed funding would be allocated, and (4) how the funded projects would be evaluated to inform future budgetary and policy decisions.

**Well-Developed Proposal Should Include Certain Key Information.** In contrast, a well-developed proposal should include certain key pieces of information in order to ensure that the proposed funding will be used in an accountable and effective manner. Specifically, the Governor’s proposal should answer the following questions:

- ***What Are the Primary Goals of the Program?*** Specifying the primary goals of a proposed program helps ensure that the program is structured in a manner capable of achieving those goals. For example, if the goal of the program is to determine whether particular pretrial tools or methods are more effective than others, it could make more sense to pilot particular tools or methods at a variety of courts that could be compared against one another—a structure that is different from the proposed program.
- ***What Program or Activities Would Be Supported?*** Clearly specifying the number and type of programs or activities that will be funded would help ensure that Legislative priorities and expectations are met. The LAO notes that identifying the specific activities that would be supported helps ensure that any new grant funding will not be used to (1) duplicate projects that have already been funded and evaluated (such as those supported by RRF funds) and (2) support programs that implement provisions of SB 10, which is prohibited given that the measure is currently subject to a referendum.
- ***How Would Funding Be Allocated?*** Clearly specifying the methodology and criteria used to allocate funding will help the Legislature ensure that funding is distributed in a fair and transparent manner that meets legislative priorities. It will also be important to ensure that funding is allocated to a sufficient number of courts as well as a mix of courts based on size and other factors, in order to ensure that the results can be generalized statewide. The LAO notes that under the Administration’s proposal, nearly all such decisions would be made by Judicial Council—providing the Legislature with little input to ensure funding is used in a manner consistent with its priorities.
- ***How Would Programs or Activities Be Evaluated?*** Clearly specifying (1) how funded programs and activities would be evaluated and (2) the specific information that programs would be expected to collect would help the Legislature ensure that funded projects or activities are evaluated in a manner that can generate information to inform statewide decision-making. As such, it is important to identify specific outcome or performance measures that would be collected (such as the number of people served and the ability of a risk assessment tool to accurately measure risk of committing another offense or to appear in court). It is also important to clearly specify how certain measures should be defined in order to ensure programs collect information consistently.

**LAO Recommendations. *Direct Administration and Judicial Council to Provide Well-Developed Proposal.*** In view of the above, the LAO recommends that the Legislature direct the Administration and Judicial Council to provide a more well-developed proposal regarding the proposed grant program by April 15, 2019. Specifically, the proposal should specify (1) the primary goals of the proposed program, (2) the specific programs or activities that would be funded and how they are aligned with the goals, (3) how funding would be allocated, and (4) how funded programs or activities would be evaluated to inform statewide decision-making. This would help the Legislature effectively evaluate whether the proposed program is aligned with its priorities.

***Withhold Recommendation Pending Additional Information.*** Pending receipt and review of the above information, the LAO withholds recommendation on the Governor’s proposed pretrial grant program. To the extent that the administration and the Judicial Council are unable to provide a more well-developed proposal, the LAOs would recommend the Legislature rejects the proposed program.

**Staff Recommendation.** Hold Open.

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



Thursday, March 21, 2019  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis, Ph.D.

<u>Item</u>	<u>Department</u>	<u>Discussion Items</u>	<u>Page</u>
<b>5225</b>	<b>Department of Corrections and Rehabilitation (CDCR)</b>		
Issue 1	Increasing Inmate Literacy BCP		2
Issue 2	Prison to Community Pipeline Panel		6
<b>5227</b>	<b>Board of State and Community Corrections (BSCC)</b>		
Issue 3	Oversight of Adult Reentry Grant		10

## Public Comment

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*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.*

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**ITEMS TO BE HEARD****5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)****Issue 1: Increasing Inmate Literacy BCP**

**Governor’s Budget.** The budget proposes \$5.5 million General Fund and 35.0 positions in 2019-20 and ongoing to establish and support a literacy mentor program across all adult institutions.

**Background.** On December 1, 2018, the Division of Rehabilitation Programs (DRP) was serving over 26,000 literacy students daily in 35 adult schools accredited by the Western Association of Schools and Colleges. The curriculum includes courses in classroom and flexible education settings covering Adult Basic Education (ABE) of all grade levels, high school diploma and high school equivalency. According to point-in-time data from offenders with an assessed Tests of Adult Basic Education (TABE) reading score (excluding those currently unassessed in Reception Centers), of the Department's 35 in-state adult institutions, approximately 47 percent of California's adult offenders read below a ninth grade level. The CDCR defines literacy programs as all programs leading to a high school equivalency or diploma.

**Current CDCR literacy programs.** Currently, the CDCR offers the following:

1. Diagnostic remedial reading program—Reading Horizons is an evidence-based reading program focused on beginning reading literacy skills and English as a Second Language. This program presents both a teacher and computer-based learning platform able to assess and diagnose individual student literacy needs. Once assessed, each student receives an individualized learning plan.
2. Computer-based learning.
3. English as a Second Language— this component will provide for specific training to literacy teachers in second language acquisition theory, with a strong focus on “academic” language. The program will begin with a pilot at three institutions to develop a model whereby CDCR-trained instructors will ultimately train other teachers statewide.
4. Teacher mentor program—CDCR will deploy six teachers with extensive experience to provide coaching and mentorship for new teachers and teachers needing additional support in literacy instruction.

**Relevant statute and legislation.** California Penal Code Section 2053.1 requires the Department to implement programs that, in part:

1. Focus on increasing the reading ability of an inmate to at least a ninth grade level.
2. Focus on helping the inmate obtain a General Education Development (GED) certificate, or its equivalent, or a high school diploma.
3. Offer college programs through Voluntary Education Programs (VEP) or their equivalent Senate Bill 1200 (Hancock), Chapter 654, Statutes of 2012, updated the California Common Core State Standards: English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects (CA CCSS for EL/VLiteracy). The CA CCSS for ELA/Literacy were modified on March

13, 2013, following the recommendation of State Superintendent of Public Instruction, to include the addition of the College and Career Readiness Anchor Standards and technical changes. Under the current model, academic classrooms are limited to 27 students who attend five days per week, 3.25 hours per day. Voluntary Education Program instructors can have ratios of up to 120 students and see students in a face-to-face environment at least twice weekly.

***Proposal details.*** This proposal seeks to expand the amount of possible offerings to inmates in order to raise the literacy level and reward credits to participants. This proposal is for literacy coaches. Literacy coaches will be established at each prison to teach monitor, and supervise qualified inmate-tutors allowing for the expansion of literacy learning opportunities in classrooms, libraries, and day rooms when appropriate. The CDCR proposes to establish 35 Literacy Instructors (academic teaching positions), one at each adult institution to create, maintain, and facilitate an Inmate Literacy Mentor Program.

***Justification.*** In addition to the demonstrated amount of inmates who read below a ninth grade level, the CDCR believes it has a sizeable and ready pool of applicants for inmate instructors for its literary coaches program. According to the CDCR 5,200 offenders that have an Associates of Arts Degree or higher, ranging from 30 to 300 at a single adult institution. Additionally, they state that they have over 1,300 inmate teacher assistants/clerks. The CDCR believes that it can leverage this segment into literary peer mentors in a cost-effective manner.

***Expected outcomes from increasing inmate literacy.*** The CDCR anticipates improved financial, credit, and literacy outcomes for literary mentors and students. The CDCR expects that this program will result in additional one-on-one learning opportunities within classrooms, libraries, and day rooms, when appropriate. The voluntary instructor model creates a flexible model allowing for a greater number of students to participate in literacy instruction, including those with other assignments, local institutional jobs, or working in the Prison Industry Authority. This proposal would allow for each literacy instructor to train and establish a cohort of 20 literacy mentors, who would have a ratio/assignment roster of 20 students each, thus expanding the reach of each academic instructor from 120 to 400. Moreover, the CDCR expects to pay inmate literacy mentors who successfully complete the program, pay ranging from \$0.85-\$1.00 per hour, depending upon their level of education. Those participating in the literacy mentor assignment will receive hours toward earning Rehabilitative Achievement Credits. These credits will be in addition to normal earning credits. Literacy mentors the opportunity for additional milestone completion credits and educational merit credits. Finally, they project increases in high school equivalency/diplomas, gains in TABE, and gains in Comprehensive Adult Student Assessment Systems because of this program (see BCP for in-depth statistics).

## **LAO Assessment**

***Program Could Improve Literacy but Actual Effectiveness Remains Unclear.*** The LAO finds that the Governor's proposal merits legislative consideration as it could be a relatively low-cost way of expanding literacy education to additional inmates. However, students would only receive an average of 90 minutes of support from inmate mentors per week. While this would likely be higher than the Voluntary Education Program, it is far lower than the roughly 16 hours of instruction offered in the traditional classroom model. Furthermore, it is unclear how effective inmate mentors would be at improving inmate students' literacy and educational attainment relative to instructors. This is because there is little research available regarding the effectiveness of similar inmate mentor programs. These factors raise questions about whether the effect of this program would be large enough to justify its costs.

***Program Would Benefit Inmates Beyond the Impact on Literacy.*** In addition to any improvements in literacy, inmates who receive tutoring services would receive rehabilitative achievement credits for the time they spend with inmate mentors. The LAO estimates that such inmates could earn an average of roughly a couple weeks of credit annually through the program. Inmate mentors would also benefit from the program. Over the course of the required mentorship training, inmate mentors could earn up to six weeks of milestone completion credits and an additional 90-day educational merit credit. The LAO also notes that the proposed pay rate for inmate mentors of \$0.85 to \$1.00 per hour is competitive with the high end of the pay scale for other inmate work opportunities, such as those offered through the California Prison Industry Authority (CalPIA).

***Requiring All Mentors to Take Criminal Personality Therapy Could Have Unintended Consequences.*** In 2017-18, about 41 percent, or about 44,000, of assessed offenders were found to have a moderate to high need for criminal personality therapy. This suggests that many of the inmate mentors could have a low need for the therapy but would nevertheless be required to receive such therapy under the Governor's proposal. This is problematic for two reasons. First, requiring such therapy for prospective mentors who do not have a moderate to high need would increase the time it takes to train them, and as a result, delay when inmate students could begin receiving literacy tutoring. Second, there could be unintended consequences depending on how potential inmate mentors are prioritized for therapy. For example, if the mentors are prioritized over other inmates, it could prevent offenders with a greater need for the therapy from being able to enroll in it. This is especially problematic given that, as of June 2018, CDCR only had the capacity to provide criminal personality therapy to 9,840 offenders, or about 28 percent of those who have a moderate to high assessed need.

***Funding Does Not Account for Training.*** As mentioned above, the proposal includes \$1.1 million to provide a full year of pay to inmate mentors beginning in July 2019. However, based on the proposed training plan, it would take a minimum of eight months, or at least until March 2020, before an inmate completed training and began receiving wages—suggesting that no more than \$367,000 in inmate mentor wages would be needed in the first year of implementation.

***LAO Recommendations. Approve Proposed Program on a Pilot Basis.*** Given that it is unclear how effective inmate mentors would be at improving literacy and educational attainment, the LAO recommends that the Legislature approve the proposed inmate literacy mentorship program as a three-year pilot—rather than as an ongoing program as proposed by the Governor. The LAO recommends that the Legislature approve \$700,000 in 2019-20, \$800,000 in 2020-21 and 2021-22, and five instructors on a three-year, limited-term basis. This would allow the department to implement an inmate literacy mentorship pilot with up to 100 inmate mentors and 2,000 students across five different prisons.

The LAO also recommends that the Legislature direct the Administration to select participating prisons that would reflect the larger system, particularly in regards to security levels and missions. In addition, the LAO recommends that the Legislature require CDCR to report by January 10, 2022, on the effect that the program has on inmate students' TABE scores relative to similar inmates who are enrolled in traditional education programs, as well as those who lack access to traditional educational programs. This would help the Legislature determine whether the program's effects on inmate literacy and educational attainment is large enough to justify funding the program on an ongoing basis in the future.

***Remove Criminal Personality Therapy Requirement Unless Mentors Have Moderate to High Need.*** Due to the potential negative impacts of mandating criminal personality therapy for inmate mentors, the LAO recommends that the Legislature direct the Administration to require that inmate

mentors who participate in the pilot complete criminal personality therapy only if they have a moderate or high need for the therapy.

**Staff Recommendation.** Hold open.

**Issue 2: Prison to Community Pipeline**

**Background.** The purpose of this special panel is to highlight three critical processes that an incarcerated person, who eventually is released, experiences: 1) exposure to rehabilitation programs, 2) reception of programs and services that aid in the transition to the community, and 3) reintegration into communities upon release. Each step has complex challenges to service providers as well as recipients that serve as opportunity spaces for policy solutions. Bearing the goals of improved well-being inside and outside of prisons, reduced recidivism rates, reduced violence, administrative appeals, and use of force incidents, and increased restorative justice, each step must be addressed properly to achieve true “rehabilitation.”

***In-prison rehabilitation programs.*** Effective rehabilitation programs are a critical component to assisting individuals in their preparation for their eventual release and successful reentry into society. The passage of Proposition 57 provided the CDCR with the authority to expand credits for participation in rehabilitative programming and expand the varieties of in-prison programming to manage the prison population in a manner that supports the rehabilitation of incarcerated individuals. In a relatively short amount of time, the CDCR has implemented policies and procedures that have resulted in steady population reductions that move the state in a direction towards eventually freeing itself from its current court orders. In November 2017, the Administration filed final regulations with the Office of Administrative Law on credit earning. CDCR proposed new changes to its credit regulations in December of 2018, to further increase credits inmates earn for participating in rehabilitative and educational activities starting in May 2019. California funds various categories of in-prison rehabilitation programs and manages other non-funded rehabilitation programs within CDCR.<sup>1</sup>

The rehabilitation programs can be operated by CDCR employees, other governmental employees, private entities, or nonprofits. These categories are:

- ***Academic Education.*** Academic education programs include adult basic education, General Education Development (GED) certification, the high school diploma program, and various college programs. State law requires inmates with low literacy scores to attend adult basic education programs.
- ***Career Technical Education (CTE).*** CTE programs provide job training for various career sectors, including masonry, carpentry, and auto repair.
- ***Cognitive Behavioral Therapy (CBT).*** CBT programs are designed to help offenders change the patterns of behavior that led to criminal activity. Specifically, these programs provide various forms of therapy to address rehabilitative needs—such as criminal thinking and anger management—that, if left unaddressed, can increase the likelihood of recidivism.
- ***Employment Preparation.*** Employment preparation programs provide employment skills, such as job readiness and job search techniques, for inmates up to six months prior to their release in order to aid their transition back into society.
- ***Substance Use Disorder Treatment (SUDT).*** SUDT programs focus on helping inmates treat their substance use disorders, avoid relapse, and successfully reintegrate into society. Unlike for other rehabilitation programs which inmates generally attend on a voluntary basis, CDCR requires certain inmates who are caught using alcohol or illegal substances while in prison to attend SUDT programs.
- ***Arts-in-Corrections.*** Arts-in-Corrections programs focus on providing inmates with arts programs ranging from theatre to creative writing.

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<sup>1</sup> Legislative Analyst’s Office. “Improving In-Prison Rehabilitation Programs.” December 6, 2017.

- ***Innovative Programming Grants.*** Innovative Programming grants provide not-for-profit organizations the opportunity to apply for funding to expand programs they are currently providing in other California state prisons that have demonstrated success and focus on offender responsibility and restorative justice principles. Many institutions are underserved by volunteer and not-for-profit organizations offering innovative programming. Innovative Programming grants have historically been one-time in nature and have been awarded to expand programs that have demonstrated that they would become self-sufficient or would be funded in the long-term by donations or other ongoing funding. Innovative programming grants to support various volunteer-run programs—such as restorative justice, prison gardening programs, and mentorship projects—at certain prisons.

In addition to the state-funded rehabilitation programs, the CDCR allows certain non-state entities and the California Prison Industry Authority (CalPIA) to offer rehabilitation programs at prisons:

- ***Programs Led by Inmates or Outside Organizations.*** Inmates and outside organizations can operate rehabilitation programs with CDCR approval. These programs are generally referred to as Inmate Leisure Time Activity Groups (ILTAGs). Specifically, ILTAGs are groups initiated by inmates and volunteers that provide various rehabilitation opportunities—such as self-help support, creative writing, or peer mentorship. These programs allow inmates to be engaged in activities outside state-funded rehabilitation programs and/or work assignments. CalPIA is a semi-autonomous state agency that provides work assignments and vocational training (similar to certain Career Technical Education rehabilitation programs) to inmates. It is funded primarily through the sale of the goods and services produced by the program.

***The importance of rehabilitation programs to the recipient.*** The most effective rehabilitation programs are typically those that provide the incarcerated with a safe space, support and guidance to address and process their unresolved traumatic experiences. By doing so advocates argue, the participants are able to rehabilitate in a way that leads to improved emotional intelligence and communication skills. For example, some programs lead to better management of anger and stress. A byproduct of this is the reduction in recidivism and other measurements for effectiveness. The Insight Garden Program (IGP) conducted an informal recidivism study of 108 IGP graduates (over an eight year period), who paroled from San Quentin, found that only seven returned within three years. Insight-Out Guiding Rage into Power GRIP reports that in six years, 109 graduates were released and zero have come back to prison. Overall when rehabilitative programs are well-designed and implemented effectively, various studies show that they can reduce the number of people who recidivate<sup>2</sup>, deliver contentment from victims with the justice system<sup>3</sup>, and that the resulting savings can more than offset their costs.

***The importance of rehabilitation programs to the state.*** If rehabilitation programs are successful at reducing recidivism, they not only can reduce crime but also can result in both direct and indirect fiscal benefits to the state. Direct fiscal benefits include reduced incarceration costs—as offenders will not return to prison—as well as reduced crime victim assistance costs. Indirect benefits could include reduced costs for public assistance, as some offenders may receive job training that leads to employment,

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<sup>2</sup> Daly, K., Bouhours, B., Broadhurst, R., & Loh, N. (2013). Youth sex offending, recidivism and restorative justice: Comparing court and conference cases. *Australian & New Zealand Journal of Criminology*, 46(2), 241–267. <https://doi.org/10.1177/0004865812470383>.

<sup>3</sup> Jeff Latimer, Craig Dowden, Danielle Muise, “The Effectiveness Of Restorative Justice Practices: A Meta-Analysis” *The Prison Journal*, Vol. 85 No. 2, June 2005 127-144 DOI: 10.1177/0032885505276969.

thereby reducing the level of public assistance needed. If rehabilitation programs are operated effectively, these benefits can exceed the costs of providing the programs and result in net fiscal benefits to the state.

Upon reentry into communities; however, formerly incarcerated people often face a range of challenges.<sup>4</sup> Many have low levels of education and literacy, limited prior attachment to the legal workforce, reduced ties to family and community, and histories of substance abuse and mental health problems. Other challenges include lack of basic documentation such as a current driver's license, the use of criminal background checks by employers, and state laws and licensing requirements for jobs in certain fields impede their ability to gain employment. Research has shown that large numbers of people are released into a disproportionate number of vulnerable communities, causing instability and reduced social cohesion within these neighborhoods.<sup>5</sup> And, California has among the highest recidivism rates in the nation, with many low-level criminal offenders committing new crimes within a year of release. Employment and housing are just two critical pieces of the reentry puzzle amongst many.

Studies have shown that the first month after release is a vulnerable period “during which the risk of becoming homeless and/or returning to criminal justice involvement is high.”<sup>6</sup> Yet, in most jurisdictions to which individuals return after incarceration, accessible and affordable housing is in exceedingly short supply. Additional challenges unique to people with a criminal history make it even more difficult for them to obtain suitable housing.

Studies suggest that employment programs offer the formerly incarcerated a better opportunity to reduce recidivism and increase the chances of addressing criminogenic behaviors. Employment offers stable incomes, structured timelines, resources and services through training that enhances a formerly incarcerated person's ability to reintegrate into his/her communities.<sup>7</sup> The collection of factors and challenges illustrates that there is a critical need for programming and policies inside and outside of the prison system to improve their eligibility for employment. Employment carries significant meaning and importance, especially those coming from vulnerable and disadvantaged communities. For these people employment provides emotional, financial, and mental stability, promotes self-esteem and self-sufficiency, and aids in recovery from mental illness, reintegration from prison, and/or physical/developmental disabilities.

Overall the importance of comprehensive supportive and wraparound services during the pursuit of pre- and post-release should not be neglected. These services aid in the rehabilitation process and, eventually, provide a warm landing upon reentry—helping to provide a semblance of stability upon reentry. Increasing funding and development of will lead to the impacted populations being able to develop skills such as managing substance use disorder treatment, education, housing, family reunification, vocational training and employment services. Investments in local residency and support services to parolees

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<sup>4</sup> Jeanne Bellotti et al., “Examining a New Model for Prisoner Re-Entry Services: The Evaluation of Beneficiary Choice Final Report,” March 16, 2011. [https://www.dol.gov/asp/evaluation/completed-studies/Examining\\_a\\_New\\_Model\\_for\\_Prisoner\\_Reentry\\_Services/FINAL\\_REPORT\\_examining\\_new\\_model\\_prisoner\\_reentry\\_services.pdf](https://www.dol.gov/asp/evaluation/completed-studies/Examining_a_New_Model_for_Prisoner_Reentry_Services/FINAL_REPORT_examining_new_model_prisoner_reentry_services.pdf).

<sup>5</sup> Ibid.

<sup>6</sup> Council of State Governments, Report of the Re-Entry Policy Council (New York: Council of State Governments, 2005), 272.

<sup>7</sup> Jeremy Travis, Bruce Western, and Steve Redburn, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. [http://johnjay.jjay.cuny.edu/nrc/nas\\_report\\_on\\_incarceration.pdf](http://johnjay.jjay.cuny.edu/nrc/nas_report_on_incarceration.pdf)

including substance use disorders treatment, cognitive outpatient and drop-in programs for parolees provide support in employment assistance and placement, relationships, Cognitive Behavioral Therapies, education, housing and vocational training, behavioral therapies, life skills, employment, education and transitional housing are also necessary.

**Staff Recommendation.** This is an informational item. No action is necessary at this time.

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)****Issue 3: Oversight of Adult Reentry Grant**

**Background.** In an effort to address some of the barriers to reentry, the Budget Act of 2018 allocated \$50 million on a one-time basis for reentry and diversion efforts. Budget bill language within SB 840 (Mitchell), Chapter 29, Statutes of 2018, specifies that the funding should be allocated for reentry grants to community-based organizations for rental assistance (\$25 million), the rehabilitation of property or buildings for housing offenders released from prison (\$15 million), the warm hand-off and reentry of offenders transitioning from prison to communities (\$9.4 million), and the Berkeley Underground Scholars Initiative (\$150,000). The BSCC was selected as the entity to administer grant funding.

**Staff Recommendation.** This is an oversight item meant to provide the subcommittee with an update. There is no needed action at this time.

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator John Moorlach  
Senator Jim Beall



**Thursday, March 28, 2019**  
**9:30 a.m. or upon adjournment of session**  
**State Capitol - Room 113**

Consultant: Christopher Francis, Ph.D.  
Yong Salas

## ITEMS PROPOSED FOR VOTE-ONLY

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<b>7870</b>	<b>California Victim Compensation Board</b>	
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<b>0690</b>	<b>Governor's Office of Emergency Services</b>	
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**0690 OFFICE OF EMERGENCY SERVICES****Issue 1: Federal Fund Augmentation**

**Governor’s Budget.** The Governor’s Office of Emergency Services requests \$110 million federal funds authority for increases in the Hazard Mitigation Grant Program (HMGP) and the Violence of Crime Act (VOCA) grants.

**Background.** Mitigation is the effort to reduce the loss of life and property by lessening the impact of disasters. The federal government provides mitigation funding to states through the HMGP. California is eligible for twenty percent of total costs of each federally declared disaster not to exceed \$35.33 billion, and has maintained an enhanced status by demonstrating it has developed a comprehensive mitigation program, allowing for increased funding from the federal government. In California, the HMGP unit within OES administers these funds. In 2017-18, based on federal declarations, the below federal funds are available to California for mitigation projects (as of May 7, 2018):

Disaster Number	Disaster Title	Funding Amount
DR4301	January 2017 Storms	22,097,355
DR4305*	Late January 2017 Storms	10,136,842
DR4308	February 2017 Storms*	78,411,411
DR4344	October 2017 California Wildfires*	333,165,681
DR4353	December 2017 California Wildfires and Debris Flows*	56,661,168
<b>Total</b>		<b>\$ 500,472,457</b>

OES estimates that the HMGP funds will be received over a seven-year period. The 2018 Budget Act provided \$3.2 million federal funds to administer the HMGP, and the current federal funding authority for the HMGP is \$30 million federal fund. OES states that an additional \$60 million federal fund authority is needed to provide timely funding to applicants as they work to recover and rebuild in the aftermath of the disasters.

In 2014, President Obama increased the 2015 Crime Victims Fund appropriation level from \$745 million to just over \$2.3 billion. For California, the VOCA award increased from the 2014 amount of \$52 million to \$232 million in 2015. At that time, it was unknown if this level of funding would be sustained in future years—however, since then, the funding level has increased. Each award has a four-year performance period, which means in any year there are four open awards from which expenditures can occur. VOCA funds are administered with the assistance from the VOCA Steering Committee, which includes appointees from the Senate and the Assembly and identifies gaps in existing services informed by input from stakeholders. The below chart shows the VOCA award history for OES.

	2014	2015	2016	2017	2018
State Operations	2,079,385	9,308,918	10,571,891	8,757,731	15,865,691
Local Assistance	49,749,667	223,414,013	253,725,394	210,185,550	380,776,583
<b>Total</b>	<b>51,829,052</b>	<b>232,722,931</b>	<b>264,297,285</b>	<b>218,943,281</b>	<b>396,642,274</b>

OES states that the current \$232 million federal fund authority for this program is insufficient to maximize OES' ability to allocate funding, and will need an additional \$50 million federal fund authority to do so.

**LAO.** The LAO recommends providing the additional federal funds authority on a limited-term basis, consistent with OES' anticipated timeline for expending these funds. The LAO also recommends that the Legislature consider whether the grant allocations are consistent with legislative priorities, and direct OES to allocate its funding accordingly.

**Staff Recommendation.** Approve as budgeted.

## Issue 2: Deferred Maintenance

**Governor's Budget.** The Governor's Office of Emergency Services (OES) requests \$2 million General Fund in 2019-20 to address deferred maintenance projects.

**Background.** The funding for deferred maintenance projects will complete projects at the current OES headquarters facility located in Mather, CA, which was built in 2001. In prior years, OES has received deferred maintenance funding as follows:

Fiscal Year	Amount
2018-19	\$4,000,000
2017-18	\$ -
2016-17	\$800,000
2015-16	\$3,000,000

The following table reflects the complete list of deferred maintenance projects at OES headquarters, which exceeds the amount available for these projects. OES states that they will complete their list in order of prioritization with the funding allocated for deferred maintenance.

Facility Location	Project Title and Description	Estimated Cost
Cal OES 3650 Schriever Ave Mather, CA 95655	Wall Repair - Repair damage from wear and tear and leaks throughout the facility.	\$ 1,502,000
Cal OES 3650 Schriever Ave Mather, CA 95655	Replace aging Access Control System due to repeated failures	\$ 250,000
Cal OES 3650 Schriever Ave Mather, CA 95655	Repair Exterior Cladding due to screws backing out and not sealing well	\$ 325,000
Cal OES 3650 Schriever Ave Mather, CA 95655	Replace Video Surveillance System	\$ 250,000
Cal OES 3650 Schriever Ave Mather, CA 95655	Multi-Purpose Rooms Repairs/Replacements - Repair/replace Audio/Visual system, repair walls and replace moveable wall due to wear and tear	\$ 200,000
Cal OES 3650 Schriever Ave Mather, CA 95655	Replace interior and exterior locksets due to repeated failures	\$ 175,000
Cal OES 3650 Schriever Ave Mather, CA 95655	State Operations Center Kitchen Repairs/Replacements - Appliances, and counter tops, and other equipment	\$ 45,000
Cal OES 3650 Schriever Ave Mather, CA 95655	Employee Breakroom Repairs/Replacements (four total) - New flooring, new counter tops, and new casework	\$ 150,000
Cal OES 3650 Schriever Ave Mather, CA 95655	Replace Blinds in Breakout Rooms	\$ 15,000
	<b>Total</b>	<b>\$ 2,912,000</b>

**LAO.** The LAO states that deferred maintenance projects have continued to emerge for the department despite multiple allocations of deferred maintenance funding in recent years, and recommends additional reporting to ensure that progress is made at reducing deferred maintenance backlogs.

**Staff Comment.** Senate Budget Subcommittees have previously adopted reporting language this year related to deferred maintenance projects requiring the Department of Finance to notify the Joint Legislative Budget Committee prior to allocating funding. These projects would apply to that reporting language.

**Staff Recommendation.** Approve the requested funding for deferred maintenance.

**8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)****Issue 3: Increased Peace Officer Training BCP**

**Governor's Budget.** The budget includes \$34.9 million General Fund and 11 positions in 2019-20 and ongoing to restore POST to prior levels of funding and provide adequate resources to ensure that local California law enforcement agencies are able to obtain sufficient training.

**Background.** POST was created in 1959 to establish and maintain selection and training standards for California law enforcement. A total of 608 California state and local law enforcement agencies participate in the POST program. There are currently over 96,000 peace officers and public safety dispatchers under the POST umbrella. Of the 608 POST agencies, 56 percent have 50 or fewer officers, and approximately three quarters have fewer than 100 officers. The size of an agency has a direct impact on its ability to train their personnel, as smaller agencies have less flexibility to maintain staffing levels when officers attend training.

**Current funding source and recent cuts.** POST currently receives ongoing funding from the State Penalty Fund (SPF), which is supported by local penalty assessments, including criminal fines and fees, and traffic fines. However, SPF revenues have declined in the past decade, resulting in reduced budget allocations for POST starting in 2014-15. Due to a significant decline in fine and fee revenue in recent years, funding for POST was reduced beginning in 2009-10. In recognition of this decline, General Fund support has been provided to POST on a one-time basis in recent years. For example, \$3.2 million in POST costs were shifted to the General Fund in 2014-15 on a one-time basis. In 2017-18, POST's budget was reduced by approximately 18 percent from the previous year. As a result of declining revenue and budget reductions, POST has steadily reduced reimbursement to agencies and discontinued funding of many training programs.

- In 2014, POST eliminated certain backfill reimbursement payments. These payments were provided to local agencies to reimburse them for the cost of paying overtime for staff to backfill behind officers on leave to attend POST training courses. These payments were particularly important for small agencies that are often unable to absorb these costs. As a result, such small agencies often defer sending their staff to training.
- In 2017, POST eliminated the training course Quality Assurance Program (QAP), which provided quality assurance auditing of the over 4,000 POST-certified courses throughout the state. Under the QAP, POST had an outside contract for course audits verifying training was consistent and high quality. Auditors check to ensure instructors are approved and qualified course content is consistent with approved standards, and instructors appropriately utilize adult learning practices.
- Also in 2017, POST rescinded a mandatory training requirement for basic academy personnel. The Academy Instructor Certificate Program established instructor training and certification requirements for academies in the state. Its purpose was to recognize demonstrated competency levels in education and training experience for each instructor, which, in turn, improves the overall professionalism, quality, and effectiveness of law enforcement training.

- In 2018, POST eliminated all funding for the peace officer motorcycle training program. Prior to 2018-19, POST maintained four motorcycle training contracts that included reimbursement for travel to and from the training. POST currently certifies 14 basic motorcycle courses throughout the state but no longer provides funding to attend. According to the California Highway Patrol, from 2008 to 2018, there have been 88 fatalities and 11,698 injuries associated with on-duty, officer-involved collisions.

**2018 Budget Act relevant actions.** The Budget Act of 2018 provided \$25 million General Fund on a one-time basis to develop trainings that focus on the use of force, de-escalation, and mental health crisis encounters. Accompanying trailer bill language establishes a competitive Innovations Grant to create training and procedures on topics such as the use of force, de-escalation, officer wellness, implicit bias, cultural diversity, and community policing to reduce the number of officer-involved shootings.

**Goal of proposal.** The goal of this request is to support POST's recent declining revenues with ongoing funding to restore POST to its historic levels of funding and provide new and expanded opportunities for state and local law enforcement agencies to send peace officers and dispatchers to more training opportunities that are updated to fit the modern needs of California law enforcement.

**Breakdown of budget proposal.** This proposal will provide resources to the following three areas: (1) POST administration, (2) additional training opportunities, and (3) increased funding for local assistance and reimbursement provided to local law enforcement agencies. The following table outlines how the \$34.9 million request will be used:

**Table:** Breakdown of \$34.9 million request.

<b>Purpose</b>	<b>Amount</b>
<b>POST Administration</b>	
Replace and modernize technological equipment.	\$3.2
Support increased workload, improve existing databases, and develop new course materials.	1.5
<b>Subtotal</b>	<b>(\$4.7)</b>
<b>Training and Ensuring Quality of Training</b>	
Update training curriculum for legacy courses.	\$1.5
Restore Quality Assurance Program—auditing consistency and delivery quality of POST-certified classes.	1.0
Restore the Instructor Development Institute.	1.0
Expand Supervisory Leadership Institute.	0.5
Develop four scenarios annually for Force Option Simulators.	0.5
Develop two additional online videos annually related to new legislative mandates.	0.2
Support various other training purposes.	1.0
<b>Subtotal</b>	<b>(\$5.7)</b>
<b>Local Assistance and Reimbursement Funding</b>	
Reinstate “backfill” salary payments (costs of overtime to temporarily backfill the shift of a training attendee).	\$8.0
Increase number of reimbursable hours and reimbursement rate for regular basic academy courses.	7.5
Reinstate reimbursement plans for certain classes and implement new reimbursement plans.	7.0
Increase in stipends for increased “behind the wheel” emergency vehicle operations instruction.	2.0
<b>Subtotal</b>	<b>(\$24.5)</b>
<b>Total</b>	<b>\$34.9</b>

*Source: LAO and POST*

**LAO Assessment.**

***Governor’s Proposal Reflects One Approach to Funding POST ...*** According to the LAO, POST’s expenditure plan is one way to use the proposed ongoing funding. In developing the plan, POST evaluated nearly all of its programs and identified those areas it believed merited additional funding to maximize the number of officers trained and the impact of training. For example, POST plans to restore some trainings for supervisory law enforcement officers in order to ensure that first-line supervisors are able to appropriately manage, supervise, and mentor the officers reporting to them, as these supervisors are key to creating change and ensuring consistency. The LAO also notes that POST is currently in the process of examining individual programs and courses to ensure consistent treatment (such as reimbursing similar classes consistently) and to focus on areas of greatest statutory or regulatory importance.

***... But Legislature Could Provide Different Funding Level and Allocate Funds in Other Ways.*** However, POST’s expenditure plan is simply one way additional funding for POST can be used. The legislature will want to consider its overall expectations for POST in terms of desired service levels and outcomes, and ensure that POST has sufficient resources to meet these expectations. As discussed above, POST received \$25 million in one-time General Fund support in the current year for the delivery of use of force, de-escalation, or crisis mental health training. Under the proposed expenditure plan, however, it is unclear how much of the increased funding would generally be used for these specific purposes. This is concerning because these training activities were identified as legislative priorities in 2018-19. The legislature could decide that it would like funding to be spent on specific issue areas—which would be consistent with recent actions—or that certain programs or services should be prioritized over others (such as expanding the availability of online classes or videos).

***Funding Should Be Tied to Specific Outcome and Performance Reporting.*** To the extent that additional ongoing funding is provided to POST, it is important that there be clear and specified outcome and performance measures in regards to the uses of the funding. Such information would allow the legislature to identify the intended expectations for the funding provided and monitor the actual impacts to make sure they are aligned with the identified expectations. The LAO notes that under the Administration’s plan, it is unknown what specific outcomes and performance is expected. For example, it is unknown how many additional law enforcement are expected to participate in training as a result of the proposed increase in reimbursement levels. The collection of outcome and performance measures would also help the state identify and compare where new funding had the greatest desired impact and what would be the most cost-effective investments going forward. This would be important in helping the Legislature to determine whether additional funding is needed or if the allocation of existing funding should be modified.

***LAO Recommendations. Ensure Funding and Expenditure Plan Reflects Legislative Priorities.*** The LAO recommends that the legislature ensure that any provided funding as well as any expenditure plans for this funding reflect its priorities. The legislature can accomplish this in various ways ranging from specifying exactly how funding must be used—such as for use of force trainings—or for certain purposes—such as for regional trainings to more minor modifications to the proposed expenditure plan.

***Require Reporting on Specific Outcome and Performance Measures.*** To the extent that the legislature approves additional funding for POST, the LAO recommends that it adopt trailer bill language directing POST to report annually on specific outcome and performance measures that are tied to legislative expectations for the additional funding. For example, if the additional funding is provided for training, POST should collect and report information on the number of officers trained, how training was delivered, and the cost per training attendee, as well as the effect of specific trainings on officers' job performance. To the extent that it takes time to begin collecting information on certain performance measures, the Legislature can direct POST to report on how it plans on acquiring or measuring that information in the near-term until the information becomes available for annual reporting. Such reporting would help the Legislature evaluate the impact of any new funding provided, as well as make decisions on appropriate funding and service levels in the future.

**Staff Recommendation.** Hold Open

**0690 OFFICE OF EMERGENCY SERVICES**

**Overview.** The principal objective of the Office of Emergency Services (OES) is to protect lives and property, build capabilities, and support our communities for a resilient California. The OES director serves as both the Governor's Homeland Security Advisor and Emergency Management Director, with responsibility to implement and facilitate the state's homeland security and counter-terrorism strategy. The OES serves the public through effective collaboration in preparing for, protecting against, responding to, recovering from, and mitigating the impacts of all hazards and threats.

**Budget.** The budget includes \$1.6 billion (\$286.5 million General Fund, \$1.1 billion Federal Trust Fund, \$216.3 million special funds and \$5 million reimbursements) and 1,058.6 positions to support the office and its programs.

**7870 VICTIM COMPENSATION BOARD**

**Overview.** The governing body of the California Victim Compensation Board (CalVCB) consists of three members: the Secretary of the Government Operations Agency who serves as the chair, the State Controller, and a public member appointed by the Governor. CalVCB provides responsive financial compensation to remedy the financial burdens of victims of crime through a stable Restitution Fund. The primary objectives of CalVCB are to: (1) compensate victims of violent crime and eligible family members for certain crime-related financial losses; (2) determine the eligibility of individuals for compensation for pecuniary injury sustained through erroneous conviction and imprisonment; (3) process claims for the Missing Children Reward Program to assist local law enforcement agencies or other parties involved in the identification and recovery of missing children in California; and (4) process claims through the Good Samaritan Program to private citizens who are injured rescuing another person, preventing a crime, or assisting a law enforcement officer.

**Budget.** The budget includes \$121 million (\$134,000 General Fund, \$88.9 million Restitution Fund, \$24.9 million federal funds, and \$7.8 million Safe Neighborhoods and Schools Fund) and 224.7 positions.

**Issue 4: Informational - Consolidation of Victim Services**

**Background.** California funds services to victims of crimes through various programs administered by different entities, including: the Victim Compensation Board (VCB), the Governor's Office of Emergency Services (OES), the Department of Justice (DOJ), and the California Department of Corrections and Rehabilitation (CDCR). The 2018-19 Budget Act required the VCB and OES to work together to develop options and a recommendation for combining the state's victims programs under one organization. A Consolidation Working Group was convened to complete the report and provide recommendations for consolidating the victims' programs. The report was released in October 2018.

OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, OES administered \$486.5 million in grant funds. Likewise, VCB also combines federal and state funding—from fines and restitution orders paid by offenders convicted

of traffic infractions, misdemeanors, or felonies—to offer compensation directly to, or on behalf of, victims and survivors who are injured or threatened with injury. Most recently, VCB approved more than 52,000 applications and provided more than \$57 million in compensation for crime-related expenses, including income and support loss, medical and dental care, funeral and burial expenses, and other losses not reimbursable from another source.

Victim compensation has remained separate, in part, due to the significant logistical challenges in consolidating the entities, as well as the need to avoid negative impacts to those who receive funding and services to support victims and their families. However, the coordination of the state's delivery of victim services are necessary to ensure that the limited resources allocated for these programs are done so efficiently.

**Working Group Recommendations.** The Consolidation Working Group made a total of 10 recommendations to phase-in a consolidation of these entities, including:

1. Continue supporting OES/CalVCB's Strategic Planning effort and the implementation of specific objectives and actions that include performance measures;
2. Co-locate or establish "hoteling" space so OES and CalVCB staff can work together on initiatives and program priorities;
3. Establish a rotation program for analysts and first-line managers so that OES and CalVCB can share staff for cross-training and education;
4. Establish regular meetings between program staff from OES and CalVCB;
5. Establish procedures describing:
  - General principles of operation for areas where VOCA rules allow either victim assistance or victim compensation to pay for crime-related losses
  - Mass violence event protocols and responsibilities
  - Collaboration efforts
  - Development and maintenance of the Victim Services Strategic Plan
  - Committee membership
6. Where appropriate and allowable, include CalVCB representatives on OES standing committees, and include OES representatives on CalVCB standing committees;
7. Establish a quarterly Victims' Services State Agency Coordination Group, co-chaired by OES and CalVCB, that includes all state entities administering victims' services programs and funding;
8. Create a comprehensive web portal that serves as the main information source for all victims' programs and resources from all state entities;
9. Continue planning efforts by beginning discussions with FISCAL, OVW and the DOJ to explore the feasibility of consolidation within a two to three year time-period; and
10. Issue a detailed consolidation plan in December 2019, with recommendations for additional improvements, as may be identified through coordinated efforts.

**Staff Recommendation.** This is an informational item. No action necessary.

**0690 OFFICE OF EMERGENCY SERVICES****Issue 5: Capital Outlay: Fire Apparatus Maintenance Shop and General Purpose Warehouse**

**Governor's Budget.** The Governor's Office of Emergency Services (OES) requests \$2.2 million (\$2,200,000) General Fund to exercise the lease purchase option to acquire the 18,000 square foot fire apparatus maintenance shop and general purpose warehouse in Sacramento.

**Background.** This request will allow OES to acquire the facility for \$2 million pursuant to the existing property lease, with an additional one-time \$200,000 being requested for various site and structure evaluations, real estate due diligence activities, property appraisal, Department of General Services (DGS) project management fees, and escrow costs. The current lease term is February 2017 to January 2025, and provides OES with the option to purchase the facility for \$2 million within the first four years of the lease term.

OES states that this provides: (1) a permanent facility close to OES headquarters, offering a long-term solution that allows OES to carry out fire apparatus maintenance and repair activities, and (2) adequate space to store and maintain fire and rescue supplies and equipment needed to support major disaster response operations.

**LAO.** The LAO states that they find it reasonable for the state to purchase the Fire Apparatus Maintenance Shop because it will likely provide services for sufficient years to justify the state's investment. The LAO recommends that the Legislature reduce the proposed \$2.2 million by \$157,000 to reflect that the department will no longer incur lease costs associated with the Fire Apparatus Maintenance Shop once the state purchases it, and thus should have some savings reflected in their budget.

**Staff Comment.** OES states that their annual lease costs includes the cost of utilities, and if this subcommittee wishes to reduce future budget authority by what the department would have paid for by lease costs, that amount should be offset by the non-facility related costs.

**Staff Recommendation.** Approve as budgeted for 2019-20, with a reduction commensurate with the facility leasing costs in 2020-21 and ongoing.

**Issue 6: California Interoperable Public Safety Radio System**

**Governor's Budget.** OES requests one-time \$59.5 million (\$59,464,000) General Fund over five years and 8 positions in 2019-20, increasing to 13 positions in 2020-21, with ongoing funding of \$2.7 million (\$2,718,000) General Fund beginning in 2024-25 to build a statewide public safety radio system.

**Background.** The state's radio agencies own, fund, and control 38 separate radio systems. However, they operate on different radio frequencies and dissimilar infrastructure, and do not interoperate with

other radio systems. This makes it difficult for first responders from different entities to communicate with each other when responding to the same emergency.

This effort will allow OES to link existing compatible state and regional radio systems together to expand geographical radio coverage without the expense of adding new radio sites to the system. The funding will be used for activities such as purchasing and installing new radio equipment, as well as personnel to maintain and manage the radio system. This will be a subscriber-based service, and OES will recover costs for participating agencies, which will be used to support the ongoing maintenance of the system.

Below are the five-year costs to build out the radio system:

<i>(in millions)</i>	2019-20	2020-21	2021-22	2022-23	2023-24	TOTAL
Personnel	\$ 1.743	\$ 2.718	\$ 2.718	\$ 2.718	\$ 2.718	\$ 12.615
Positions	8.00	13.00	13.00	13.00	13.00	
System Build	\$ 9.047	\$ 8.924	9.487	\$ 9.676	\$ 9.715	\$ 46.849
<b>Total by Year</b>	<b>\$ 10.790</b>	<b>\$ 11.642</b>	<b>\$ 12.205</b>	<b>\$ 12.394</b>	<b>\$ 12.433</b>	<b>\$ 59.464</b>

*\* Revenues generated by participating agencies will be used to support the ongoing maintenance of the system.*

**LAO.** The LAO has no concerns with the proposal to provide five years of funding to implement the system and, thus, recommend the Legislature approve this part of the request. However, the LAO recommends rejecting the ongoing funding component of \$2.7 million because of the uncertainty regarding the future level of workload associated with operating and maintaining the public radio system after the radio system is implemented. This is because (1) the level of workload associated with developing the system could be different from the level of workload associated with maintaining the system on an ongoing basis, and (2) there is expected to be an unspecified level of efficiencies achieved as a result of the new system. Additionally, to the extent ongoing workload is funded in the future, the LAO recommends that it be paid for using a fee-for-service model rather than exclusively from the General Fund. The LAO states that this approach is consistent with the current funding structure for the public safety radio system and would fairly apportion costs to the various client agencies that benefit from it.

**Staff Recommendation.** Approve funding for the interoperable radio system through 2023-24, and reassess staffing need for ongoing maintenance and operations.

**Issue 7: Mutual Aid System**

**Governor’s Budget.** The Governor’s Office of Emergency Services (OES) requests ongoing \$25 million General Fund for repositioning of existing OES and local government resources that are part of the statewide mutual aid system with the goal of enhancing disaster response readiness. Repositioning occurs in areas of identified potential fire threat, which is determined through various means such as weather modeling, high wind zones, low humidity, and dense fire load.

**Background.** The mutual aid system is based on four organizational levels: cities, counties, regions and the state. The basic concept provides that within the operational area, adjacent or neighboring agencies will assist each other. Should the event require assistance from outside the county, the region will provide requested assistance to the impacted county. If the combined resources of the region are insufficient, the regional coordinator contacts the state mutual aid coordinator at OES.

The state reimburses costs that are related to pre-positioning requests activated through the mutual aid system that were requested by the local agencies, and approved by OES. The 2016 Budget Act provided one-time \$10 million General Fund for investments in the mutual aid system. The 2017 Budget Act provided one-time \$25 million Greenhouse Gas Reduction Fund (GGRF) for local fire response assistance. The 2018 Budget Act provided: (1) one-time \$25 million GGRF to OES for the procurement and maintenance of fire engines as well as to support the mutual aid system, and (2) one-time \$25 million General Fund for equipment and technology that improves the mutual aid system. This request is ongoing from the General Fund, and would fund reimbursements for prepositioning resources in advance of possible fires and other disaster events.

**LAO.** The LAO states that the requested ongoing funding for prepositioning mutual aid engines represents a continuation of funding provided on a one-time basis by the Legislature in the last two budgets. While much of the current fiscal year remains to expend these funds, this leaves questions about what the annual funding need for this program should be. Additionally, this request was submitted without a formal budget proposal, and to that end, the LAO recommends that the Legislature direct OES to submit Budget Change Proposals (BCPs) for future requests that include (1) new positions; (2) funding for new activities; (3) changes in proposed funding-levels for existing activities if not purely technical in nature; and (4) extensions of funding, activities, and/or positions that were previously approved on a limited-term basis.

**Staff Recommendation.** According to information provided by OES, of the \$25 million GGRF provided from the 2017 Budget Act, only \$3 million had been expended as of January 2019. Staff recommends that this item be held open pending assessment of need closer to the end of the fiscal year.

### Issue 8: Human Trafficking Victim Assistance

**Governor's Budget.** The Governor's Office of Emergency Services (OES) requests ongoing \$10 million General Fund to continue funding for the Human Trafficking Victim Assistance Program.

**Background.** The Human Trafficking Victim Assistance program provides funding to victim/witness assistance centers that provide specialized services to victims of human trafficking. Recipients must provide comprehensive safety/supportive services, including a 24-hour crisis hotline, emergency shelter, temporary housing, emergency food/clothing, counseling, transportation, legal assistance, and referrals to existing local resources.

This program has received various one-time augmentations over the last couple of years; most recently, the 2018 Budget Act provided one-time \$10 million General Fund to this program, and the 2017 Budget Act provided \$5 million, and This request would provide ongoing funding of \$10 million General Fund.

**LAO.** The LAO states that the absence of a BCP leaves questions about how the department determined what the ongoing level of funding need is throughout the state, as well as how much should be funded from the General Fund versus other possible sources (such as federal funds).

**Staff Recommendation.** Approve as budgeted.

### Issue 9: Sexual and Domestic Violence Prevention Funding

**Proposal.** The subcommittee received trailer bill language to update the Family Violence Prevention grant program to include sexual violence prevention program grant efforts, and a request for ongoing \$50 million General Fund for sexual and domestic violence prevention programs. Of the \$50 million General Fund, \$5 million will be ongoing for rape crisis centers. The funds would be distributed by OES through a grant program to service providers.

**Background.** OES administers several grant programs with General Fund, federal fund, and special fund dollars that focus on issues related to domestic violence, human trafficking, sexual assault, children, unserved/underserved, and victim/witness programs.

Its Family Violence Prevention program is administered under its Domestic Violence Unit in two program areas: (1) providing financial and technical assistance to local domestic and family violence centers to implement community family violence prevention strategies, and (2) funding a statewide family violence prevention campaign. Additionally, OES administers several programs that touch upon responding to sexual assault and family violence, which go to community-based organizations that provide direct services.

The requesters state, “Investing in prevention efforts, while maintaining and improving trauma-informed services, can stop this violence and abuse before it starts. We know that prevention can have tremendous positive impacts. Investments in prevention reduces the trauma individuals and communities experience and decreases cost to victims, government, and overall society.”

Prevention efforts shown to have an impact on reducing violence include:

- Teaching safe and healthy relationship skills
- Engaging influential adults and peers, including engaging men and boys as allies and bystander empowerment
- Parenting skill and family relationship programs, and work with at-risk children and families
- Creating protective environments by improving school climate and safety, improving the physical and social environments of neighborhoods, organizational policies and workplace climate
- Strengthening economic supports for families
- Supporting survivors to increase safety and lessen harm

**Staff Recommendation.** Hold open.

**Issue 10: Oversight: Emergency Water Tanks**

**Background.** The state provided funding for an emergency water tank program for areas impacted by the drought as part of the Governor's drought relief package in the 2014 Budget Act until April 2017, when the Governor declared the drought was over. The 2017-18 Budget Act continued the emergency water tank program and included \$6.5 million General Fund.

The 2018-19 Budget Act provided \$3.5 million General Fund to continue the emergency water tank program, with the provisional language as follows:

9. Of the amount appropriated in Schedule (2), \$3,500,000 shall be used to provide grants to install emergency water tank systems for homes that have had wells recently go dry, and to continue to supply water tanks with water and maintain and repair such systems as an emergency measure while households await new wells or connection to community water systems.

As of March 21, \$1.2 million has been distributed to program recipients for existing tank programs. The provisional language also permits the funding to be used to install emergency water tank systems, and OES stated that the remaining funds will be available for emergency water tank installations.

**Staff Recommendation.** Hold open.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



Thursday, April 4, 2019  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis, Ph.D.

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**Public Comment**

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**PROPOSED FOR VOTE ONLY****0850 DEPARTMENT OF JUSTICE**

1. **Forensic Laboratory Equipment Refresh.** The budget includes \$5.8 million General Fund ongoing to replace inoperative, outdated equipment for the Bureau of Forensic Services (BFS) Criminalistics Laboratory System which provides forensic laboratory support and analysis to cover 500 local law enforcement agencies. BFS equipment replacement has been partially funded by the DNA Identification Fund but as a result of decreasing revenues, BFS has been unable to prioritize the purchase and replacement of equipment. The 2018 Budget Act provided a one-time allocation of \$5.4 million General Fund.
2. **Sex Offender Registration- SB 384 (Wiener and Anderson), Chapter 541, Statutes of 2017.** The budget includes \$17.2 million General Fund and 37 positions in 2019-20, \$15.7 million General Fund in 2020-21, and \$13.2 million General Fund in 2021-23 to provide resources that will implement years two through four of SB 384. Year one funding of \$10 million and 25 positions were provided in the 2018 Budget Act. SB 384 requires the California Sex Offender Registry to transition from a lifetime registration system to a tier-based system for periods of 10 years, 20 years, and life beginning January 1, 2021. There are currently 104,000 sex registrants in the state, all of whom are now required to be assigned into one of the three tiers.
3. **Implementation of Mandates in SB 746, SB 1100, AB 1872, and AB 1968.** The budget includes \$5.2 million Dealers' Record of Sale Special Account spending authority and 10 positions in 2019-20, \$2.7 million in 2020-21, and \$1.7 million in 2021-22 and ongoing to implement SB 746, SB 1100, AB 1872, AB 1968.
  - SB 746 (Portantino), Chapter 780, Statutes of 2018, allows a person who is temporarily prohibited from possessing ammunition to transfer ammunition to an ammunition vendor, in addition to a licensed firearms dealer and requires a new California resident to apply for a unique serial number within 60 days of arrival for any firearm the resident wishes to possess in the state.
  - SB 1100 (Portantino), Chapter 894, Statutes of 2018, increases the age at which a person can purchase a long-gun from a licensed dealer from 18 to 21 years old with certain exceptions.
  - AB 1872 (Voepel), Chapter 56, Statutes of 2018, adds harbor and port police departments to the list of entities exempt from the sale or purchase of unsafe handguns.
  - AB 1968 (Low), Chapter 861, Statutes of 2018, prohibits a person who has been taken into custody, assessed, and admitted to a designated facility because he or she is a danger to himself, herself, or others, as a result of a mental health disorder and who was previously taken into custody, assessed, and admitted one or more times within a period of one year preceding the most recent admittance from owning a firearm for the remainder of his or her life.
4. **Subsequent Arrest Notification (AB 2461).** The budget proposes \$1.18 million Fingerprint Fees Account and six positions in 2019-20 and \$742,000 in 2020-21, and ongoing to implement AB 2461 (Flora), Chapter 300, Statutes of 2018, which requires notification of criminal history information to various agencies including the Department of Social Services and the Medical Board of California.

5. **Crime Prevention/Investigation: Informational Databases (AB 2222).** The budget includes \$135,000 General Fund and one position in 2019-20 and \$126,000 General Fund in 2020-21 and ongoing to the DOJ to implement AB 2222 (Quirk), Chapter 864, Statutes of 2018, which extends the firearms reporting requirement for police and sheriffs' departments to all law enforcement agencies in the state and would require that the report be entered within seven days of the agency being notified of the precipitating event. Law enforcement agencies are also required to report to the DOJ any information necessary to identify and trace the history of a recovered firearm in certain circumstances.
6. **Sexual Assault Investigations Evidence Kits (AB 3118).** The budget includes a one-time allocation of \$194,000 General Fund in 2019-20 to the DOJ to implement AB 3118 (Chiu), Chapter 950, Statutes of 2018, which requires all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all untested sexual assault kits in their possession and report their data to the DOJ.
7. **Peace Officers, Video and Audio Recordings, Disclosure (AB 748).** The budget includes \$447,000 General Fund and three positions in 2019-20 and \$412,000 General Fund in 2020-21 and ongoing to the DOJ to implement AB 748 (Ting), Chapter 960, Statutes of 2018, which allows a video/audio recording that relates to critical incidents involving peace officers to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation.
8. **Cannabis Convictions Resentencing (AB 1793).** The budget includes \$985,000 General Fund in 2019-20 and \$908,000 General Fund in 2020-21 to the DOJ to implement AB 1793 (Bonta), Chapter 993, Statutes of 2018, which requires DOJ to review records in the Automated Criminal History System and identify past cannabis related convictions that are eligible for recall, dismissal, sealing or re-designation pursuant to Proposition 64 (The Adult Use of Marijuana Act).
9. **Major League Sports Raffle Program (AB 888).** The budget includes \$1.26 million Major League Sporting Event Raffle Fund and five positions in 2019-20, \$1.15 million in 2020-21, 2021-22, and 2022-23, and \$609,000 in 2023-24 to the DOJ to provide regulation of the Major League Sports Raffle Program as authorized by AB 888 (Low), Chapter 575, Statutes of 2018, which extends the sunset date of this program from December 31, 2018 to January 1, 2024, increases the fee amounts that can be assessed to registrants, and makes changes to the raffle reporting requirements by eligible organizations.
10. **Price Gouging, State of Emergency (AB 1919).** The budget requests spending authority of \$365,000 Unfair Competition Law Fund and two positions in 2019-20 and \$352,000 in 2020-21 and ongoing to the DOJ to implement AB 1919 (Wood), Chapter 631, Statutes of 2018, which expands the scope of law to include rental housing and resources for enforcement of price gouging in times of disaster.
11. **Theft: Aggregation of Organized Crime (AB 1065).** The budget requests \$327,000 General Fund in 2019-20 and \$149,000 General Fund in 2020-21 to implement the provisions of AB 1065 (Jones-Sawyer) Chapter 803, Statutes of 2018. AB 1065 creates, until January 2, 2021,

the crime of organized retail theft, extends the county jurisdiction, and requires the California Highway Patrol, in coordination with DOJ to convene a regional property crimes task force.

**Staff Recommendation:** Approve all vote-only items as proposed.

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**ITEMS TO BE HEARD****0820 DEPARTMENT OF JUSTICE****Issue 12: Update by Attorney General Xavier Becerra**

**Attorney General.** The constitutional office of the Attorney General, as chief law officer of the state, has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice (DOJ). The Attorney General's responsibilities include safeguarding the public from violent criminals, preserving California's spectacular natural resources, enforcing civil rights laws, and helping victims of identity theft, mortgage-related fraud, illegal business practices, and other consumer crimes.

Under the state Constitution, the Attorney General is elected to a four-year term in the same statewide election as the Governor, Lieutenant Governor, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, and Insurance Commissioner. In 1990, California voters imposed a two-term limit on these statewide offices. On January 24, 2017, Xavier Becerra was sworn in as the 33rd Attorney General of the State of California, and is the first Latino to hold the office in the history of the state. He was appointed by Governor Brown as a replacement for former Attorney General Kamala Harris, who was elected to the United States Senate.

**Department of Justice.** The Attorney General oversees more than 4,500 lawyers, investigators, sworn peace officers, and other employees at DOJ. DOJ is responsible for providing legal services on behalf of the people of California. The Attorney General represents the people in all matters before the appellate and supreme courts of California and the United States; serves as legal counsel to state officers, boards, commissioners and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil laws; and assists district attorneys in the administration of justice. The DOJ also provides oversight, enforcement, education and regulation of California's firearms/dangerous weapons laws; provides evaluation and analysis of physical evidence; regulates legal gambling activities in California; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

**DOJ Budget Overview.** The Governor's budget proposes an increase of \$39 million, or four percent, over the revised amount for 2018-19. Overall, the total proposed budget to support DOJ operations in 2019-20 is roughly \$1 billion (see table from LAO below). About half of the proposed spending supports the department's Division of Legal Services, while the remainder supports the Division of Law Enforcement and the California Justice Information Systems Division. Of the total amount proposed for DOJ operations in 2019-20, nearly one-third—\$331 million—is from the General Fund. This is an increase of \$37 million, or 13 percent, from the estimated 2018-19 amount. This increase reflects various proposals to provide additional General Fund support including: (1) the state's forensic laboratories, (2) the continued implementation of the state's new tiered sex offender registry, and (3) the recovery of firearms from persons who are prohibited from owning them.

## Total Operational Expenditures for the Department of Justice

(Dollars in Millions)

	2017-18 Actual	2018-19 Estimated	2019-20 Proposed	Change From 2018-19	
				Amount	Percent
Legal Services	\$437	\$507	\$517	\$10	2.0
Law Enforcement	216	274	289	15	5.4
California Justice Information Services	188	214	228	14	6.4
<b>Totals</b>	<b>\$841</b>	<b>\$996</b>	<b>\$1,034</b>	<b>\$39</b>	<b>3.9</b>

Source: LAO

**Staff Recommendation.** This is an informational item. No action is necessary at this time.

**Issue 13: Bureau of Firearms Workload and Armed Prohibited Persons System (APPS) BCPs**

**Governor's Budget.** The budget includes two proposals associated with the Bureau of Firearms (BOF):

1. **BOF Workload.** The Governor's Budget includes \$6.875 million Dealer Record of Sale (DROS) authority in 2019-20 and 63 positions (a combination of new positions, converting temporary positions to permanent positions, and positions with authority but no funding) in the DOJ's Bureau of Firearms, and \$6.41 million DROS authority in 2020-21 and ongoing to maintain time-sensitive firearms workloads. The positions would be placed in the Background Clearance Unit, Phone Resolution Unit, DROS Quality Assurance Team, Reporting and Quality Assurance Section, and Armed Prohibited Persons Section.
2. **APPS BCP.** The budget also separately proposes 26.0 positions and \$5,601,000 (\$16,901,000 General Fund, -\$11,300,000 Dealer's Record of Sale Account) in fiscal year 2019-20, and \$4,656,000 (\$15,956,000 General Fund, -\$11,300,000 Dealer's Record of Sale Account) in 2020-21 and ongoing to conduct Armed and Prohibited Persons System (APPS) investigations.

### **Background on Bureau of Firearms**

The BOF within DOJ is primarily responsible for the regulation and enforcement of the state's firearm and ammunition laws. This includes conducting background checks for individuals seeking to purchase firearms, licensing firearm and ammunition vendors, conducting vendor compliance investigations, ensuring lawful possession of firearms and ammunition, and administering various other firearms and ammunition programs. BOF engages in various activities related to these responsibilities. For example, BOF has Armed and Prohibited Persons System (APPS) investigation teams who are primarily responsible for investigating the illegal purchase or possession of firearm and ammunition, as well as seizing them from individuals who are prohibited from owning or possessing them.

The BOF is tasked with administering 35 legislatively mandated programs that directly affect the citizens of California (individuals and firearms dealers) and state and local law enforcement agencies. According to the DOJ, the BOF has absorbed the costs of 44.0 positions in order to process critical workloads and maintain an acceptable level of public safety services.

**BOF Generally Supported by Fee Revenue since 2012-13.** State law authorizes DOJ to charge various fees related to firearms and ammunition that are deposited into one of several state special funds to support BOF programs and activities. For example, an individual purchasing a firearm currently pays fees totaling \$25—a \$19 fee deposited into the DROS Special Account, a \$5 fee into the Firearms Safety & Enforcement Special Fund (FS&E), and a \$1 fee into the Firearm Safety Account. State law also authorizes DOJ to administratively increase some of these fees to account for inflation as long as the fee does not exceed DOJ's regulatory and enforcement costs. (DOJ last administratively increased the \$19 fee deposited into the DROS Special Account in 2004.) In 2018-19, BOF received \$36.2 million from several special funds to support its various activities—nearly \$12 million was for the support of the APPS investigation teams. This includes \$5.8 million from the DROS Special Account and \$5.5 million from the FS&E.

**Operational Shortfalls and potential insolvency of DROS.** Currently, both the DROS Special Account and the FS&E Special Fund are experiencing operational shortfalls as the expenditures from these funds exceed their revenues. For example, about \$20.6 million in revenues is estimated to be deposited into

the DROS Special Account in 2018-19 to support about \$24 million in expenditures. Similarly, about \$7.7 million in revenue is estimated to be deposited into the FS&E Special Fund in 2018-19 to support about \$11.3 million in expenditures. In order to address these shortfalls in the current year, each fund will draw from its fund balance (or unspent funds) that has accumulated in prior years. (When the fund balance has been used up, the special fund will become insolvent.) The DROS Special Account has experienced operational shortfalls since 2012-13, while the FS&E Special Fund began experiencing operational shortfalls in 2017-18.

### **Background on APPS**

The State of California is the first and only state in the nation to establish an automated system for monitoring known firearm owners who might fall into a prohibited status. The Armed and Prohibited Persons System (APPS) provides California with a proactive tool to seek out and remove firearms from those who are prohibited from possessing them, and to thereby prevent and reduce incidents of violent crime. The Department of Justice's Bureau of Firearms (BOF) uses Criminal Intelligence Specialists (CIS) and sworn Special Agents to locate and disarm prohibited persons identified through APPS.

APPS went into effect in 2006, and over the course of its existence, the number of known firearms and firearm owners in California has steadily increased. By 2013, a significant backlog of known armed and prohibited persons had accumulated in APPS. That year, the California Legislature passed SB 140 (Leno), Chapter 2, Statutes of 2013, which provided the DOJ with \$24 million dollars to address the growing 2013 backlog. The bill also mandated annual reports detailing the progress made in reducing the 2013 backlog.

***APPS Methodology.*** As people legally purchase or acquire firearms they are entered into APPS, and only if they become prohibited are they then moved into the Armed and Prohibited File within the system. In order for the DOJ to know who is armed and prohibited, the DOJ must first know about the armed population and then address individuals as they have a prohibiting triggering event. Prohibited persons may be prohibited for several reasons. The specific categories of triggering events that can lead to a firearm prohibition are the following:

- An individual may become prohibited under the Federal Brady Handgun Violence Prevention Act. Note, some individuals with a Brady prohibition may not be prohibited under California state law (for example, being prohibited for a dishonorable discharge from the military).
- An individual may be prohibited from owning a firearm as a condition of probation.
- Individuals with felony convictions are prohibited from owning firearms.
- A juvenile who becomes a ward of the court may be prohibited.
- Mental health crises involving involuntary commitment may trigger a temporary prohibition.
- Some misdemeanor convictions may prohibit owning a firearm.
- Individuals may be temporarily prohibited due to restraining order.
- Individuals may be temporarily prohibited due to a felony warrant.
- Individuals may be temporarily prohibited due to a misdemeanor warrant.
- Individuals may be prohibited due to offenses or triggering events occurring in other states.

Within the Armed and Prohibited File, the cases are further separated into the two broad categories of Active and Pending. Active cases are those cases that have not yet been investigated or are in the process of being investigated but all investigative leads have not yet been exhausted. Pending investigations are those investigations that have been thoroughly analyzed and all investigative leads have been exhausted. Pending cases include the sub-categories of Unable to Clear, Unable to Locate, Out-of-State, Federal

Gun Control Act (Federal Brady Prohibition Only), and Incarcerated. Unable to clear cases are ones that have previously been investigated by DOJ firearms agents and all investigative leads have been exhausted, but the individual still has one or more firearms associated with them. If new information is identified, the case will be moved to active status.

***APPS-related databases.*** Prohibited individuals are identified by daily queries of five databases that effectively cross-reference the population of known firearms owners against individuals who may have had a prohibiting triggering event within the past 24 hours. There are five databases cross-referenced by APPS for firearm association and prohibition determinations: (1) Automated Firearms System (AFS), (2) California Restraining and Protective Order System (CARPOS), (3) Mental Health Reporting System (MHRS), (4) Automated Criminal History System (ACHS), and (5) the Wanted Persons System (WPS).

***Current Status.*** As of January 1, 2019, there were 2,516,836 known firearm owners in APPS, of which 23,222 are prohibited from owning firearms in the Armed and Prohibited File. Of the 23,222 cases, 9,404 are labeled as “active” cases. And of the 9,404 “active” cases, 538 remain from the 2013 backlog. The DOJ defines their backlog as cases that had not been investigated as of July 1, 2013 when SB 140 went into effect. All of these 538 investigations were targeted to be completed by March 31, 2019.

***Interaction with local law enforcement.*** Local law enforcement agencies are provided monthly information regarding the armed and prohibited persons in the agency’s jurisdiction. Given this access, once the armed and prohibited person is identified, DOJ and local agencies could coordinate to confiscate the weapons. However, at the present time, many agencies are relying on assistance from DOJ’s criminal intelligence specialists and special agents to work APPS cases. When local agencies do confiscate weapons, they are required to send DOJ a notice so that the individual can be removed from the list. DOJ previously stated that its special agents have trained approximately 500 sworn local law enforcement officials in 196 police departments and 35 sheriff’s departments on how to use the database during firearms investigations. The department stated it also conducted 50 training sessions on how to use the vehicle-mounted California Law Enforcement Telecommunications System terminals to access the database.

***Firearms regulation funding.*** Every individual purchasing a firearm in California is required to pay a \$25 fee. That fee is the total of three separate state fees. A \$19 background check fee is payable to the Dealer Record of Sale Special Account (DROS), which currently funds the APPS program, \$5 is payable to the Firearms Safety and Enforcement Special Fund (FS&E) and a \$1 firearm safety device fee is paid to the Firearms Safety Account (FSA). All of these funds go primarily toward supporting firearm safety and regulation within the Department of Justice.

***History.*** Beginning in 1996 for handguns and in 2014 for long-guns, firearm ownership records were retained by the Department. Those records represent all those known firearm owners potentially subject to enforcement, if the subject (individual) of the record is also the subject of a prohibiting event. Prohibited individuals are identified by daily queries of five databases that effectively cross-reference the population of known firearms owners against individuals who may have had a prohibiting triggering event within the past 24 hours.

Beginning in 1999, DOJ—Bureau of Firearms began to study some of California’s high-profile shootings in an effort to determine if there were remedial measures that could be enacted to curtail instances of gang violence and other similar violent events. The study found that many of the offending individuals were law-abiding citizens when they purchased the firearms, and were subsequently prohibited from gun ownership due to the reasons listed above. At the time of the study, DOJ lacked the

capacity to determine whether or not an individual who had legally purchased a firearm, and subsequently became prohibited from such ownership, was still in possession of a firearm. In addition, even if such a determination could have been made, the DOJ lacked the authority to retrieve that weapon from the prohibited person.

***Previous actions through policy and budget committees.*** The following documents previous actions taken by the Legislature with respect to APPS in policy and budget committees:

- In 2001, the Legislature created the Prohibited Armed Persons File to ensure otherwise prohibited persons do not continue to possess firearms SB 950 (Brulte), Chapter 944, Statutes of 2001. SB 950 provided DOJ with the authority to cross-reference their database of individuals who own handguns with their database listing of prohibited individuals. SB 950 also mandated that DOJ provide investigative assistance to local law enforcement agencies to better insure the investigation of individuals who continue to possess firearms despite being prohibited from doing so. (Penal Code § 30010.)
- The 2002 Budget Act included General Fund support of \$1.0 million for DOJ to develop the Armed Prohibited Persons System (APPS). The database was complete in November 2006, with continued funding to support the program provided from the General Fund. The DOJ established five sworn positions and two support staff positions for the purpose of working Senate Bill 950 cases.
- In November 2006, development was completed and the APPS database was implemented. A 2006-07 BCP gave the DOJ-BOF permanent authority of \$5 million from the General Fund for 12.0 sworn positions and 22.0 support staff positions to perform the APPS workload.
- Further legislation, SB 819 (Leno), Chapter 743, Statutes of 2011, allowed the department to utilize funds within the Dealers Record of Sale Account (DRoS) for firearm enforcement and regulatory activities related to the Armed Prohibited Persons System.
- In 2012-13, DOJ-BOF received \$1.6 million from the Dealer Record of Sale (DRoS) fund to support eight limited-term sworn positions to perform APPS investigations.
- To address the workload resources required to both reduce the growing backlog, and actively investigate incoming cases in a timely fashion, the Legislature passed SB 140. SB 140 provided DOJ with \$24 million from the Dealer's Record of Sale (DRoS) account in order to increase regulatory and enforcement capacity within DOJ's Bureau of Firearms. The resources financed in SB 140 were provided on a three-year limited-term basis, which, according to the DOJ, was adequate time to significantly reduce or eliminate the overall number of armed and prohibited persons in the backlog. Ongoing cases could be managed with resources within DOJ's Bureau of Firearms. Additionally, the measure included reporting requirements due annually to the Joint Legislative Budget Committee. This regulatory and enforcement capacity was granted prior to a January 1, 2014 law that significantly increased the number of APPS persons added per year.
- During the 2015 budget hearing process, the Legislature expressed concern that half-way through the three years, the department had spent 40 percent of the \$24 million, and the backlog had only been reduced by approximately 3,770. In addition, the Bureau of Firearms had hired 45 agents, as of the date of their update, but had only retained 18 agents. Of the agents that left the bureau,

the vast majority went to other agent positions in DOJ. It is unclear what caused this staff retention issue, whether it was due to the fact that the new positions were limited-term or that more senior agents were permitted to transfer. As a result, some SB 140 funding that was intended to directly address the APPS backlog was instead used to conduct background checks, provide training and to equip newly hired agents subsequently left the bureau.

The 2015 Budget Act provided DOJ's Bureau of Firearms with 22 additional permanent positions dedicated to APPS investigations and required that they be funded utilizing existing resources. In addition, supplemental reporting language required DOJ to provide the Legislature, no later than January 10, 2016, an update on the department's progress on addressing their backlog in the APPS program and hiring and retaining investigators in the firearms bureau.

- As part of the 2016-17 budget, the Legislature approved 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.

***Addition of APPS persons identified in 2014.*** The up-to-date DOJ's Bureau of Firearms workload history is provided below. According to their fourth APPS legislative report, released in March 2018, department agents have been able to reduce the number of prohibited subjects to 10,226, the lowest amount since January 2008. It should be noted that until recently, the APPS database was based exclusively on handgun transaction records, not long-gun transaction records. According to the DOJ, "approximately half" of all California firearm sales involve long-guns. Effective January 1, 2014, a new California law mandated the DOJ collect and retain firearm transaction information for all types of guns, including long-guns. The impact of this change is that the number of APPS subjects added to APPS changed from approximately 3,000 to 10,000 subjects annually.

***2018 Statistics.*** In 2018, the Department removed a record annual number of 10,681 armed and prohibited persons from the APPS database. The breakdown is as follows:

- Deceased: 271;
- Prohibition expired/no longer prohibited: 6,268;
- Disassociated from all known firearms as a result of enforcement operations: 4,142. It should be noted that not all 4,142 individuals that were disassociated from their firearms resulted in BOF seizures of firearms. In some cases, it is determined through the BOF investigation that a local law enforcement agency already seized the firearm but failed to enter the recovery in AFS, the individual attempted to report the firearm lost or stolen, or the individual is in the process of lawfully selling or gifting the firearm to a friend or relative.

At the same time, an annual record number of 11,333 prohibited persons were added to the APPS database.

***Future additions to APPS due to 2016 ammunition regulations.*** California had enacted legislation designed to keep guns out of the hands of criminals, but until 2016, it had done little to prevent criminals, gang members, and other prohibited people from procuring the ammunition that fuels gun violence. Several cities require vendors to keep records of ammunition sales, leading to the arrest of thousands of armed and dangerous criminals. Similarly, California enacted statewide legislation requiring vendors to record handgun ammunition sales, but this law has been tied up in litigation involving the statutory definition of handgun ammunition. Consequently, as the result of a court injunction preventing

enforcement of the law, any criminal can purchase ammunition, no questions asked. SB 1235 (de León), Chapter 55, Statutes of 2016, replaced the language in Proposition 63 and required vendors to obtain a state license to sell ammunition, log information about ammunition transactions, and screen the ammunition purchaser for any prohibitions at the point of sale. There are three main components to the legislation: vendor licensing, purchase authorization, and purchase information collection. Beginning July 1, 2019, DOJ will need to confirm whether an individual seeking to purchase ammunition is authorized to do so. BOF estimates 13 million ammunition purchases annually.

**Staff Comments.** Staff notes that there needs to be clarification to the budget summaries for both BCPs. These clarifications are provided below:

***Breakdown of requested resources and clarification of resources.*** Due to the dwindling state of the DROS Special Account since 2013-14, and the historical statewide directive regarding the conservation of the General Fund, the DOJ has attempted to responsibly absorb the costs of maintaining the critical workloads of the BOF program. Per the Budget Change Proposal, the DOJ is requesting the following resources as necessary:

1. ***The BOF requests permanent spending authority to support the ongoing workload of 20.0 positions.*** In 2013-14, BOF received two-year limited-term funding to support 20.0 positions in order to conduct firearms eligibility background checks. The positions were assigned to conduct firearms eligibility background checks and to analyze and interpret criminal history documents to resolve errors and omissions in information. In 2015-16, the two-year limited-term funding expired. To continue operations successfully while meeting California's statutorily mandated 10-day processing time period, DOJ forewent necessary administrative projects in favor of maintaining this critical public safety function.
2. ***The BOF requests permanent position authority and funding from the DROS Special Account, to support the mandated workloads that these 24.0 positions support.*** To address continuously growing BOF workloads resulting from legislative mandates, increased statewide population, and increased gun sales, and to ensure that the DROS workload was being maintained at an acceptable level, DOJ internally established and funded 24.0 temporary-help positions in 2015-16. DOJ absorbed the costs internally by delaying significant departmental projects, and sacrificing necessary technology upgrades and infrastructure maintenance in order to ensure the critical and time-sensitive workloads were processed.
3. ***To fully support the current BOF workloads, an additional 19.0 positions are requested.*** The BOF's workload has continued to grow year over year since the temporary help positions identified above were established.
  - a. Some positions requested in the BOF BCP workload are for APPS. The Administration has noted that the APPS positions requested in the BOF budget proposal are located within the Regulatory Program, not in Enforcement. Regulatory positions, along with the Enforcement teams, are responsible for administering the legislatively mandated programs involving firearm law administration, education, enforcement, dangerous weapons, and firearms related employment.
4. ***In addition to the resources requested in the BOF BCP, 26 positions are being requested to assist with ongoing APPS workload in a separate BCP.*** According to the DOJ they have

temporarily been absorbing the costs for the 26.0 positions outlined in this request. This has required the deferral of numerous information technology upgrades, infrastructure maintenance, and administrative projects.

5. ***The APPS BCP proposes the elimination of DROS funding but not FS& E funding. The DROS funding proposed for elimination is erroneously listed.*** The Governor’s budget proposes to change the mix and level of funding for APPS investigation teams. Specifically, the budget proposes to allocate \$16.9 million from the General Fund and eliminate existing DROS Special Account funding of \$5.8 million—instead of \$11.3 million DROS. But APPS investigation teams are funded by \$5.5 million from the FS&E Special Fund—which is not proposed for elimination in 2019-20 and ongoing.
- a. Total funding in 2019-20 for APPS is therefore \$22.4 million (\$5.5 million from the FS&E Special Fund and \$16.9 million General Fund).
  - b. According to the Administration, \$5.6 million of the proposed \$16.9 million General Fund support is intended to support 26 new positions to allow APPS investigation teams to address a backlog of cases and the remainder is to backfill the reduction from the DROS Special Account.

## LAO Assessment

***Special Funds Avoid Insolvency, but Operational Shortfalls Remain.*** Absent the Administration’s proposals, it is likely that the DROS Special Account would have become insolvent in the budget year. This is because the fund would have lacked sufficient resources to address increased costs related to implementing new legislation or increases in existing BOF workload. However, while the administration’s proposals help avoid this insolvency, they do not address the ongoing operational shortfalls in the DROS Special Account. Moreover, the Administration’s proposals do not address the ongoing operational shortfall facing the FS&E Special Fund.

***More Funding Provided to Support APPS Investigation Teams Than Justified.*** As discussed above, the Administration’s budget proposals provide a total of \$22.4 million to support the workload of APPS investigation teams. However, DOJ has only requested and provided sufficient justification that \$16.9 million is needed on an ongoing basis to support existing APPS workload as well as to continue addressing the backlog of cases.

***Uncertain Impact of Additional Funding for APPS Investigations in Long Run.*** DOJ is currently projecting that the backlog may increase due to other new legislation or mandates resulting in an increase in new APPS cases added annually. If APPS workload does not increase as anticipated, it is possible that the proposed 26 new positions would help DOJ nearly eliminate the existing APPS workload in several years. According to DOJ, it would then use these resources to take on investigations it currently leaves unaddressed (such as complex cases) or increase its other enforcement duties (such as increasing attendance at gun shows). While additional resources in either of these scenarios seem appropriate, the *actual* impact of these additional resources in the long run is uncertain.

***Impact of Reduction in DROS Special Fund Support for Other BOF Workload Unclear.*** As discussed above, the Governor’s budget includes a \$5.5 million reduction in DROS Special Account funding support for BOF workload not related to APPS investigation teams. At the time of this analysis, the

Administration and DOJ had not provided information on which BOF programs would be reduced. As such, the impacts of the proposed reduction is unclear.

**LAO Recommendations. *Adopt Alternative to Administration's Budget Proposals.*** The LAO recommends an alternative package of adjustments to Governor's proposal. Their proposal does not change the total amount of funding provided or fund sources it is provided from. However, it allocates the funding in a different manner that, along with other recommendations below, addresses the concerns the LAO identified with the Governor's plan. The key components include:

- ***Funding Adjustments for APPS Investigation Teams.*** The LAO recommends the Legislature provide \$16.9 million from the General Fund (declining to \$16 million in 2020-21 and ongoing) to support existing and increased APPS workload. The proposal also recommends approval of the 26 new positions requested to continue addressing the backlog. Their proposal therefore provides DOJ with the level of resources that there is workload justification for. But it also recommends eliminating existing DROS Special Account support of \$5.8 million and FS&E Special Fund support of \$5.5 million for APPS investigation teams, which would both be backfilled with the above General Fund support.
- ***Funding Adjustments for Other BOF Workload.*** The LAO recommends the Legislature provide \$6.9 million to support BOF's increased licensing and administrative workload. In order to support most of these increased costs, the LAO recommends the Legislature appropriate the freed up \$11.3 million resulting from their recommendation—\$5.8 million from the DROS Special Account and \$5.5 million from the F&SE Special Fund—to support this other BOF workload.

***Direct DOJ and Administration Report on Solutions to Address Operational Shortfalls.*** The LAO recommends the Legislature direct DOJ and the Administration to submit a report no later than December 15, 2019, on potential solutions to address the ongoing operational shortfalls facing the DROS Special Account and the FS&E Special Fund. These potential solutions can include changing business processes, one-time investments to improve efficiency, increasing firearm-related fees—such as directing DOJ to administratively increase the DROS fee to account for inflation—and/or statutory or regulatory changes. The Legislature can use this report to determine what steps should be taken to ensure that BOF receives sufficient funding from the appropriate fund sources to address legislatively desired service levels. For example, BOF workload has been completely supported by fee revenue deposited into its special funds since 2012-13. The Legislature could decide to increase fee levels to maintain existing practices of fully covering BOF costs through fee revenue rather than providing General Fund support.

***Require APPS Reporting.*** The LAO recommends the Legislature approve budget trailer legislation directing DOJ to report on key metrics it already reports on (such as the number of APPS cases addressed annually), given that the backlog of APPS cases pending investigation is expected to remain for at least the next few years and could potentially increase. (Although existing state law requires DOJ to submit annual reports to the Joint Legislative Budget Committee on key metrics related to the APPS backlog, the requirement is scheduled to end on March 1, 2019.) This could help the Legislature continue to conduct oversight over the reduction of the APPS backlog and of any additional funding provided to reduce the backlog. Additionally, the LAO recommends that the reporting language specify that once the backlog is eliminated, DOJ should begin reporting on the new or expanded activities the APPS investigation teams engage in. This could help the Legislature determine the extent to which ongoing resource levels should be adjusted in the future.

**Staff Recommendation.** Hold both proposals open pending presentation of information.

**Issue 14: Bureau of Gambling Control Oversight**

**Background.** The Bureau of Gambling Control (BGC), within the DOJ, is the state law enforcement authority with special jurisdiction over gambling activities within the state of California and is the entity that conducts background investigations for the California Gambling Control Commission (Commission) on gaming license and work permit applications. The BGC regulates legal gambling activities in California to ensure that gambling is conducted honestly, competitively, and free from criminal and corrupt elements. The Division of Gambling Control (now the BGC) was created on January 1, 1998, with the enactment of the Gambling Control Act (Act). The Act established a comprehensive plan for the statewide regulation of legal gambling. It provides a bifurcated regulatory system whereby the BGC serves in an investigative role and the Commission serves in an adjudicatory role.

The Cardroom Gaming Unit within the bureau is responsible for the bureau's cardroom-related licensing responsibilities. There are four categories of applicants associated with gambling establishments:

1. All persons and/or business entities that have control or ownership interest in a gambling establishment, or third-party providers of proposition player services (TPPPPS).
2. A cardroom key employee license for all persons employed in a supervisory capacity or empowered to make discretionary decisions over the establishment's gambling operations.
3. A work permit is required of all persons employed in a gambling establishment for certain positions such as dealer, waitress/waiter, surveillance, etc.
4. TPPPPS Supervisors and Players.

Businesses or individuals submit applications to either obtain a license or renew a license, along with a processing fee, to the bureau. The bureau is then responsible for conducting background investigations and making recommendations to the Gambling Control Commission on whether licenses should be approved, renewed, or denied. The scope of each background investigation varies depending on the license type, applicant, and the complexity of the applicants' history, but normally includes in-depth research and analysis of each applicant's background through inquiries of various personal, public, and law enforcement sources. Also, the financial aspects of business owners and entities are closely examined to verify that all persons with ownership/control interest in the gambling operation are identified and properly licensed.

The length of time it takes to conduct such investigations depends on the type of license. For example, the investigations related to business owner license applications can be significantly more extensive than for a regular cardroom employee. These investigations include various inquiries, such as a criminal background check and a review of financial statements.

***Previous funding and resources for BGC work.*** When the BGC was created in 1998, based on a 2000-01 Budget Change Proposal (BCP), the BGC had 20.0 analyst positions to process a projected workload of 1,000 applications (800 owner/key employees and 200 work permits) for the Cardroom industry.

In 2004-05, the BGC was provided five analyst positions, in addition to other classifications, to handle the TPPPPS workload. At that time, it was estimated there would be approximately 1,184 applications (25 TPPPPS companies, 135 owners, 200 supervisors and 824 proposition players) associated with the

TPPPPS industry. Of the 25.0 analyst positions, the Bureau has assigned four analysts to conduct the mandated workload associated with game and gaming activity review.

The unit was provided additional positions and funding on a limited-term basis in recent years to help reduce the backlog—specifically, 12 analytical positions in 2015-16 for three years and 20 additional analytical positions in 2016-17 for three years from the Gambling Control Fund. The 2018 Budget Act provided \$1.6 million from the Gambling Control Fund to support the 12 positions provided in 2015-16 for one additional year. As a result, all of the Cardroom Gaming Unit’s 32 limited-term positions will expire at the end of 2018-19.

**Case backlog issues.** According to the DOJ, the scope of the background investigations increased due to requests of the Commission, changes in the industry, and/or increased scrutiny due to identified violations within the industry. The DOJ believes that the positions are necessary to continue to reduce the backlog and maintain the ongoing workload associated with California cardroom and TPPPPS license applicants. Below is a workload history that includes the current backlog.

#### Workload History

Fiscal Year	2012-13	2013-14	2014-15	2015-17	2016-17
Beginning	1,339	2,001	2,588	2,696	2,153
Incoming Cases	2,211	4,594	5,117	5,379	5,566
Closed Cases	1,031	3,259	3,639	4,926	5,561
Abandoned/Other	518	749	1,370	996	167
Cases at Year’s end (Backlog)	2,001	2,588	2,696	2,153	1,991

#### Staff Comments

**Other Cardroom Related Concerns Exist.** Stakeholders and certain legislative members have pushed nearly every year for additional augmentations from the Gambling Control Fund, given that the revenues deposited into the fund are licensing fees paid by cardrooms. The Legislature has had larger concerns with the licensing program generally and approved a California State Audit in 2018. The audit is expected to be completed in May 2019 and the audit scope can be found [here](#).

The cardrooms, as well as the cities in which they are located are concerned with DOJ Bureau of Gambling Control regulatory activity in two areas. Cardrooms and the cities in which they are located are concerned that approval of proposed regulatory changes will impact how games are played or what types of games are played, thereby resulting in loss of cardroom revenue and local government revenue. Local governments may receive a share of cardroom revenue which is then used for local services or programs, such as early release and probation recruitment efforts as well as Juvenile Justice and Intervention programs. The two issues are described in more detail below:

1. **Player-Dealer Issue.** There are concerns raised that the DOJ will promulgate new regulations or change existing regulations related to the rotation of the player-dealer position (also known as the Third-Party Providers of Proposition Player Services [or TPPPS] issue). Specifically, [Penal Code 330.11](#) requires that the player who serves as the dealer rotates continuously so that the “house” is not serving as the bank. If played in this manner, the game is not a banked game typically only offered by tribal casinos and is instead just a controlled game. Cardrooms typically

contract with licensed TPPPS companies to provide licensed employees who can serve in this capacity if no one else at the table would like to serve in this role. This enables that games are able to be run continuously. Some tribes and the cardrooms have disagreed on the interpretation of the Penal Code section as well as the use of TPPPS for years.

2. ***Blackjack Issue.*** Advocates have raised concerns about DOJ's proposed regulations that withdraw approvals of card games that are akin to 21 Blackjack. Specifically, [Penal Code 330](#) lists the types of games—including twenty-one—that are prohibited under state law. The cardrooms are concerned that certain games will no longer be able to be played.

**Staff Recommendation.** This is an oversight item. No action will be taken at this time.

**Issue 15: Peace Officer Release of Records (SB 1421) BCP**

**Governor's Budget.** The budget includes three positions and \$477,000 General Fund in 2019-20 and \$442,000 General Fund in 2020-21 and ongoing, for the Division of Law Enforcement (DLE) to implement the provisions of SB 1421 (Skinner), Chapter 988, Statutes of 2018.

**Background.** Senate Bill 1421 amends Penal Code Sections 832.7 and 832.8, making peace officer and custodial officer investigation and personnel records available for public inspection, pursuant to the California Public Records Act (PRA), when those records relate to reports, investigations, and findings of officer involved incidents, including discharge of a firearm at a person; use of force resulting in death or great bodily injury (GBI); and sustained findings of sexual assault or acts of dishonesty directly relating to the reporting, investigation, or prosecution of crime, or misconduct by a fellow officer. Additionally the bill would authorize redaction where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. The bill would allow the delay of disclosure, as specified, for records relating to an open investigation or court proceeding, subject to certain limitations.

**Justification from DOJ.** DOJ is expected to review and redact audio or video recordings of investigations before the personnel record information can be disclosed. The Bureau of Firearms (BOF) requires three Associate Governmental Program Analysts (AGPA) to respond to the increased level of PRA requests, to review body camera footage, to format the data, and to redact information that is exempt from disclosure. BOF will also require additional funding for the necessary data delivery supplies. The DLE, Office of the Chief, requests 444 hours of overtime annually for the AGPA classification to handle all other PRA requests outside of BOF.

**Staff Recommendation.** Hold Open

**Issue 16: Dispositions Workload Increase**

**Governor’s Budget.** The budget includes \$203,000 General Fund and two positions in 2019-20, and \$188,000 General Fund in 2020-21 and ongoing to the DOJ’s California Justice Information Services Division to process the increase in dispositions and corresponding criminal history record updates resulting from the passage of AB 865, AB 2599, AB 2942, and SB 1437.

**Background.** State law requires DOJ to maintain the state’s databases of criminal history records. For each individual arrested, state law requires law enforcement agencies, the state courts, and detention facilities to submit certain specified information to DOJ’s databases. Such information includes the individual’s name, date of birth, and fingerprints, as well as the charges filed, disposition of cases, sentence received, and date of release. DOJ also serves as the state’s single point of contact for the exchange of criminal history records with the federal government. Finally, state law authorizes DOJ to provide certain federal and state criminal history information to designated entities (such as peace officers, courts, and county child welfare agency personnel) and/or under specified circumstances (such as if the information is being used for licensing or employment purposes). The following four bills could lead to an increase in criminal history record updates related to increased dispositions:

1. AB 865 (Levine), Chapter 523, Statutes of 2018, requires the court, upon receiving a petition for recall of a sentence from a member of the military suffering from a specified condition, to determine, at a public hearing whether the person qualifies for relief.
2. AB 2599 (Holden), Chapter 653, Statutes of 2018, requires a facility at which an arrestee is detained to, at the request of the arrestee upon release, provides forms for application to seal the record.
3. AB 2942 (Ting), Chapter 1001, Statutes of 2018, authorizes a prosecutor to provide a recall and resentencing recommendation to the court.
4. SB 1437 (Skinner), Chapter 1015, Statutes of 2018, provides a means of vacating the conviction and resentencing a defendant when a complaint, information, or indictment was filed against the defendant that allowed the prosecution to proceed under a theory of first-degree murder or murder under the natural and probable consequences doctrine.

**LAO Assessment**

***Uncertain Ongoing Funding Needed.*** At this time, the workload associated with the four pieces of legislation enacted in 2018 appear to be either limited-term in nature or uncertain given that it would depend on how certain individuals respond to the legislation. For example, the additional workload resulting from resentences occurring in the implementation of SB 1437 would likely not be ongoing in nature. This is because the resentencing under the legislation only applies to those who were convicted prior to its implementation. The LAO also note that such defendants have a strong incentive to seek resentencing in order to potentially serve shorter sentences—thereby filing resentencing requests that generate increased workload in the near-term. Additionally, the actual number of district attorneys that would recommend the recall and resentence of defendants AB 2942 is uncertain. This makes it difficult to estimate the number of cases that would be filed and adjudicated by the courts, and thus requiring DOJ to update its criminal history records.

**LAO Recommendation.** In view of the above, the LAO recommends that the Legislature approve the requested \$203,000 for DOJ to process additional criminal history record updates on a two-year, limited-term basis—rather than on an ongoing basis as proposed by the Governor. This would allow

DOJ to track the total amount of workload generated by the four pieces of legislation enacted in 2018 and request additional resources as needed in two years based on actual workload.

**Staff Recommendation.** Hold Open

**Issue 17: DNA Identification Fund Revenue Backfill BCP**

**Governor’s Budget.** The budget includes \$25 million (\$15 million General Fund and \$10 million redirecting existing General Fund and backfilling expenditures with Fingerprint Fees) to the Bureau of Forensic Services (BFS).

**Background.** The BFS’s regional laboratory system was established in 1972 to provide assistance to local law enforcement agencies that do not have access to local crime laboratory services. Today, the bureau is a comprehensive, state-of-the-art system accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB-International). The BFS operates 10 regional crime laboratories which serve all of the state’s 58 counties. The BFS’s forensic scientists collect, analyze, interpret, and compare physical evidence from suspected crimes, provide reports on their forensic findings, and provide expert testimony in court.

In addition, BFS’s Jan Bashinski Laboratory in Richmond conducts research to advance DNA typing and coordinates the development of statewide standards for forensic DNA analysis. The laboratory has established CAL-DNA, a computerized DNA identification data bank, to which evidence analysis results can be compared to identify unknown offenders. This database works in conjunction with the National DNA Index System (NDIS) as part of the Combined DNA Index System (CODIS), as well as housing the Missing Persons DNA program, method validation, and a DNA casework section.

**Historical Funding sources for BFS.** Historically, the BFS was funded by the General Fund. However, with the passage of Proposition 69 on November 3, 2004, a new revenue stream was created from dedicated penalty assessment revenues that are deposited into the DNA Identification Fund. The revenue in this fund is part of the California Fine and Fees System, which has seen significant revenue declines in recent years. The revenue generated by this fund is used to expand DNA collection and processing. As written in Government Code (GC) section 76104.6, the DNA Identification Fund’s revenue is collected based on fines for all criminal offenses, including all offenses involving a violation of the Vehicle Code. An additional fine was added under GC 76104.7 in 2012, which was expected to provide complete funding support for the bureau’s operations. The revenue generated by the DNA Identification Fund adequately funded the BFS for the first three fiscal years.

The DOJ reports that the DNA Identification Fund has experienced “a significant decline” in revenue that started in FY 2015-16 and continued on through FY 2017-18. The DOJ partially attributes this decline to Proposition 47 (2014), which reduced the classification of certain crimes from felonies to misdemeanors. With decreased criminal penalties, the DOJ states, the number of fines levied and collected subsequently decreased. Total revenue collections for 2015-16 were \$59.2 million and in 2016-17 were \$52.5 million, including accruals, which is a total decrease of \$13.6 million from the average collections of the two years prior to the passage of Proposition 47.

**Recent Solutions.** The most recent solution to the funding shortage was a General Fund redirection of \$15 million into the Bureau of Forensic Services for 2017-18 and 2018-19, followed by a one-year authority increase of \$6 million in 2018-19 to support continued revenue declines. This one-time funding was intended to temporarily supplement the declining DNA Identification Fund revenue. Additional revenue loss was addressed in the aforementioned 2018-19 May Revise proposal, which allocated an additional one-time \$6 million from the General Fund to support the DNA Identification Fund.

**Staff Recommendation.** Hold open.

**Issue 18: Criminal Law: DNA Collection of minors (AB 1584) BCP**

**Governor's Budget.** The budget includes \$149,000 General Fund in 2019-20, \$136,000 General Fund in 2020-21 and ongoing and one position to the DOJ to implement AB 1584 (Gonzalez-Fletcher), Chapter 745, Statutes of 2018 which prohibits law enforcement from collecting a buccal DNA swab or any biological sample from a minor without first obtaining written consent of the minor and approval of the minor's consent from a parent, legal guardian, or attorney.

**Background.** AB 1584 added Section 625.4 to the Welfare and Institutions Code and prohibits a law enforcement entity from collecting a buccal DNA swab sample or any biological sample from a minor without first obtaining written consent of the minor and approval of the minor's consent by a parent, legal guardian, or attorney. The bill also prohibits, except as otherwise expressly authorized by law, a minor's voluntarily given DNA from being searched, analyzed, or compared to DNA or profiles related to crimes other than the one for which it was taken. The bill also provides a procedure for a minor to have a voluntary sample expunged.

**Provided justification.** The DOJ houses, maintains, and is responsible for California's contributions to the FBI's Combined DNA Index System (CODIS). Local law enforcement agencies rely on the DOJ to provide training and guidance regarding the new restrictions on collecting DNA and biological samples from juveniles. The DOJ states that one position is needed to develop a training curriculum for the proper sample collection from juvenile offenders and to make the training curriculum available to agencies statewide. In addition to this training component, they raise the issues that there will be an influx of calls inquiring on samples that were previously collected from juveniles. The third component of the legislation calls for an expungement process for voluntarily submitted samples. Samples received by the DOJ's Data Bank Program require a thorough vetting process prior to expungement and the new position will assist with the increase in workload that AB 1584 will produce. The estimated costs for AB 1584 cannot be funded from the DNA Identification Fund as current DNA ID revenues are insufficient to cover these costs.

**Staff Recommendation.** Hold open.

**Issue 19: CA Consumer Privacy Act of 2018 (AB 375, SB 1121) BCP**

**Governor’s Budget.** The budget proposes a permanent augmentation of 23.0 positions and \$1,827,000 General Fund and \$2,912,000 Unfair Competition Law Fund in 2019-20 and \$1,746,000 General Fund and \$2,808,000 Unfair Competition Law Fund in 2020-21 and ongoing, to implement and enforce the mandates of AB 375 (Chau), Chapter 55, Statutes of 2018, and SB 1121 (Dodd), Chapter 735, Statutes of 2018.

**Background.** Beginning January 1, 2020, AB 375 (Chau), Chapter 55, Statutes of 2018, and SB 1121 (Dodd), Chapter 735, Statutes of 2018—also known as the California Consumer Privacy Act of 2018—impose various requirements related to the collection, use, and protection of consumer data collected by certain businesses (such as those with annual gross revenues of more than \$25 million). These requirements include providing consumers with the right to request that a business disclose the categories and specific pieces of personal information collected about them and delete such information, as well as direct a business not to sell such information. Additionally, the act tasks DOJ with (1) developing regulations related to these requirements, (2) providing guidance to businesses on how to comply with these requirements, and (3) pursuing civil actions against businesses who fail to correct any alleged violations within 30 days.

**Consumer Privacy Fund creation.** The California Consumer Privacy Act of 2018 created the Consumer Privacy Fund to receive civil penalties assessed for violations of the act. The act further specifies the intent that these penalty revenues fully offset costs incurred by the state courts and DOJ related to implementing and enforcing the act. Moreover, the act prohibits the use of the revenue for any other purpose until after these costs are fully offset.

**LAO Assessment**

**Fund Source Not Appropriate.** The LAO finds that the level of resources being requested by DOJ to implement the California Consumer Privacy Act of 2018 appear reasonable given the increased workload. However, the LAO finds that the proposal to use the General Fund and UCL Fund to support the workload on an ongoing basis is not aligned with the act. This is because the act specifically created the Consumer Privacy Fund to fully offset DOJ’s costs to implement and enforce its provisions. The LAO recognizes, however, that DOJ will incur some start-up costs—such as those related to developing regulations or beginning to pursue civil actions for violations of the act—prior to the deposit of penalty revenues into the Consumer Privacy Fund. As such, funding from other fund sources will be needed on a *temporary* basis to support the department’s workload.

**LAO Recommendation.** In view of the above, the LAO recommends that the Legislature authorize a \$4.7 million loan to the Consumer Fund in 2019-20—\$1.8 million from the General Fund and \$2.9 million from the UCL Fund—rather than as a direct appropriation as proposed by the Governor. This loan would ensure that DOJ has enough resources to begin implementation of the California Consumer Privacy Act of 2018, as well as comply with legislative intent that costs be supported by the penalty revenues deposited into the Consumer Privacy Fund. The LAO notes that additional loans could be needed until sufficient penalty revenues begin to be deposited into the Consumer Privacy Fund. Additionally, this approach would help the Legislature conduct oversight of the act’s implementation. This is because, to the extent that insufficient penalty revenues are deposited to support ongoing DOJ costs and/or to repay the loan, the Legislature could consider making changes to the California Consumer Privacy Act of 2018 (such as increasing the amount of civil penalty that can be pursued for violations).

**Staff Recommendation.** Hold Open

**Issue 20: CA Internet Consumer Protection and Net Neutrality Act of 2018 (BCP)**

**Governor’s Budget.** The budget requests a permanent augmentation of three Deputy Attorneys General (DAG), two Associate Governmental Program Analyst (AGPA), two Staff Services Analyst (SSA), the legal complement of two Legal Secretaries, and an increase in spending authority of \$1,846,000 Unfair Competition Law Fund for 2019-20, and \$1,775,000 in 2020-21 and ongoing, to support the implementation of, and thereafter, to address the mandates associated with SB 822 (Wiener), Chapter 976, Statutes of 2018.

**Background.** The Federal Communications Commission (FCC) is an independent federal agency tasked with the regulation of interstate and international communications by radio, television, wire, satellite, and cable in the United States. In 2015, the FCC approved rules related to net neutrality—the principle that Internet service providers treat all Internet data the same regardless of its source. These rules prohibited providers from (1) blocking lawful content or applications, (2) slowing down specific applications or services (known as “throttling”), and (3) accepting fees to directly or indirectly favor some data traffic over others (known as “paid prioritization”). In 2017, the FCC reversed these net neutrality rules.

**SB 822 (Wiener), Chapter 976, Statutes of 2018.** SB 822—known as the California Internet Consumer Protection and Net Neutrality Act of 2018—establishes net neutrality requirements in California. In particular, it prohibits Internet service providers that provide broadband Internet access service from (1) blocking lawful content or applications, (2) throttling applications or services, and (3) engaging in paid prioritization. It also requires providers to publicly disclose certain information to ensure that consumers are able to make informed choices regarding the use of their services.

**Net Neutrality Litigation.** Litigation is currently pending challenging the FCC’s 2017 decision to reverse net neutrality rules as well as Chapter 976. These cases include:

- **Multistate and Stakeholder Suit against FCC and U.S.** California, other states, and various stakeholders (such as Mozilla Corporation) filed suit against the FCC and the U.S. challenging the agency’s 2017 decision to reverse net neutrality rules. This case is currently pending in a federal court of appeals.
- **U.S. Suit against California.** The U.S. filed suit against California challenging the constitutionality of Chapter 976. Specifically, the U.S. argues that federal law—specifically the FCC decision—preempts state law (Chapter 976). This case is currently pending in a federal district court.
- **Industry Stakeholder Suit Against California.** The American Cable Association and other industry stakeholders filed suit against California challenging the constitutionality of Chapter 976. Specifically, they argue that (1) federal law preempts Chapter 976 and (2) Chapter 976 regulates commerce outside of California. This case is currently pending in a federal district court.

In October 2018, California entered into an agreement with the plaintiffs in the two suits filed against the state. Under the agreement, both lawsuits would be stayed (or placed on hold) until the federal court of appeals issues its opinion on the multistate case against the FCC and U.S. or the U.S. Supreme Court issues a final decision on the case—whichever is later. In exchange, California agreed to not enforce SB 822 until either (1) 30 days after the October 2018 stay expires if plaintiffs in the two cases against California do not request a new stay within that time period, or (2) 30 days after a judge makes a decision

if they request a new stay within that time period. The LAO notes that further stays on the enforcement of SB 822 could potentially be sought.

The workload associated with the bill would include receiving complaints, investigating potential violations, and prosecuting cases.

### **LAO Assessment**

***Pending Litigation Could Prevent SB 822 Enforcement.*** The LAO finds that requested resources for DOJ to implement and enforce SB 822 appear justified on workload basis. However, it is unclear whether the October 2018 stay on SB 822 will expire in 2019-20. Oral argument in the multistate case against the FCC and U.S. is currently scheduled for February 2019. As such, it is possible that the stay could expire during the budget year. However, it is also possible that the stay is in place beyond the budget year. This could happen if, for example, the Supreme Court takes time to issue a decision or if subsequent stays are issued in the two cases against California. Under such circumstances, DOJ would not need the proposed resources to implement SB 822 in 2019-20 and thus would not need the resources proposed by the Governor.

***LAO Recommendation. Adopt Budget Bill Language Limiting When Funds Could Be Used.*** In view of the above, the LAO recommends that the Legislature modify the Governor's proposal by adopting budget bill language specifying that DOJ could only spend the proposed \$1.8 million to enforce SB 822 if all court prohibitions preventing its implementation or enforcement have expired.

***Staff Recommendation.*** Hold Open

**Issue 21: New and Expanded Crimes (BCP)**

**Governor's Budget.** The budget includes \$145,000 General Fund and one position in 2019-20, \$136,000 General Fund in 2020-21 and ongoing to process the additional workload of 25 bills signed into law.

**Background.** The DOJ maintains, according to statute, various repositories for criminal record information. Penal Code Section 11105 mandates DOJ to function as the criminal record repository for California and serve as the Federal Bureau of Investigation's (FBI) single point of contact when accepting applicant fingerprint images and related data for federal-level criminal offender record information (CORI). Existing law permits DOJ to provide state or federal arrest or disposition notification to any entity authorized by state or federal law to receive such information under specified circumstances including employment and licensing purposes.

Penal Code Section 13150 requires law enforcement agencies (LEAs) to report to DOJ each arrest made, including the applicable identification, specified arrest data, and fingerprints. Existing law also delineates how DOJ shall accept fingerprint images and related information to process CORI requests.

The Cal-ID Program within DOJ maintains a central repository of fingerprints and palm prints, and administers the Automated Fingerprint Identification System (AFIS) through which positive identification of individuals is established. Fingerprints and palm prints that are submitted by LEAs are searched, verified, and indexed in automated databases such as the AFIS and the Automated Latent Print System.

The Criminal Record Update Program (CRUP) within DOJ receives arrests and dispositions submitted by LEAs. CRUP is tasked with analyzing and updating records when there are errors, when consolidation is necessary, or when subsequent notifications are canceled. CRUP also performs updates to and publishes offense tables for LEA reporting purposes.

**Justification for request.** According to the DOJ, as Law Enforcement Agencies (LEAs) are required to submit information to DOJ regarding arrests and convictions, DOJ is tasked with ensuring that offense tables used by LEAs are current and inclusive of all crimes for which individuals can be arrested or cited. Creation of new and expansion of existing crimes requires DOJ to update and maintain a standardized set of tables to be used by criminal justice agencies in submitting information and coordinate with agencies for use of the tables and submission requirements.

The one authorized position will update and publish the statewide master code tables, coordinate with the statewide master code table governance board and subject matter experts, coordinate with the Criminal Justice Statistics Center for National Incident-Base Reporting System and Bureau of Criminal Statistics (BCS) codes, update departmental documentation and procedures, and provide outreach and coordination with criminal justice agency stakeholders.

**LAO Assessment**

**Lack of Justification for Requested Resources.** At the time of the LAO's analysis, DOJ was unable to provide sufficient justification for the requested resources, as well as explain why the statewide lists could not be updated within existing resources. The LAO recognizes that the Legislature regularly enacts legislation that create new crimes or expand the parameters of existing crimes and, thus, require DOJ to

update the statewide lists. However, the LAO finds that the lists should generally need to be updated only once a year and existing staff who are currently doing this work should be able to do it for the recently-enacted bills. It is also unclear how much additional work conducting outreach and coordinating with law enforcement agencies would require.

**LAO Recommendation.** In view of the above concerns, the LAO recommends that the Legislature reject the Governor's proposal to provide \$145,000 (General Fund) for DOJ to update and publish its statewide master code tables, as well as to coordinate with criminal justice agencies on the use of these tables.

**Staff Recommendation.** Hold Open

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



**Thursday, April 25, 2019**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Christopher Francis, Ph.D.

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## **Public Comment**

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*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.*

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## ITEMS FOR VOTE-ONLY

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

1. ***Los Angeles Parole Office Relocation.*** \$1 million General Fund in 2019-20 and ongoing for the lease of three parole offices to replace the existing Alameda complex. The current location is in the industrial city of Vernon, located five miles south of downtown Los Angeles, California. In addition, the budget requests \$6.8 million General Fund across 2019-20 through 2022-23 for tenant improvements. The schedule of requested appropriations for lease costs and tenant improvements are below:

- **2019-20:** \$1 million ongoing for lease costs and \$1.7 million one-time General Fund for tenant improvement amortization payments.
- **2020-21:** \$1.7 million one-time General Fund tenant improvement amortization payments.
- **2021-22:** \$1.7 million one-time General Fund for tenant improvement amortization payments.
- **2022-23:** \$1.7 million one-time General Fund for tenant improvement amortization payments.

The nine parole units housed at the Los Angeles Parole Complex supervise over 4,600 parolees residing in a coverage area of approximately 560 square and average 1,200 visitors per week. The Los Angeles Parole Complex will not be able to serve projected increases in the parole population and associated staff. Currently, two to three parole agents share each office. This proposal would separate the staff at the current location into three locations based on areas where the parolee population is concentrated. Strategically locating the parole offices in high parolee population neighborhoods will serve Los Angeles more efficiently by decreasing travel times for agents and increasing time spent with parolees. In addition to the space concerns, there are also barriers for parolees trying to access services and attend programming at the current location. Parolees must travel long distances from their residences to the parole office. Many parolees lack personal transportation, and their routes have risks associated with parolees crossing rival gang territories.

The three new locations will be located near LA Central, Mid-City, and North East LA.

2. ***Chula Vista Parole Office Relocation.*** The budget includes \$657,000 General Fund in 2019-20 and ongoing for the lease of two parole offices to replace the existing Chula Vista complex and \$1.1 million General Fund one-time in 2019-20 for moving expenses. In addition, DAPO requests \$192,000 General Fund across 2020-21 through 2023-24 for annual lease increases. The schedule of requested appropriations for lease costs and tenant improvements is:

- **2019-20:** \$69,000 ongoing General Fund for lease costs, \$588,000 ongoing General Fund for tenant Improvement amortization payments, and \$1.1 million one-time General Fund for moving expenses
- **2020-21:** \$46,000 ongoing General Fund for an annual lease increase
- **2021-22:** \$47,000 ongoing General Fund for an annual lease increase
- **2022-23:** \$49,000 ongoing General Fund for an annual lease increase
- **2023-24:** \$50,000 ongoing General Fund for an annual lease increase

This proposal seeks to terminate occupancy at the current Chula Vista location and establish two separate offices in new locations. The proposed new offices are closer to the communities the parole units serve than the existing location and can accommodate projected changes in the parole population—in San Diego and El Cajon. The five parole units housed at the Chula Vista Complex supervise 1,900 parolees residing in a coverage area of approximately 2,000 square miles. There are 118 supervision, clinical, and support staff in the office, and they provide services to an average of 900 visitors per week.

Currently, three parole agents occupy each office, which affects the quality of parolee interviews due to fear of others overhearing their statements. The expected parole population and staffing increases will further exacerbate the overcrowding at the office, and the location does not have space to accommodate more agents, staff, or parolees.

In addition to space concerns, the condition of the property is no longer acceptable. According to the proposal, the lessor's "negligence and unwillingness to make critical repairs" has resulted in health, life, and safety hazards for CDCR staff and parolees. The property does not comply with the accessibility requirements as outlined in the Americans with Disabilities Act (ADA). The office has also received two Fire Safety Correction Notices and does not comply with the corrective action required by the City of Chula Vista Fire Department and the Office of the State Fire Marshal.

3. ***DGS Statewide Surcharge Fees Increase.*** The CDCR requests an ongoing augmentation of \$2.3 million General Fund for Department of General Services Statewide Surcharge increases. DGS functions as business manager for the State of California. They provide a variety of services to State departments, such as procurement, management of state owned and leased real estate, management of the state's vehicle fleet, and development of building standards. DGS funds its operations through fees charged to client departments. The statewide surcharge was implemented in 2005-06 to provide a more equitable method of recovering costs associated with central services delivered by DGS. The CDCR appropriation for DGS surcharge of approximately \$7.3 million has not changed since 2006-07. This request will provide the difference between the 2017-18 and 2019-20 fiscal years. The CDCR is responsible for 27.3 percent of the DGS statewide surcharge. Since the surcharge was first implemented, CDCR's share has increased by 92 percent. The charge increased from \$7.3 million in 2008-09 to over \$14.0 million in 2017-18 and based on the trend in prior year actuals, the CDCR share of the statewide surcharge is projected to increase to \$16.3 million in 2019-20.
4. ***Rent Increases.*** The budget includes \$1.8 million General Fund ongoing to address the increased rent costs as a result of eight new lease agreements in Central Administration office buildings throughout the state that had expiring lease contracts in 2019-20 and will result in a \$1.8 million increase in rent. These facilities accommodate approximately 4,100 State employees, who support the Division of Adult Institutions, the Division of Juvenile Justice, the Board of Parole Hearings, the Division of Adult Parole Operations, and the Division of Rehabilitation Programs. Central Administration office rent costs have been increasing at an average rate of 2.37 percent per year since 2014.
5. ***Augmentation of Inmate Welfare Fund Authority.*** The budget proposes an increased expenditure authority of \$9 million in 2019-20 and \$14.5 million in 2020-21 and ongoing for the Inmate Welfare Fund (IWF). IWF is a self-supporting fund primarily dependent upon revenue

generated from inmate canteen sales. The additional IWF authority request is driven by the continuous growth in canteen revenues generated by the resale of merchandise. The growing demand for items in the canteen is directly related to the number of incarcerated shifting into the highest privilege group and monetary deposits into their trust accounts. In order to meet the growing demand, IWF will need to maintain adequate supply of merchandise for resale by increasing the authority to purchase additional items. From 2013-14 to 2017-18 revenues generated from canteen sales have increased year-over-year. Canteen sales represent 95-percent of revenues generated for the IWF and are vital in providing resources for inmate related programs such as photo program activities, inmate work opportunities, family visiting programs, and purchase of publications for libraries.

6. ***Americans with Disabilities Act (ADA) Accessibility Improvements at Two Institutions.*** The budget proposes \$4.2 million General Fund in 2019-20 and \$4.2 million General Fund in 2020-21 for a total of \$8.4 million over a two-year period for construction of Americans with Disabilities Act accessibility improvements at the California Institution for Women (CIW) and Mule Creek State Prison (MCSP).
7. ***Fire Alarm Replacement and Fire Suppression Repair.*** The budget proposes one-time General Fund funding of \$4.5 million in fiscal year 2019-20 and \$54.5 million in 2020-21 to replace fire alarm systems and repair fire suppression systems at Mule Creek State Prison (MCSP), R.J. Donovan Correctional Facility (RJD), and California State Prison, Sacramento(SAC).

**Staff Recommendation:** Approve Issues 1-7 as budgeted.

## ITEMS TO BE HEARD

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

#### Issue 8: Supplemental Reforms to Parole Consideration (BCP)

**Governor's Proposal.** The Governor's budget includes \$4.7 million General Fund and 12.5 positions in 2019-20, \$6.1 million General Fund and 12.5 positions in 2020-21, and \$1.9 million General Fund and 12.5 positions in 2021-22 and ongoing to complete workload related to a projected increase in parole hearings. Since 2011, BPH has scheduled between 4,000 and 5,300 parole hearings annually. Current projections indicate that BPH will need to schedule a total of 7,200 hearings in 2019-20 and 8,300 hearings in 2020-21.

The Governor's proposal includes the following provisions:

1. Expand BPH by 2 commissioners for a total of 17 commissioners. Under this proposal, one commissioner per week will be designated as a "floater" who will prepare for hearings and will be assigned as a third panel member but may be redirected to cover another hearing when needed.
2. Streamline the parole hearing process with a structured decision making framework. The proposed framework is evidence based and used in seven states and Canada. It purports to focus the decision maker's attention on specific factors that research has found to directly impact an inmate's risk of recidivism and reduce the time currently spent on less relevant factors which could decrease the amount of time needed for commissioners to prepare for the hearing and shorten the average length of hearings. Currently, BPH schedules 7 hearings per week, per panel at Level II/III prisons and 10 at Level III/IV prisons. With the streamlined process, BPH projects they can schedule 11 hearings per week at Level II/III prisons and 14 hearings at Level III/IV prisons.
3. Provide additional information technology support to enhance functionality to improve the hearing scheduling process which has been increasingly complex with new laws and regulations concerning parole eligibility dates.
4. In addition, BPH also requests adjusting the rates of attorneys who represent inmates at parole hearings. Attorney costs are currently funded at a flat rate fee of \$400 per hearing and the request seeks to increase the fee to \$750. This would result in an augmentation of \$2.5 million in 2019-20.

**Breakdown of Positions.** The schedule of requested appropriations is:

- 2019-20: \$2 million for 12.5 permanent positions and \$2.7 million for 11 limited-term positions, overtime, and information technology upgrades.
- 2020-21: \$1.9 million for 12.5 permanent positions and \$4.1 million for 21 limited-term positions and overtime.
- 2021-22 and ongoing: \$1.9 million ongoing for 12.5 permanent positions. A breakout of positions included in this request is as follows:

Position Request	BY	BY+1	BY+2	BY+3	BY+4
<b>Board of Parole Hearings Total</b>	<u>9.5</u>	<u>9.5</u>	<u>9.5</u>	<u>9.5</u>	<u>9.5</u>
Commissioner	2.0	2.0	2.0	2.0	2.0
Attorney III	3.0	3.0	3.0	3.0	3.0
Associate Governmental Program Analyst	3.2	3.2	3.2	3.2	3.2
Office Assistant	1.3	1.3	1.3	1.3	1.3
<b>Division of Adult Institutions Total</b>	<u>14.0*</u>	<u>24.0*</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>
Correctional Counselor I	13.0*	23.0*	2.0	2.0	2.0
Correctional Case Records Analyst	1.0	1.0	1.0	1.0	1.0
<b>Total</b>	<b>23.5</b>	<b>33.5</b>	<b>12.5</b>	<b>12.5</b>	<b>12.5</b>

**Background.** The Board of Parole Hearings (BPH) within CDCR is currently composed of 15 commissioners. Along with deputy commissioners, they consider whether to grant parole to all persons sentenced to state prison under the state’s indeterminate sentencing laws, as well as certain determinately sentenced inmates who qualify for parole suitability hearings. Under indeterminate sentencing, individuals receive a sentence range, such as 25-years-to-life. Under determinate sentencing, individuals receive fixed prison terms with specified release dates. BPH also determines (1) whether to impose any special conditions on individuals who are granted parole—such as requiring participation in certain rehabilitative programs—once they are in the community and (2) how long those who are denied parole must wait until their next parole hearing, which can range from 3 to 15 years. In addition, BPH advises the Governor on applications for clemency and approves transfers of foreign-born inmates to their native countries.

Parole hearings are supposed to determine whether an inmate is suitable for release or if he or she currently poses an unreasonable risk of danger to society. The hearing panel, which typically consists of one BPH commissioner and one deputy commissioner, considers many sources of information, including a risk assessment from a psychologist, statements from the inmate and victims, and records of the inmates’ behavior while incarcerated. Research indicates that some of the sources of information considered are better predictors of dangerousness than others. For example, risk assessments completed by psychologists are among the best predictors of dangerousness. While BPH regulations outline criteria that tend to indicate suitability for release (such as positive behavior while incarcerated) and unsuitability (such as an unstable social history), there is currently no prescribed framework that the panel is required to follow in making its decisions in granting parole.

***Projected Increase in the Number of Parole Hearings is expected.*** Since 2011, the Board has scheduled between 4,000 and 5,300 parole hearings annually. In 2019-20, the Board projects it will need to schedule over 1,100 hearings because of hearing dates being advanced. In 2020-21, this number is projected to increase to about 1,500. Overall, current projections indicate the Board will need to schedule a total of 7,200 hearings in 2019-20 and 8,300 hearings in 2020-21. Several factors are contributing to the projected increase in the number of parole hearings:

***The BPH is required to conduct approximately 1,800 hearings for youth under SB 261 (Hancock), Chapter 471, Statutes of 2015, AB 1308 (Stone), Chapter 675, Statutes of 2017, and SB 394 (Lara),***

*Chapter 684, Statutes of 2017. SB 261*, requires BPH to conduct youth parole hearings for those sentenced to state prison who committed specified crimes when they were under 23 years of age. BPH is required to complete by July 1, 2017 all youth parole hearings for individuals who were sentenced to indeterminate life terms and by July 1, 2021, youth sentenced to determinate terms, who become entitled to have their parole suitability considered at a youth parole hearing on the effective date of the bill. **AB 1308**, requires BPH to conduct youth parole hearings for those who committed specified crimes when they were 25 years of age or younger. BPH is required to complete, by January 1, 2020, all youth parole hearings for individuals who were sentenced to indeterminate life terms and by January 1, 2022, youth sentenced to determinate terms, who become entitled to have their parole suitability considered at a youth parole hearing on the effective date of the bill. **SB 394** makes a person who was convicted of a controlling offense that was committed before the person had attained 18 years of age and for which a life sentence without the possibility of parole has been imposed eligible for release on parole by the board during his or her 25th year of incarceration at a youth offender parole hearing.

*The BPH anticipates an additional 1,800 hearings during the same time by the end of 2021 because of the In re Edwards decision. Proposition 57* was approved by voters on November 8, 2016. The initiative added Section 32 to Article 1 of the California Constitution, which declares, "Any person convicted of a nonviolent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense." The State initially interpreted this provision as applying only to determinately sentenced inmates. *In re Edwards (2018)* decided by the Second Appellate District court as a result of a petition for writ of habeas corpus, rule that CDCR regulations impermissibly circumscribe non-violent third strikers' eligibility for parole consideration under Proposition 57. Prop 57's definition of "full term" specifically excludes alternative sentences such as Three Strikes but the court held that this does not mean that Three Strikers are ineligible for relief under Prop 57 but that for third strike defendants, their "full term" must be calculated as if the Three Strikes law alternative sentencing scheme had not existed at the time of sentencing. The regulations will require the Division of Adult Institutions Case Records staff to screen approximately 4,000 indeterminately-sentenced nonviolent defendants for eligibility and calculate their nonviolent parole eligible date.

*Other Parole Hearing Workload Drivers.* There are additional factors increasing the BPH's hearing workload by 2,200 in the next two years according to their BCP. For example, violent Third Strikers are now beginning to be scheduled for hearings after having served almost 25 years since the law went into effect. These incarcerated people are also now able to earn credits under Proposition 57, thus advancing their minimum eligible parole dates.

In addition, more elderly parole inmates are becoming eligible for parole hearings after having turned age 60 and serving 25 years, as are indeterminately-sentenced youth offenders who have served 20 or 25 years. This increase in initial hearings is projected to increase annually through at least 2026.

*Attorney Fees.* Pursuant to California Code of Regulations, Title 15, Section 2256, an attorney is provided at the state's expense if the prisoner or parolee cannot afford to retain private counsel at a hearing. Many inmates cannot afford to hire an attorney to represent them in parole hearings. In these cases, BPH appoints and pays for their attorneys. BPH currently contracts with about 36 attorneys to represent inmates in parole hearings throughout the state, with each attorney handling roughly 150 cases per year on average. As shown in Figure 5, BPH currently pays attorneys a flat rate for completing a specific task in the parole hearing process. Depending on the nature of the case, an attorney may not

ultimately complete all tasks. For example, inmates have the option to waive their right to a parole hearing for one to five years or to stipulate that they are unsuitable for parole for a minimum of three years. (Inmates do this for a variety of reasons, including potentially being released from prison earlier than if they went to a hearing but were denied parole and required to wait 15 years until their next hearing.) In this example, there would be no hearing and, thus, the attorney would not receive the \$175 payment. BPH estimates that on average, attorneys receive \$400 per case. Below is a table created by the LAO that describes the BPH's attorney pay structure.

### Board of Parole Hearings Attorney Pay Structure

*As of February 1, 2019*

Task	Payment
Appointment to a case	\$25
Review case information, document inmate disability needs, conduct legal research	50
Review inmate's file	75
Interview inmate	75
Appear at parole hearing	175
Appear at full board meeting <sup>a</sup>	100
Prepare written submission for full board meeting	50

<sup>a</sup>Cases only go to full board meetings in rare circumstances, such as if there is disagreement among the hearing panel about whether or not to grant parole.

BPH indicates, in recent years, that it has had trouble attracting and retaining competent attorneys and has had to reprimand or even discontinue appointing some attorneys for providing inadequate representation to their clients. According to BPH, this is because attorney pay has not kept up with the increasing amount of work that attorneys must do on each case—largely due to more requirements related to documenting inmates' disability accommodation needs. BPH also indicates that the current pay structure may discourage stipulations and waivers of parole hearings. This is because attorneys receive a relatively significant increase in compensation if a case proceeds to the hearing stage.

**LAO Assessment of Structured Decision Making Framework.** The LAO states that Legislature should require BPH to provide key information about its proposal to implement a structured decision-making framework that guides parole decision makers through the process of weighing information about an inmate. Specifically, the LAO recommends that BPH provide information on the development, usage, and implementation of the framework by April 1, 2019. BPH should also provide a prototype of the proposed framework for the Legislature to review. Pending receipt of the above information, the

LAO recommends that the Legislature withhold action on the Governor's proposal. The information to the Legislature should include responses to the following questions:

1. *What is the process for developing the framework?* It is unclear how BPH will develop the decision-making framework. For example, it is unclear what sources of information BPH is using to develop it and when it is expected to be finished.
2. *How will the framework be used?* It is unclear whether the framework would solely guide commissioners in considering whether to release an inmate or whether it would also assist in their decisions about (1) what conditions to impose on individuals who are released or (2) how long inmates who are not released must wait for their next hearing.
3. *How will the framework be implemented?* While BPH indicates that the National Institute of Corrections will provide technical assistance in the implementation of the framework (including site visits from experts), the board has not provided a detailed implementation plan. For example, it is unclear what training will be provided to commissioners and deputy commissioners in how to use the framework or what processes BPH will use to ensure it is ultimately applied consistently as intended.
4. *How will the framework be evaluated?* It is unclear on the extent to which the framework would be evaluated to ensure it is consistent with best-practices, as well as its impact on rates of inmate release and re-offense. In addition, it is uncertain whether BPH will periodically evaluate the framework in the future to ensure it remains consistent with evolving research and best practice on criminal risk factors. In addition, in order to facilitate effective legislative oversight, BPH should provide a prototype of the framework and detailed information about how it plans to evaluate the framework.

**LAO Assessment of Compensation for Attorneys Appointed by BPH.** The LAO finds that problems cited by BPH regarding the current attorney pay schedule could potentially result in serious consequences, particularly if inmates lack appropriate representation in parole hearings. First, to the extent that poor representation results in fewer inmates being granted parole or in inmates being given longer denial periods, inmates could spend more time in prison—at higher state cost—than otherwise. Second, to the extent that the current pay structure discourages stipulations and waivers, it could generate unnecessary hearings—an unnecessary use of state resources—and/or result in inmates having to wait longer until their next parole hearing than they would have if they had waived their right to a hearing or stipulated that they were unsuitable for parole.

The Legislature should require the Administration to provide key information about the proposed changes to the attorney pay schedule by April 1, 2019. Pending receipt of this information, the LAO recommends that the Legislature withhold action on the Governor's proposal. If the Administration is unable to provide this information, the LAO recommends rejecting the proposal and directing the Administration to provide a revised proposal with adequate information as part of the 2020-21 budget process. The information to the Legislature should include answers to the following questions:

1. *What Is the Basis for the Proposed \$750 Payment?* At the time of this analysis, BPH was unable to provide a workload study—or other form of adequate explanation—to justify the proposed \$750 per case for attorney pay. Without this information, the Legislature cannot assess whether

the proposed \$750 per hearing is the appropriate amount to attract and retain high quality attorneys.

2. *What Is the Structure of the New Pay Schedule?* BPH has not provided the proposed pay structure. Accordingly, it is unclear whether the new schedule would appropriately incentivize attorneys to provide adequate representation to inmates.
3. *What Changes to Attorney Recruitment, Training and Expectations Are Proposed?* BPH has not provided specific details about the planned changes to attorney recruitment, training and expectations. Furthermore, it is unclear how BPH would identify and respond to attorneys who do not meet the new expectations. As such, it is unclear whether implementation of these changes will be effective, as well as whether the board will require additional resources to implement them.

**Staff Recommendation.** Hold Open.

**Issue 9: Fleet Asset Replacement (BCP)**

**Governor’s Proposal.** The budget includes \$24 million General Fund and four positions in 2019-20 and ongoing to establish a seven-year schedule for critical fleet assets. CDCR developed a fleet replacement tool to track the age and condition of its fleet eligible for replacement per Department of General Services’ replacement thresholds. CDCR will redirect \$8 million from the Division of Adult Institutions to be combined with this request for a total of \$32 million for a newly created budget sub-program specifically for the purpose of tracking fleet asset replacements.

**Background. CDCR Uses Vehicles for Various Purposes.** CDCR owns nearly 7,700 vehicles of varying types (ranging from golf carts to farming equipment) that are used for a variety of purposes, including inmate transportation (both within and outside of prison grounds), fire protection, construction support, and institution perimeter security. CDCR staff and inmate workers generally maintain the vehicles but sometimes send them out for more complex repairs.

**Department of General Services (DGS) Sets Vehicle Replacement Thresholds.** DGS sets policy for and approves all state vehicle purchases. Specifically, DGS sets replacement thresholds for different types of vehicles that, if met, make a vehicle eligible for replacement. For example, a sedan that either has over 65,000 miles or is older than six years is eligible for replacement. In determining the vehicle replacement thresholds, DGS hired a consultant in 2016 to estimate the age and mileage levels at which it is more cost-effective to replace various types of vehicles rather than repair them, based on actual data on state vehicle price, operational cost, and resale value. By replacing vehicles according to these thresholds, DGS expects that departments would minimize the total costs of the state’s vehicle fleet. Currently 5,500 of CDCR’s 7,700 vehicles exceed DGS’s thresholds for replacement.

**CDCR Does Not Have Ongoing Funding Specifically for Vehicle Replacement.** CDCR’s baseline budget does not include ongoing funding dedicated to vehicle replacement. The Legislature has on occasion provided one-time funding for the department to purchase vehicles. For example, the 2018-19 budget provided CDCR with \$17.5 million in one-time General Fund support to replace 338 vehicles that are used for transporting inmates to health care and other appointments. Historically, CDCR has also used some of the funding it has budgeted for major equipment purchases—currently set at \$8 million—to purchase vehicles, as well as redirected funding originally intended for other purposes. In addition, when CDCR replaces a vehicle, the old vehicle is sold at auction, with revenue generated—typically in the low hundreds of thousands of dollars annually—used to offset the costs of future vehicle purchases. In total, CDCR spent roughly \$15 million per year on vehicle purchases between 2013-14 and 2017-18.

**CDCR’s analysis of vehicles that need to be replaced.** CDCR developed a fleet replacement tool to track the age and condition of its fleet and prioritize all assets eligible for replacement per DGS replacement thresholds. The replacement tool considers mileage, age, condition, and other factors, such as whether a vehicle is used for emergency services, to develop a replacement score for each fleet asset. Based on the assigned score, the asset is determined to be of high, medium, or low priority for replacement. Utilizing this tool, there are 3,486 fleet assets, or 52 percent, deemed as high priority. A total of 6,764 owned fleet assets were counted in the CDCR’s fleet management analysis. The table below was taken from their BCP and breaks down their projected need.

**Table 2. Vehicles, by Age, (Current) Condition and Percentage**

Age	Number of Vehicles	Junk Condition	Poor Condition	Fair Condition	Good Condition	Excellent Condition
0-4	1,362	3	14	60	353	932
5-9	694	13	89	216	342	34
10-14	2,053	194	396	868	565	30
15-19	758	97	204	322	131	4
20-24	1,050	211	442	304	93	0
25-29	450	93	199	122	35	1
30 or more	397	150	158	69	20	0
<b>TOTAL</b>	<b>6,764</b>	<b>761</b>	<b>1,502</b>	<b>1,961</b>	<b>1,539</b>	<b>1,001</b>
<b>% OF TOTAL</b>	<b>100%</b>	<b>11%</b>	<b>22%</b>	<b>29%</b>	<b>23%</b>	<b>15%</b>

The average age of the reported fleet assets is approximately 14 years. Programs reported 2,540 assets (37.55 percent) to be in excellent or good condition; 1,961 vehicles (28.99 percent) were reported to be in fair condition, and 2,263 (33.45 percent) in poor or junk condition. Of the 6,764 assets analyzed, CDCR's Fleet Management Unit (FMU) identified 1,480 assets (21.88 percent of total) that are *currently* deemed high priority for replacement. Based on the 7-year projection analysis, an additional 2,006 fleet assets were determined to become high priority replacements over the next seven years, totaling 3,486 assets (51.54 percent). These assets are typically old, have high mileage, and are in very poor mechanical or physical condition.

***CDCR's current fleet management and acquisition units and requested positions.*** The Fleet Management Unit (FMU) oversees CDCR's fleet of vehicles and mobile equipment. FMU is responsible for the development of CDCR's fleet acquisition plan, policies and processes, inventory and data system management, compliance monitoring, and data reporting. FMU consists of six Staff Services Analysts/Associate Governmental Analysts and one Staff Services Manager I (SSM I). Each FMU fleet analyst provides program support to approximately 12 institutions and/or programs, including approximately support for 1,500 fleet assets, by providing information or direction regarding DGS and CDCR fleet policies and procedures, instruction on fleet reporting requirements, direction on data entry into Systems, Applications and Products (SAP), assistance on fleet requests, survey and disposal processes, and fleet replacements and acquisitions.

The Fleet Acquisitions Unit (FAU) consists of five analysts and one SSM I. FAU facilitates CDCR's centralized fleet asset procurement functions by developing, managing, and tracking procurement processes and overseeing CDCR's fleet spending plans. FAU conducts centralized annual replacement of high-priority fleet assets including competitive bidding and bulk purchasing for vehicles, including emergency response vehicles, heavy-duty construction mobile equipment, after-market equipment including components and parts associated with vehicle security cells and partitions, wheelchair lifts compliant with the Americans with Disabilities Act (ADA), canine inserts, and firearm racks.

#### Workload History

Position Authority	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18
Fleet Management Unit	0	0	7	7	7
Fleet Acquisitions Unit	0	0	6	6	6

There are four positions requested within this proposal. According to the CDCR, new staff will be responsible for ensuring all purchases are authorized by the Fleet Acquisition Plan and procured in accordance with law, regulations, executive orders, and policies, and procedures. Staff will also be

conducting market and contract research which will define requirements and specifications for vehicles, identify associated costs, assist in planning and scheduling the procurement of vehicles and associated equipment, identify the availability of suppliers and/or service providers, and track and monitor the progress of fleet asset procurements. Staff will coordinate security and medical modification schedules to ensure vehicles are properly outfitted and deployed in a timely manner.

**LAO Assessment and Recommendation.** The LAO states that the proposal, while it anticipates reductions in resources spent on vehicle maintenance, repair, and fuel, and increase the resale value of the replaced vehicles, it does not account for any of the expected savings. In addition, the proposal increases CDCR's administrative budget to account for the requested vehicle replacement funding without requiring that they actually spent the \$32 million on vehicles. As such, CDCR may redirect this funding to other administrative purposes without any legislative oversight. If this funding is redirected, the costs to maintain the existing fleet would increase. As such, the LAO makes the following recommendations:

- ***Require CDCR to Estimate Savings and Reduce Budget Accordingly.*** The LAO recommends that the Legislature direct CDCR to estimate the maintenance, repair, and fuel savings, as well as the increase in auction revenue from the sale of the replaced vehicles, that it indicates would be generated by implementing the proposed vehicle replacement program, and provide such estimates by April 1, 2019. After CDCR provides a reasonable savings estimate, the LAO recommends the Legislature reduce its budget by this amount. This would allow the Legislature to consider the available savings in the context of its overall General Fund priorities.
- ***Approve Proposed Funding but Restrict Its Use.*** After CDCR is able to demonstrate that the proposal would result in savings as described above, the LAO would recommend that the Legislature approve the requested \$32 million for vehicle replacement. However, the LAO would recommend that the Legislature budget the funds in a separate appropriation to prevent them from being redirected for other purposes.

**Staff Recommendation.** Hold Open.

**Issue 10: Council on Criminal Justice and Behavioral Health Research Unit (BCP)**

**Governor's Budget.** The budget proposes \$497,000 General Fund and four positions in fiscal year 2019-20 and ongoing, and \$300,000 General Fund in 2019-20 for one-time contract funding, to expand the research capacity of the Council on Criminal Justice and Behavioral Health.

**Background.** Criminal justice and health care reforms have provided a foundation for reducing the incarceration of youth and adults with behavioral health disorders, but it is necessary for the state to sustainably invest in data, evaluation, and research activities to know what does and does not work. Evidence suggests that for individuals with complex needs like co-occurring substance use and mental health conditions, criminogenic risk factors, major and multiple medical problems, and chronic homelessness, services and strategies need urgent re-examination.

**Key Legislation/History.** In 2001, California established CCJBH (formerly The Council on Mentally Ill Offenders, or COMIO), through the passage of Senate Bill 1059. CCJBH is a 12-member council chaired by the Secretary of CDCR and comprised of representatives from the Department of State Hospitals (DSH), the Department of Health Care Services (DHCS), and appointed experts from criminal justice and behavioral health fields.

CCJBH is tasked with several statutory goals outlined in California Penal Code (PC) Section 6044, including: investigating, identifying, and promoting cost-effective strategies that prevent adults and juveniles with mental health needs from becoming incarcerated; identifying incentives for state and local justice and health programs to adopt such approaches; reporting its activities to the legislature; and providing recommendations for improving the cost-effectiveness of existing mental health and criminal justice programs. In September 2017, Penal Code 6044 was amended by SB 811 (Committee on Public Safety) Chapter 268, Section 11 to expand the scope of the Council to include preventing adults and juveniles with substance use disorders and co-occurring mental health and substance use disorders from entering and re-entering the California justice system.

**Previous funding.** In 2016-17, CCJBH was provided ongoing resources for two positions to increase diversion policy and program analysis, and develop a primary research program to analyze the impact of Medi-Cal expansion on current and former incarcerated. In the 2018-19 Budget Act, CCJBH was provided Mental Health Services Fund budget authority for an additional Health Program Specialist I and \$670,000 ongoing for contracts. In addition, the Council was provided \$150,000 Mental Health Services Fund budget authority, over three years, to supply expert consultation to DSH to support the diversion of individuals with mental illness who may be incompetent to stand trial for a felony crime.

The CDCR states that this proposal requests General Fund resources. Mental Health Services Fund resources are reserved for individuals with a primary mental illness and are not available for those with a primary substance use disorder, nor parolees or incarcerated individuals.

**Justification.** According to the budget change proposal CCJBH concluded, based on survey work and other data, in a recent annual report that data and information is not systematically collected to adequately inform policymaking or to support accountability and quality improvement. They also state that there is considerable data in the state among criminal justice and behavioral health systems, but there is a lack of guidance and direction regarding how to use and share data. CCJBH will use the additional

expertise of research staff to identify and provide tools and support to counties to help address common concerns including:

- a) Lack of knowledge when patient consent is needed to exchange criminal justice or behavioral health information;
- b) Lack of data systems with required interoperability;
- c) Lack of approved policies or agreements in place to share and exchange data; and
- d) Lack of staff capacity or training to collect, analyze, or share data.

CCJBH is requesting a one-time \$300,000 General Fund augmentation to obtain a contract to develop and implement an evaluation framework to monitor critical issues affecting California's behavioral health and public safety outcomes. The framework will operate as an informational tool to provide guidance to the state on reducing the prevalence of mental illness and substance use disorders in jails, prisons, and state hospitals through best practices in prevention, diversion, re-entry, and recidivism reduction.

CCJBH is requesting four positions to investigate, identify, and research best practices in prevention, diversion, and re-entry.

**Staff Recommendation.** Hold open.

<b>Issue 11: Funding for the Standards and Training for Local Corrections Program (April BCP)</b>
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**Governor's Proposal.** The budget proposes \$6.2 million General Fund in 2019-20 and ongoing for the Standards and Training for Local Corrections (STC) Program through an April 1<sup>st</sup> BCP.

**Background.** The Standards and Training for Local Corrections (STC) Program has provided selection and training services to local corrections agencies since 1980. Authority for the program is found in Penal Code sections 6025-6037. Penal Code section 6035 requires the BSCC to establish minimum standards for the selection and training of corrections personnel employed by local corrections agencies, including sheriffs' offices, probation departments, and police departments that operate jails. All county agencies currently participate in the STC program.

The STC Program is presently funded by the General Fund. In the current year, \$2,589,000 is provided for program support and \$14,815,000 is provided for local assistance. Until the current year, the STC Program was funded through the State Penalty Fund. Declining revenues in that fund prompted a series of reductions to the STC program, and ultimately resulted in the transfer of the program to the General Fund in the current fiscal year.

Fiscal Year	STC Funding	Source
15/16 (and many years prior)	\$ 19,465,000	Corrections Training Fund
16/17	\$ 18,750,000	\$15,614 CTF / \$3,136 GF
17/18	\$ 14,817,000	State Penalty Fund
18/19	\$ 14,817,000	General Fund

#### Resource History

Program Budget	PY - 4	PY - 3	PY - 2	PY - 1	PY
Authorized Expenditures	\$19,465,000	\$19,465,000	\$19,465,000	\$18,750,000	\$14,817,000
Actual Expenditures	\$19,026,000	\$18,240,000	\$18,709,000	\$18,249,000	\$14,701,000
Core Training Per Position Payment	\$825	\$780	\$780	\$765	\$645
Annual Training Per Position Payment	\$550	\$520	\$520	\$510	\$430

The BSCC provides a per position amount for agencies employing officers participating in core training, as well as a per position amount for agencies employing officers participating in annual training. Agencies with less than 11 staff receive a minimum allocation equivalent to the cost of annual training for 28 positions.

Pursuant to Penal Code section 6035, the Board of State and Community Corrections is required to establish and periodically amend minimum standards for the training of local corrections and probation officers. To assess the current need, the BSCC conducted a survey to determine in which ways the knowledge, skills, and abilities of local corrections and probation officers had adapted to handle the new population serving time under local supervision. The results informed a comprehensive revision of the BSCC's academy/core training program.

On January 17, 2019, the Board of State and Community Corrections approved new training standards to address the current needs of corrections professionals. Under the direction of an Executive Steering Committee, over 20 workgroups met and developed revisions to the academy/core training programs for Adult Corrections Officers (ACQ), Juvenile Corrections Officers (JCO), and Probation Officers (PO) that must be completed within one year of hire. Statewide, approximately 3,500 ACO, JCO and PO staff are hired and trained to the standard each year. The changes reflect a “holistic” review that included the removal of content that was no longer applicable or where local policies differed too greatly to support a standard training, the reduction of training time where appropriate, and the addition of new content and classes where appropriate. Some of the new classes include cultural diversity and ethnic disparity, sexual assault and abuse, gender identity, and evidence-based practices and programs.

One of the most significant areas of change found in the training gap analysis was the need for more and better behavioral health training. The core training now includes a Behavioral Health module that includes classes in identifying signs and symptoms of substance abuse; interventions, resources, referrals and communication; suicide prevention; officer safety and emotional survival; stigma and bias; as well as behavioral health case planning. The Communication module now includes crisis communication and de-escalation for all officers and includes motivational interviewing for probation officers. Additionally there is a module on sexual assault and sexual abuse for all officers attending core training.

#### **LAO Assessment.**

It is unclear how the additional funding proposed for local correctional agencies would meaningfully improve training for two reasons:

- 1. Rates of Compliance Remain High.** BSCC reports that in 2017-18 only 47 of roughly 33,000 eligible officers failed to meet their training requirements. Accordingly, the vast majority of the requested funding would go toward further offsetting agencies’ costs for staff that would already undergo required training. Only a very small portion of the increased resources would go toward increasing the incentive for agencies to ensure that all staff complete their required training. Accordingly, it appears that the requested resources would have very little effect on the overall amount of training or types of training received.
- 2. Unclear What Training Would Be Funded.** Because BSCC does not collect data on what types of training officers complete to meet their annual requirement, it is not clear what training is currently being received or whether it is consistent with Legislative priorities. It is also unclear whether the additional funding would result in officers participating in more training prioritized by the Legislature.

**LAO Recommendations.** The LAO recommends that the Legislature reject the proposal to increase funding for the STC program because it is unclear how the funding would meaningfully improve training. Instead, the LAO recommends that the Legislature direct BSCC to start collecting data on what types of training officers receive through the STC program. This information will allow the Legislature to assess whether the amount and types of training funded through the STC program is consistent with its priorities and to potentially restructure the program in the future to meet certain goals, such as addressing gaps in training.

To the extent that the Legislature wants to ensure that officers receive more or certain types of training in 2019-20, the LAO recommends the Legislature fund BSCC to create a separate one-time grant program. Applying agencies would specify their gaps in training and what training they would use grant funds for. The Legislature could direct BSCC to prioritize proposals that meet certain criteria consistent with its priorities.

**Staff Recommendation.** Hold Open.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



Thursday, May 2, 2019  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis, Ph.D.

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**Public Comment**

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*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.*

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## ITEMS FOR VOTE-ONLY

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

- 1. *Partnership with California Volunteers and Various Adjustments.*** The January budget originally proposed a placeholder amount of \$2 million for three years beginning in 2019-20 for the Division of Juvenile Justice to establish a mentorship program in partnership with AmeriCorps. The program's purpose is dedicated to committed youths in petitioning for honorable discharge designations. This amount was adjusted in a Spring Budget Change Proposal. The various technical adjustments result in a decrease of \$1.17 million to General Fund allocations as it relates to the California Volunteers proposal, corrects one-time funds erroneously budgeted as ongoing, and leads to an increase of 2.4 positions to support the seven-day operations at the Ventura Training Center.

In partnership with DJJ, California Volunteers issued a planning grant with federal funds to engage partners with subject matter expertise in determining how to leverage AmeriCorps and create the most effective program design. The planning period is nearing completion, and California Volunteers has set aside federal funds up to \$900,000, which can be spent over three years, to support the implementation of the program model described later in this proposal. Up to 40 part-time AmeriCorps "Honorable Discharge Navigators" would be chosen each year from applicants with prior involvement with the justice system (inclusive of juvenile adjudication and adult incarceration). These Navigators would assist young people currently in DJJ custody, young people returning to their communities from DJJ custody, and young people who left DJJ custody within the prior 18 months, to better understand the benefits of receiving an honorable discharge and the requirements of the petition process. Through peer mentoring and one-on-one coaching. Navigators would help eligible and potentially eligible individuals utilize reentry resources to increase their likelihoods of successfully applying for and receiving honorable discharges. CDCR plans to contract with a nonprofit entity in coordination with AmeriCorps through California Volunteers to create the mentorship program.

**Staff Recommendation.** Approve as budgeted.

- 2. *Receiver- Statewide Telehealth Services Program.*** California Correctional Health Care Services requests 17 positions and \$6 million in fiscal year 2019-20 and \$5.4 million in 2020/21 and ongoing to expand the Telehealth Services Program. Specifically, this request includes funding to (1) purchase telehealth equipment and software, (2) establish dedicated management oversight, and (3) provide information technology and business operations support for the expanded program. With the expansion and evolution of the use of the telehealth service delivery model comes the need to ensure the proper administrative structure and oversight of the program. Similarly, the expansion of Telehealth requires additional Information Technology (IT) and Business Operations support.

**Staff Recommendation.** Approve as budgeted.

- 3. *Receiver-California Correctional Health Care Services (CCHCS) Leasing Augmentation.*** The budget requests \$3.6 million in 2019-20 and ongoing to fund increases in lease costs. CCHCS leases a number of privately-owned buildings in the management of its day-to-day operations. The rent for these buildings has increased annually at approximately 3.7 percent since 2013-14. However, funding for these rent increases has not been added to CCHCS' budget since 2011-12,

and the result are projected deficits of \$3.07 million in 2018/19 and \$3.6 million in 2019-20. The workload and job duties, however, have not decreased such that CCHCS could downsize to smaller and less expensive buildings. In fact, the need for office space has been increasing with the redirection of physician and psychiatry positions to headquarters and regional offices to provide care via Telehealth.

**Staff Recommendation.** Approve as budgeted.

4. ***CDCR Administration Changes Trailer Bill Language.*** The budget includes trailer bill language that would rename the Undersecretary for Administration and Offender Services as the Undersecretary of Administration. The language would rename the Division of Internal Oversight and Research as the Division of Correctional Policy Research and Internal Oversight. The bill would also eliminate the Division of Fiscal and Business Services.

**Staff Recommendation.** Approve as budgeted.

5. ***Roof Replacement Design and Construction.*** The budget proposes \$2 million General Fund in 2019-20 for the design phase of roof replacements at High Desert State Prison and California State Prison, Solano and \$69.7 million General Fund in 2020-21 for the construction phase.

**Staff Recommendation.** Approve as budgeted.

## 0820 CALIFORNIA DEPARTMENT OF JUSTICE (DOJ)

6. ***Theft: Aggregation of Organized Crime (AB 1065).*** The budget requests \$327,000 General Fund in 2019-20 and \$149,000 General Fund in 2020-21 to implement the provisions of AB 1065 (Jones-Sawyer) Chapter 803, Statutes of 2018. AB 1065 creates, until January 2, 2021, the crime of organized retail theft, extends the county jurisdiction, and requires the California Highway Patrol, in coordination with DOJ to convene a regional property crimes task force.

**Staff Recommendation.** Approve as budgeted.

7. ***Peace Officer Radio Replacement.*** The budget includes a one-time General Fund allocation of \$2.87 million to replace 300 peace officer radios. The Governor's Office of Emergency Services (OES) has recommended repeatedly over the last several years that the DOJ's Division of Law Enforcement replace its radios, a suggestion that has not been implemented due to a lack of funding.

**Staff Recommendation:** Approve as budgeted.

8. ***Implementation of Mandates in SB 746, SB 1100, AB 1872, and AB 1968.*** The budget includes \$5.2 million Dealers' Record of Sale Special Account spending authority and 10 positions in 2019-20, \$2.7 million in 2020-21, and \$1.7 million in 2021-22 and ongoing to implement SB 746, SB 1100, AB 1872, AB 1968.

- SB 746 (Portantino), Chapter 780, Statutes of 2018, allows a person who is temporarily prohibited from possessing ammunition to transfer ammunition to an ammunition

vendor, in addition to a licensed firearms dealer and requires a new California resident to apply for a unique serial number within 60 days of arrival for any firearm the resident wishes to possess in the state.

- SB 1100 (Portantino), Chapter 894, Statutes of 2018, increases the age at which a person can purchase a long-gun from a licensed dealer from 18 to 21 years old with certain exceptions.
- AB 1872 (Voepel), Chapter 56, Statutes of 2018, adds harbor and port police departments to the list of entities exempt from the sale or purchase of unsafe handguns.
- AB 1968 (Low), Chapter 861, Statutes of 2018, prohibits a person who has been taken into custody, assessed, and admitted to a designated facility because he or she is a danger to himself, herself, or others, as a result of a mental health disorder and who was previously taken into custody, assessed, and admitted one or more times within a period of one year preceding the most recent admittance from owning a firearm for the remainder of his or her life.

Nearly all of this funding would support DOJ's internal data center responsible for modifying and maintaining databases used by Bureau of Firearms.

**Staff Recommendation:** Modify this proposal by taking the following action for each bill:

SB 746: Approve proposed resources within Governor's budget

SB 1100: Approve Dealers' Record of Sale Special Account authority of \$350,000 one-time per Senate Appropriations analysis

AB 1872: Reject all proposed resources

AB 1968: Approve permanent augmentation of two positions and Dealers' Record of Sale Special Account authority of \$663,000 in 2019-20, \$333,000 in 2020-21, and \$238,000 ongoing per Senate Appropriations analysis

- 9. *Justice Human Resources.*** The budget proposes \$2.15 million (\$669,000 General Fund and \$1.5 million Special Fund) in 2019-20, \$2.3 million (\$713,000 General Fund and \$1.6 million Special Fund) in 2020-21, and \$659,000 (\$204,000 General Fund and \$455,000 Special Fund) in 2021-22 and ongoing for DOJ to develop/implement a cloud-based, secure software solution that will create a centralized employee information repository.

**Staff Recommendation.** Reject item as proposed.

- 10. *Armed Prohibited Persons Systems Investigations.*** The budget initially included 26.0 positions and \$5,601,000 (\$16,901,000 General Fund, -\$11,300,000 Dealers' Record of Sale Account) in fiscal year 2019-20, and \$4,656,000 (\$15,956,000 General Fund, -\$11,300,000 Dealer's Record of Sale Account) in 2020-21 ongoing to conduct Armed and Prohibited Persons System (APPS) investigations.

The result of the aforementioned proposal would be not only an increase in support for the APPS program, but also a funding swap between the Dealers' Record of Sale (DROS) Account and the General Fund. The APPS program would effectively shift to be fully funded by the General Fund.

An April Finance Letter was submitted requesting an increase of \$575,000 General Fund to make APPS investigations entirely funded by the General Fund. This adjustment accounts for

employee compensation related increases that were erroneously not included in the Governor's Budget proposal.

The April Finance Letter also requested a corresponding decrease in special fund resources to shift APPS to the General Fund. This request, however, included the incorrect fund for the adjustment. The fund used in the April Finance Letter is Fund 0032—Firearm Safety Account; however, the correct fund should be Fund 1008—Firearms Safety and Enforcement Special Fund.

The net result of both of these proposals is: (1) the APPS program will be funded with \$17,476,000 General Fund, and (2) the DROS Unit will be split funded (\$6,779,000 DROS Account and \$5,334,000 FSE), in contrast to historically being entirely DROS-funded.

**Staff Recommendation.** Reject the proposal and technical adjustments. Approve a one-time \$2.5 million General Fund allocation to create a pilot grant program to support local law enforcement agencies who wish to carry out sweeps of APPS in their jurisdiction. Moreover, adopt budget bill language that would require participating jurisdictions to submit a report detailing the use of funds and efficacy of the program.

**11. Cannabis Convictions Resentencing (AB 1793).** The budget includes \$985,000 General Fund in 2019-20 and \$908,000 General Fund in 2020-21 to the DOJ to implement AB 1793 (Bonta), Chapter 993, Statutes of 2018, which requires DOJ to review records in the Automated Criminal History System and identify past cannabis related convictions that are eligible for recall, dismissal, sealing or re-designation pursuant to Proposition 64 (The Adult Use of Marijuana Act).

**Staff Recommendation.** Approve as budgeted.

**12. Forensic Laboratory Equipment Refresh.** The budget includes \$5.8 million General Fund ongoing to replace inoperative, outdated equipment for the Bureau of Forensic Services (BFS) Criminalistics Laboratory System which provides forensic laboratory support and analysis to cover 500 local law enforcement agencies. BFS equipment replacement has been partially funded by the DNA Identification Fund but as a result of decreasing revenues, BFS has been unable to prioritize the purchase and replacement of equipment. The 2018 Budget Act provided a one-time allocation of \$5.4 million General Fund.

**Staff Recommendation:** Modify this proposal by approving \$2.6 million General Fund on a one-time basis and adopting placeholder trailer bill language that includes the following details:

- That the DOJ report to the Legislature on the development of a detailed eight-year plan for ongoing replacement of equipment.
- That consideration of equipment replacement will be considered by the Legislature on a year-by-year basis.

## ITEMS TO BE HEARD

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) AND 0530 HEALTH AND HUMAN SERVICES AGENCY

#### Issue 13: Reorganization of the Division of Juvenile Justice (Trailer Bill Language)

**Governor’s Proposal.** The budget proposes moving the DJJ from CDCR to a new department under the California Health and Human Services Agency (CHHS). The new department will be called the Department of Youth and Community Restoration.

The proposed trailer bill language focuses on transferring authority from CDCR to the new Department, allowing current day-to-day operations to continue during the transition. The move will require additional resources to establish the administrative structure of the new Department.

The Department will develop and launch a new independent training institute that will train all staff on best practices so they can further the new Department’s rehabilitative mission.

**Background.** California’s juvenile justice system is largely administered locally by trial courts, county probation departments, and local law enforcement. Over the past 20 years, the Legislature has enacted various measures to realign to counties increasing responsibility for managing juvenile offenders.

**Adjudication of Cases.** Cases are handled differently in the juvenile justice system, as compared to the adult system. When a juvenile is arrested by a local law enforcement agency in California, there are various criminal justice outcomes that depend on the circumstances of the offense and the criminal history of the offender. Following the arrest of a juvenile, a law enforcement officer has discretion to release the juvenile to his or her parents, or to take the suspect to juvenile hall and refer the case to the county probation department. Many juveniles who are referred to county probation departments are arrested for more serious alleged offenses. Probation departments also receive referrals from non-law enforcement entities such as schools and parents. The probation department then has the option to close the case, place the juvenile in a diversion program, place the juvenile on informal probation, or refer the case to the courts. Most of these referrals are adjudicated in juvenile court but, depending on the nature of the alleged offense and the age of the accused, some cases may be prosecuted in adult criminal court.

Juvenile court judges then generally take the recommendations of probation department staff into account in deciding whether to make the offender a ward of the court. They also determine the appropriate placement and treatment for the juvenile based on such factors as the juvenile’s offense, prior record, criminal sophistication, and the county’s capacity to provide treatment. The courts place most juvenile offenders under the supervision of county probation departments, while a small number are sent to state institutions, either a juvenile facility operated by the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) or state prison.<sup>1</sup>

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<sup>1</sup> Legislative Analyst’s Office, *California’s Criminal Justice System: A Primer*, January 2013.

Under current law, only youth adjudicated for a serious, violent, or sex offense can be sent to state facilities by juvenile courts. As a result, over 98 percent of juvenile offenders are housed or supervised by counties. As of 2016, there were approximately 39,000 youth involved in the county probation system, with 29,000 being wards under Welfare and Institutions Code Section 602 for felony and misdemeanor crimes.<sup>2</sup> For a very small portion of the juvenile justice population, county probation departments determine that the crimes committed or the needs of the juvenile are so great that they cannot provide adequate care and treatment in their facilities. Those youth are then sent to DJJ facilities. There were only 653 youth under the jurisdiction of the DJJ in 2016, and 662 as of fall 2018 population projections.

**Juvenile Justice Realignment.** As noted previously, over the last 20 years, the state has realigned responsibility for most youth in the juvenile justice system to the counties. Specifically, the Legislature and Governors took the following steps:

- **Sliding Scale.** In 1996, the Legislature passed, and Governor enacted, SB 681 (Hurttt), Chapter 6, Statutes of 1996, which established a sliding scale fee for counties committing wards to the state. Under this arrangement, counties were required to pay a share of the state's costs to house each ward sent to DJJ (then called the Department of the Youth Authority), with a higher share of costs paid for lower-level offenders than for higher-level offenders. SB 681 was designed to incentivize counties to manage less serious offenders locally and decrease state costs. This sliding scale was ultimately replaced with a flat fee of \$24,000 per youthful offender in 2012.
- **Lower-Level Offenders.** Approximately a decade later, the state enacted SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, which limited admission to DJJ only to juveniles who are violent, serious, or sex offenders. To help counties manage their new responsibilities for other offenders, SB 81 also established the Youthful Offender Block Grant (YOBG), which provided counties with \$117,000 for each ward estimated to have been realigned to their responsibility under the measure. In addition, SB 81 also provided counties with \$100 million in lease-revenue funding to construct or renovate juvenile facilities, an amount that later increased to \$300 million.
- **Parolees.** Finally, in the 2010–11 budget, the Legislature and Governor realigned from the state to county probation departments full responsibility for supervising in the community all wards released from DJJ. As part of that measure, the Legislature also established the Juvenile Reentry Grant, which provides counties with ongoing funding for managing these parolees. Since the implementation of this Public Safety Realignment, DJJ's population has declined significantly. In 2008–09, the average daily population for youth housed at DJJ was 1,670, and there were 1,857 under the jurisdiction of Juvenile Justice Parole.

**Juvenile Court Petitions.** In 2016, there were 40,569 petitions filed in juvenile court. Each juvenile court petition can contain up to five different offenses. As a result, within those petitions filed, there were 60,239 different offenses. Of those petitions, 41 percent were for felony offenses, 43 percent were for misdemeanors, and 17 percent were for status offenses. Of the felony petitions, 31 percent were for

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<sup>2</sup> Chief Probation Officers of California Fact sheet. Obtained 2019.

violent offenses, 31 percent were for property offenses, 30 percent were for “other” offenses, and about seven percent were for drug offenses.<sup>3</sup>

Of those 40,569 cases filed in 2016, 63 percent ended up under the care of the county probation departments in wardship probation. About 50 percent of youth receiving wardship probation were sentenced to serve that probation in their own or a relative’s home and 31 percent were sentenced to a locked county facility. 17 percent of the cases were dismissed. Of the remaining cases, seven percent resulted in informal probation, six percent resulted in non-ward probation, and about seven percent resulted in other dispositions, including transfer to adult court, deportation, diversion, or deferred entry of judgement. Finally, 183 youth were sent to one of the state’s facilities under the jurisdiction of CDCR’s DJJ.<sup>4</sup>

**Juvenile Arrest Rates.** Juvenile crime rates have decreased dramatically in recent decades, declining from a peak of 408,131 juvenile arrests in 1974 down to 62,743 in 2016. More recently, juvenile felony arrests decreased by 54.7 percent between 2011 and 2016. In addition, juvenile misdemeanor and status offenses<sup>5</sup> decreased by 59.4 percent between 2011 and 2016.

**Direct Files to Adult Court.** Of those youth who were arrested and referred to county probation departments, less than one-half of one percent, 340 youth, were transferred directly to an adult court. Of the 376 adult court dispositions for juveniles in 2016, 290 dispositions resulted in a conviction, 51 were dismissed, two were acquitted, and 33 were shifted to juvenile court.<sup>6</sup> Of the 290 convictions, 180 were sentenced to adult prison or DJJ, 63 received probation and a jail term, nine received a jail term, and 20 received another sentence.

**Juvenile Recidivism Rates.** According to CDCR’s most recent report to the Legislature on their annual performance measures, juveniles have a similar rearrest and recidivism rate to adult offenders overall. For example, after three years, 51.3 percent of adults have been convicted of a new crime. For juveniles, the conviction rate after three years is 53.8 percent. While 75.1 percent of adults are arrested within three years of their release, 74.2 percent of juvenile wards have been arrested during the same time period. In addition, 30.5 percent of juvenile offenders are committed to an adult prison within three years of their release from a DJJ facility. Finally, 64 percent of youth who returned to state-level incarceration did so within 18 months of their release from DJJ.<sup>7</sup>

However, when looking specifically at their similar-aged cohorts housed in state prisons, it appears that youth in DJJ facilities have a lower recidivism rate than their counterparts. For example, of the 18 and

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<sup>3</sup> Department of Justice, *Juvenile Justice in California* (2016), p. 32.

<sup>4</sup> Department of Justice, *Juvenile Justice in California* (2016), Table 21, p. 81.

<sup>5</sup> A “status offense” is an offense that would not be considered a crime if it were committed by an adult. Examples include: underage drinking, skipping school, violating a city or county curfew, or running away.

<sup>6</sup> According to DOJ, the reason for the increase in the number of youth redirected to juvenile court was due to the passage of Proposition 57 in November of 2016, which requires that juvenile have a fitness hearing in juvenile court prior to being sent to an adult court.

<sup>7</sup> *Supplemental Report of the 2015-16 Budget Package Annual Performance Measures Report*. January 13, 2017.

19-year-olds released from state prisons in 2011-12 (the same year as the DJJ population that is being tracked for recidivism data), 67 percent had a new conviction after three years, as opposed to 54 percent of DJJ youth. In addition, of the people between the ages of 20 and 24 who were released from prison in 2011-12, 63 percent had a new conviction within three years.<sup>8</sup>

In addition to shifting responsibility for juvenile justice from the state to counties, the declining juvenile crime rate likely also contributed to the 73 percent decline in the state's DJJ population from 2,516 youth in 2007 to 653 youth in 2016.<sup>9</sup> At the same time, there has been a 60 percent reduction in the population housed in county juvenile camps and halls, down from 11,000 youth in 2007 to 4,200 youth in 2016.<sup>10</sup>

This significant and continuing decline offers an opportunity for California to comprehensively assess its juvenile justice system and invest in the best treatments and interventions for rehabilitating youth and emerging adults and to explore additional interventions in order to continue to reduce the number of young people who end up in the criminal justice system.

**Division of Juvenile Justice Overview.** A small number of wards (under two percent annually), generally constituting the state's most serious and chronic juvenile offenders, are committed to DJJ and become a state responsibility. DJJ, originally known as the California Youth Authority (CYA), was created by statute in 1941 and began operating in 1943 with the objectives of providing training and parole supervision for juvenile and young adult offenders. In a reorganization of the California corrections agencies in 2005, the CYA became the DJJ within CDCR. The Juvenile Parole Board, an administrative body separate from DJJ, determines a youth's parole readiness.

Youths committed directly to the DJJ do not receive determinate sentences. A youth's length of stay is determined by the severity of the committing offense and their progress toward parole readiness; however, DJJ is authorized to house youths until age 21 or 25, depending upon their commitment offense. DJJ also provides housing for youths under the age of 18 who have been sentenced to state prison. Youths sentenced to state prison may remain at DJJ until age 18, or if the youth can complete his or her sentence prior to age 25, the DJJ may house him or her until released to parole.

DJJ currently houses youth at three juvenile facilities and one conservation camp: O. H. Close Youth Correctional Facility (O.H. Close), N. A. Chaderjian Youth Correctional Facility (N.A. Chad), Ventura Youth Correctional Facility (Ventura), and Pine Grove Youth Conservation Camp (Pine Grove). N.A. Chad and O.H. Close, located in Stockton, house 245 and 165 males, respectively, as of December 2018; Pine Grove, houses 68 males as of December; and the Ventura Facility houses 155 males and 26 females. In addition, three males under DJJ's jurisdiction were being housed at Department of State Hospital facilities. In total, there were 662 juveniles in a state detention facilities on December 31, 2018. With 1,175 beds in the four facilities, the facilities are currently filled to just over 55 percent of capacity.

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<sup>8</sup> 2016 Outcome Evaluation Report: An Examination of Offenders Released in Fiscal Year 2011-12. CDCR. October 2017. Page 21.

<sup>9</sup> Data provided by the Chief Probationers of California.

<sup>10</sup> Ibid.

**Characteristics of Current DJJ Youth.** Based on data provided by CDCR, on June 30, 2018, there were 629 youth housed in DJJ facilities. Of these 629 youth, 453 had an assault or robbery charge as their primary offense. 62 were convicted of a homicide and 74 were convicted of forcible rape or other eligible sex offense.<sup>11</sup> Approximately 96 percent of DJJ youth are male; of which, about 87 percent are either African-American or Latino and 10 percent are white. The average age of DJJ-housed youth is 19 years old. <sup>12</sup> About 22 percent of the DJJ population were tried in adult court.

**County of Origin.** The largest number of the 629 youth housed in DJJ facilities as of June 30, 2018, 133, came from Los Angeles County. A comparison of commitments by county shows that some smaller counties are responsible for a disproportionate number of youth sent to DJJ. For example, youth from Sacramento County, which comprises four percent of the state's population, constitute six percent of the DJJ population. In addition, Fresno County accounts for two percent of the state's population, but is responsible for six percent of the DJJ population. Kings County is home to less than one percent of Californians but account for three percent of DJJ wards. By comparison, twenty-eight other small counties across the state do not have any youth housed at DJJ or have only one youth. And, there are larger counties who send fewer wards to DJJ. For example, Orange County, home to eight percent of the state's population, accounts for one percent of the DJJ population.

***Farrell v. Kernan.*** On January 16, 2003, Margaret Farrell, a taxpayer in California, filed a lawsuit against the director of what was then the CYA. The suit claimed CYA was expending funds on policies, procedures and practices that were illegal under state law. Farrell also claimed that CYA failed in its statutory duties to provide adequate treatment and rehabilitation for juvenile offenders in its care. The lawsuit also alleged that the youth offenders were denied adequate medical, dental and mental health care.

On November 19, 2004, the parties entered into a consent decree in which DJJ agreed to develop and implement six detailed remedial plans in the following areas: safety and welfare, mental health, education, sexual behavior treatment, health care, dental services, and youth with disabilities. After more than a decade of reforms in California's juvenile justice system – including limiting use of force, involving families in the rehabilitation of youth, and greatly reducing the juvenile offender population – on February 25, 2016, the Alameda County Superior Court terminated the *Farrell* lawsuit against DJJ.

**Previous efforts to reorganize DJJ.** The Governor's budget for 2012-13 included a plan to complete the realignment of juvenile justice to counties. Under the plan, DJJ would have stopped receiving new wards on January 1, 2013. However, DJJ would continue to house wards admitted to its facilities prior to this date until they were released. The Administration estimated that DJJ's population would reach zero by June 30, 2015, at which time all DJJ facilities would have closed and the division would have been eliminated. However, in the May Revision that year, the Administration withdrew the proposal.

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<sup>11</sup> California Department of Corrections and Rehabilitation. "Characteristics of the Division of Juvenile Justice Population." [https://www.cdcr.ca.gov/Reports\\_Research/docs/research/Characteristics/06\\_2018\\_Characteristics\\_Report.pdf](https://www.cdcr.ca.gov/Reports_Research/docs/research/Characteristics/06_2018_Characteristics_Report.pdf) June, 2018

<sup>12</sup> California Department of Corrections and Rehabilitation: Division of Juvenile Justice. "Population Overview." [https://www.cdcr.ca.gov/Reports\\_Research/docs/research/Population\\_Overview/POPOVER2017.pdf](https://www.cdcr.ca.gov/Reports_Research/docs/research/Population_Overview/POPOVER2017.pdf).

Since that time, some advocacy groups have continued to advocate for the closure of DJJ. In part, they argue, research shows that youth have better outcomes if they are housed in smaller settings and closer to their communities and families. On the other hand, counties have expressed serious concerns regarding their ability to effectively provide rehabilitative treatment and programming for those youth they currently send to the state.

**County Juvenile Justice System.** Most wards are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as juvenile hall or a camp) or supervised at home. Other wards are placed in foster care or a group home.

**County Services and Programs.** Counties vary widely in the quality and types of programs they provide for the youth in their locked juvenile facilities and no data is collected by the state on the specific types of rehabilitative programs provided in each local juvenile facility. However, appropriate schooling and mental health treatment is required to be provided to all of the youth, as well as substance use disorder treatment and cognitive behavioral therapy for those youth who need it. Many probation offices also work closely with their community partners to provide a wide array of programs, including art programs, faith-based programs, restorative justice programs, and foster grandparent programs.

**Innovative County Programs.** County probation departments and the juvenile justice system have made great progress over the last decade to ensure that only youth who are a threat to public safety or to themselves, and who cannot otherwise be safely served in the community, are detained. Improved screening to determine the need for detainment, statewide application of risk-needs assessment, implementation of effective prevention and diversion programs, and declining arrest rates have led to a two-fold impact on juvenile probation departments: 1) a decline in facility populations, and 2) a rise in the severity of the risks and needs of the youth who remain in juvenile facilities.

## **Legislation**

AB 1812 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2018, included three major juvenile justice reform efforts: extension of the age of jurisdiction to 25 for certain DJJ committed youth, creation and implementation of a Young Adult Offender Pilot program, and the establishment of a Youth Reinvestment Fund. Trailer bill language made various other statutory changes.

The Budget Act of 2018 also allocated \$3.8 million General Fund and included trailer bill language to establish a seven-year young adult pilot program within DJJ for a limited number of transition-aged youth. This program diverts youth from adult prison to a juvenile facility in order to provide developmentally appropriate rehabilitative programming.

Finally, the Budget Act of 2018 also provided \$37.3 million General Fund on a one-time basis to establish the Youth Reinvestment Fund to support diversion of youth away from arrest and detention (\$26.3 million), for social workers in public defender offices (\$10 million), and to provide specialized diversion services for Native American Youth (\$1 million). Trailer bill language requires the Board of State and Community Corrections (BSCC) to coordinate with the California Health and Human Services Agency and the State Department of Education for the administration and accountability of the grant program.

The Legislature and Governor enacted additional significant legislation in 2018. Specifically, SB 439 (Mitchell), Chapter 1006, Statutes of 2018, established 12 years of age as the minimum age for which the juvenile court has jurisdiction and may adjudge a person a ward of the court, , except when there are allegations of specified violent felonies. On or after January 1, 2020, a minor under the age of 12 must be released to his or her parent, guardian, or caregiver if the minor comes to the attention of law enforcement because his or her conduct constitutes a crime or a status offense.

To increase the number of volunteer programs in the juvenile facilities, the 2017 Budget Act created two community resource manager positions and redirected \$500,000 for innovative programming grants to expand the number of available volunteer programs.

SB 312 (Skinner), Chapter 679, Statutes of 2017, authorizes the court to order the sealing of records for certain serious or violent offenses committed when a juvenile was 14 years of age or older, as specified.

SB 625 (Atkins), Chapter 683, Statutes of 2017, authorized the Board of Juvenile Hearings (BJH) to make honorable discharge determinations and to grant an honorable discharge to a person discharged from a DJJ facility who has proven the ability to desist from criminal behavior and to initiate a successful transition into adulthood.

SB 261(Hancock), Chapter 471 of the Statutes of 2015 raised the age, from 18 to 23 years old, at which young offenders would be considered youth for those who committed specified crimes when they were under 18 years of age and who were sentenced to state prison for the purposes of parole.

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, lowered the jurisdiction age for youth from 25 to 23 and replaced the previous sliding scale county reimbursement rates with an annual rate of \$24,000 per youth committed to DJJ via juvenile court. It also eliminated juvenile parole, disciplinary time additions, and new parole violator admissions after December 31, 2012. The legislation also restructured the methodology for discharge consideration hearings.

AB 1628 (Blumenfield), Chapter 729, Statutes of 2010, transferred supervisory responsibility to the county of jurisdiction's probation department for community supervision of youth released on or after its implementation.

SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007; and AB 191 (Committee on Budget), Chapter 257, Statutes of 2007, restricted juvenile court commitments to cases committed for specified (serious/violent) offenses listed in subdivision (b) of section 707 of the Welfare and Institution Code (WIC) or for specified non-WIC 707(b) sex offender registrants (Penal Code section 290.008). Non-WIC 707(b) (excluding sex offenders) cases that were on parole on September 1, 2007 and were discharged once they completed their parole time.

SB 681 (Hurt), Chapter 6, Statutes of 1996, required counties to pay the state for each juvenile court commitment pursuant to a "sliding scale fee system" based on commitment offense as an incentive to the county when they do not commit a juvenile because of the associated costs.

AB 3369 (Bordonaro), Chapter 195, Statutes of 1996, reduced the age limit for authorizing a transfer of a person to CYA, now known as DJJ, by the Director of CDCR to under 18 years and requires the transfer

to terminate in specified situations. This was only applicable to minors convicted as an adult but housed at the DJJ under WIC 1731.5(c).

### Initiatives

Proposition 57 – Public Safety and Rehabilitation Act of 2016 (November 8, 2016) provided juvenile court judges authority to decide whether juveniles aged 14 and older should be sentenced as adults for specified offenses.

Proposition 21 – Gang Violence and Juvenile Crime Preventive Act (March 7, 2000) made changes to the prosecution, sentencing, and incarceration of juvenile offenders:

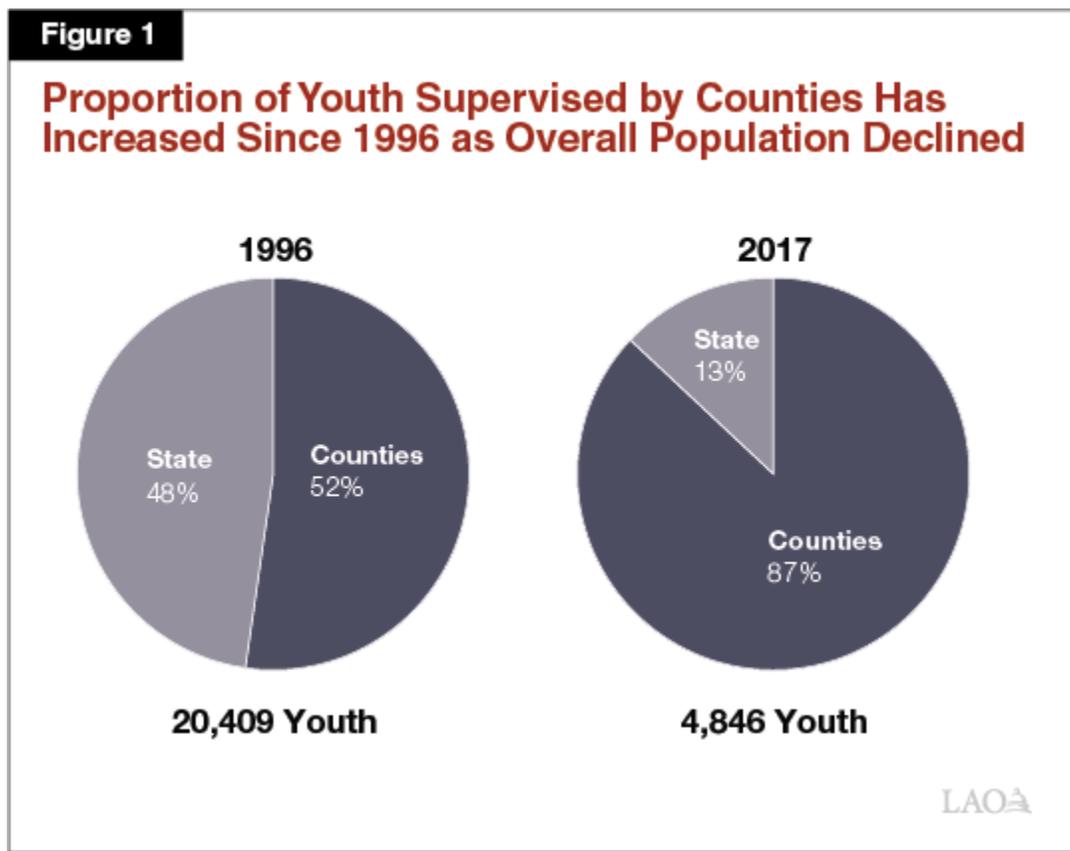
- Increased punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation, and drive-by shootings; created crime of recruiting for gang activities; and authorized wiretapping for gang activities.
- Allowed for the direct filing of a felony complaint to the adult criminal court for juveniles aged 14 years or older under a variety of circumstances.
- Eliminated informal probation for juveniles committing felonies.
- Required registration for gang related offenses.
- Designated additional crimes as violent and serious felonies, thereby making offenders subject to adult prosecution.

**LAO Assessment.** The LAO states that while the Governor’s proposal to place DJJ under the HHS Agency with the goal of improving the outcomes of youth could have some potential benefits, the Administration has provided very little in the way of details at this time about how the reorganization would be implemented and why it is needed. Given the complexity of both the state’s juvenile justice system and the process of reorganizing state government, the LAO states there should be a well-defined purpose and plan for carrying out this proposal.

1. **Does DJJ Need to Be Reorganized to Improve Rehabilitation?** Currently, it is unclear what specific barriers to rehabilitation currently exist, what specific outcome target the administration is seeking to achieve, and how DJJ is currently performing.
2. **What Are Potential Benefits of the Proposed Reorganization?** The reorganization could potentially result in certain benefits, such as improved rehabilitation and reduced costs for the state. However, the Governor has not provided specific information on the extent to which the reorganization would accomplish these benefits or why they could not be pursued with DJJ’s current organizational structure.

3. **What Are Potential Consequences of the Proposed Reorganization?** The reorganization may not result in improved outcomes, could increase costs, and could result in unintended consequences such as complicating coordination with CDCR.
4. **Are There Alternative Organizational Options Available?** The Legislature will want to consider what other options are available to adjust the organizational structure of the state’s juvenile justice system, including trends in how other states have organized their juvenile justice systems.
5. **Should the Reorganization of DJJ Be Done Through Budget Trailer Legislation?** The administration has not provided a rationale why the proposed reorganization should be done with budget trailer legislation rather than going through the executive branch reorganization process established in statute.

The LAO notes that counties now are responsible for a greater portion of youth, although the size of the populations they are responsible has declined. If a juvenile court judge finds that a youth committed certain significant crimes, the judge can place the youth in state juvenile facilities operated by DJJ. Very few youth are placed in DJJ by the juvenile courts. For example, only 224 youth were sent to DJJ in 2017—less than 1 percent of the youth placed by juvenile courts. The figure below shows the number of youth in detention at the county level:



**Staff Recommendation.** Hold Open.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) AND  
0552 OFFICE OF THE INSPECTOR GENERAL (OIG)****Issue 14: Staff Complaint Inquiry Unit (BCP)**

**Governor’s Proposal.** The budget proposes \$9.8 million General Fund and 47 positions in 2019-20 and ongoing to implement a new regional model for reviewing and investigating inmate complaints of staff misconduct, as well as revise CDCR's grievance review process.

**Background. Outline of current appeals process.** A staff complaint is defined as an inmate appeal alleging facts that would constitute prison employee misconduct. CDCR institutions process staff complaints in accordance with Title 15 and its department operations manual. An inmate who alleges staff misconduct may fill out an appeal form (“602”) where he or she is asked to describe in detail what happened, including dates, times, places, and names of all people involved in the incident, including all witnesses if possible. It is then submitted to the prison’s appeals office where staff screen whether it is a routine complaint or a staff complaint. Possible staff complaints are then sent to the appeals coordinator<sup>13</sup> for a second opinion to determine whether alleged misconduct would violate any policy if the allegations were true.

If the appeals coordinator concurs that the appeal contains a staff complaint, he or she forwards the form to the hiring authority<sup>14</sup>. When the hiring authority determines that an allegation warrants a staff complaint inquiry, the appeals coordinator forwards the staff complaint to a manager within a particular yard where it is assigned to a reviewer who is a supervisor who holds a rank at least one level above that of the accused staff member<sup>15</sup>. In general, this inquiry is completed within 30 working days. The reviewer first assesses all information in the complaint and collects any other necessary documentation. Next, the reviewer conducts interviews with the appellant, pertinent witnesses, and the subject to obtain evidence. The reviewer is not compelled to interview all witnesses if he or she can demonstrate that the witness testimony would not be relevant and, if a reviewer believes a witness is not credible, he or she must present facts to support that conclusion.

If at any point during the investigation the reviewer discovers information indicating serious misconduct may have occurred, the reviewer must cease interviewing any staff or inmate and must immediately bring this information to the hiring authority’s attention for future review. The hiring authority then determines whether to instruct the reviewer to continue the staff complaint inquiry, assign the matter to the prisons Investigative Services Unit, or refer the matter to the Office of Internal Affairs.

Upon receiving a completed staff complaint inquiry report, the hiring authority may:

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<sup>13</sup> A prison employee who is responsible for processing appeals (receiving, logging, routing, and monitoring disposition), monitoring the system, preparing the quarterly appeals report, recommending corrective action where indicated, and working with the in-service training officer to ensure that training on the appeals process is carried out.

<sup>14</sup> The individual who has the authority to hire and discipline staff under his or her signature authority. In this context, the hiring authority is the warden or, in some delegated instances, the chief deputy warden.

<sup>15</sup> A supervising prison employee who is responsible for conducting the staff complaint inquiry. Typically, the reviewer is a sergeant or a lieutenant. This is not a dedicated position: reviewers must also complete their regular duties in addition to conducting staff complaint inquiries.

- Conclude no violation occurred and take no further action or,
- Conclude a policy violation did occur and may impose corrective action such as on the job training or counseling. If the hiring authority believes the violation requires an adverse action, such as a reprimand, pay reduction, suspension, or dismissal, they must first refer the matter to the Office of Internal Affairs. Ultimately, the hiring authority determines all disciplinary and corrective against their employees.

**OIG Report Findings.** In January 2018, the Secretary of the California Department of Corrections and Rehabilitation (CDCR) and attorneys from the Prison Law Office requested that the Office of Inspector General (OIG) assess Salinas Valley State Prison’s (SVSP) process of handling inmate allegations of staff misconduct, referred to as “staff complaints.” The OIG conducted an investigation and released a report with findings on January 24, 2019. The findings include the following:

- Between December 1, 2017 through May 31, 2018, there were 3,218 staff complaint appeals statewide. SVSP received 298 during this same period of time which was significantly higher than other institutions.
- The process utilized at SVSP to review allegations was inadequate and the assigned staff investigators were inadequately trained.
  - Of the 188 staff complaint inquiry reviews, 55 percent were found to be inadequate and 92 percent had at least one significant deficiency.
  - Of the 150 staff complaint inquiries that could have had relevant evidence to collect, reviewers failed to do 60 percent of the time.
  - Of the 61 reviewers at this one prison, only 23 percent had received any relevant training on the complaint inquiry process and 8 percent had received none.
- Staff Complaint Reviewers were not independent and, at times, displayed bias in favor of their fellow staff members, ignored inmate witness testimony, and often compromised confidentiality.
  - The prison assigned a reviewer who worked on the same yard and shift as the subject of the inquiry 60 percent of the time.
  - In at least 5 instances, the reviewer was actually involved in the incident giving rise to the staff complaint.
  - In a significant number of appellant and witness interviews, reviewers compromised the confidentiality of the process.
- While most of the staff complaint inquiries were completed within the required time frames, inmates were not notified, as required, when inquiries were overdue.
- SVSP staff worked more thoroughly when reviewing complaints submitted by attorneys who represented inmates but they still did not complete high quality inquiries.

**OIG Recommendations.** Amongst the OIG’s recommendations were the following:

- To address the independence and quality issues identified in the report, a complete overhaul of the staff complaint process and reassignment of the responsibility of conducting staff complaint inquiries to employees who work outside of the prison’s command structure which is the Division

of Adult Institution is needed. To achieve this, a regionalized model should be adopted so that reviewers are not co-located in the facilities where they conduct staff complaint inquiries.

- Provide comprehensive and ongoing training to all staff members who may be assigned to conduct staff complaint processes and assign inquiries to only to those individuals who have received training and are certified.
- Consider requiring reviewers receive a certificate from the California Commission on Peace Officer Standards and Training with respect to conducting investigations.
- Consider requiring audio-recorded interviews of staff subjects and witnesses and video-record or at least audio-record all appellant and inmate witness interviews.

Although the OIG only reviewed one institution, the policies and procedures at SVSP are in place statewide. Any structural limitations or weaknesses of the grievance process at SVSP likely exist at other institutions.

***CDCR's proposal in response to OIG report-staffing and location.*** To address the independence and quality issues raised in the OIG audit, CDCR proposes to reassign the responsibility of conducting staff complaint inquiries from the adult institutions to OIA, establishing a staff complaint inquiry unit. The department proposes to establish 47 positions: one chief deputy administrator, six captains, 36 correctional lieutenants, one analyst, and three office technicians.

CDCR will structure the unit similar to OIA's regionalized investigative staffing model, in which correctional lieutenants will be assigned to specific adult institutions. Under this model, their sole responsibility will be to conduct staff complaint inquiries, of which there were 6,259 in 2018 at the institutional level. CDCR estimates that a complete and thorough inquiry of a staff complaint, including interviews, evidence gathering, report writing, and management review, will take an average of 12 hours. The inquiry unit staff work locations will be based in the three OIA regional offices overseen by the chief deputy administrator. Captains experienced in investigating allegations of administrative and criminal misconduct will each supervise six correctional lieutenants. The captains' duties will also include training, accompanying staff in the field during complex reviews, and reviewing completed staff complaint inquiries. The analyst will support the chief deputy administrator, coordinate activities with wardens, write reports, and conduct trend analyses. The three office technicians will provide administrative support to each regional office.

***CDCR's proposal in response to OIG report-new staff complaints outline.*** The proposed staff complaints inquiry process also mirrors the existing OIA investigative process by allowing hiring authorities to be aware of initial complaints and assign the case to the OIA's Staff Complaint Unit. If the OIA Correctional Lieutenant identifies possible staff misconduct, an inquiry report will be completed and forwarded to the Senior Special Agent<sup>16</sup> for review. The Senior Special Agent will then refer the matter to the hiring authority for determination. The hiring authority will either complete a Request for Investigation through OIA or take other appropriate action. If the hiring authority refers the case to OIA and there is enough evidence to warrant an investigation, a special agent from its investigative unit will

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<sup>16</sup> Captain

be assigned to conduct a full investigation. Additionally, with this new office under the purview of OIA, the Deputy Director can independently open an investigation in instances of egregious misconduct.

**CDCR's proposal in response to OIG report**-additional components. Additionally, the CDCR's proposal has additional components for the following:

- **Training.** Since CDCR's grievance process covers more issues than staff complaints, OIA and Office of Appeals will provide statewide grievance training to all staff attending the supervisory academy. The CDCR will send the correctional lieutenants, who review staff complaints, to a POST-certified interview and interrogation techniques course. CDCR is adding reference material and refresher training through an online system to ensure staff stay current on regulatory updates and training. In addition, CDCR, through its Office of Legal Affairs and Office of Training and Professional Development, will provide training to current hiring authorities specific to their responsibilities in the grievance process, and will include this training for all new hiring authorities upon assignment.
- **Internal Auditing and Review of the Inquiry Process.** To ensure the fidelity of the revised regulations and processes, CDCR's Office of Audits and Court Compliance will audit the institutions' handling of grievances both by tracking data department-wide and performing quality reviews of inquiries and related paperwork.
- **Restructuring the Grievance Process and Office of Appeals.** Although the OIG report focused solely on staff complaint grievances, its recommendations to reduce bias are applicable to the entire grievance process. CDCR will revise its regulations regarding administrative remedies for inmates and parolees. The general grievance process (non-specialty grievances) will be reduced from the current three-level approach to two levels divided into "grievances" reviewed at the local level, and "appeals of grievances" reviewed by the Office of Appeals.

To enhance the independent review of appeals of grievances, CDCR moved the Office of Appeals from the Division of Adult institutions and placed it under the purview of the Division of Correctional Policy Research and Internal Oversight (CPRIO). CDCR proposes to use existing resources within its Office of Audits and Court Compliance (OACC), which reports to CPRIO, to provide oversight of the new inquiry process. The CDCR believes that this change is significant because CPRIO reports to a different undersecretary through a separate chain of command than the Division of Adult institutions within the Department's structure, eliminating conflicts of interest between these two divisions. Final grievance decisions will be approved by the chief deputy administrator level or higher. Specialty grievances will continue to adhere to existing expedited review timeframes. New regulations will eliminate reasons to "cancel" or "reject" a grievance for technical problems, such as lack of signature, illegible handwriting, insufficient documentation, or excessive or obscene verbiage. The intended result is for institutional appeal offices to conduct more inquiries at the Institution level.

#### **LAO Assessment.**

1. **Proposal Does Not Account for Possible Savings.** The LAO does not raise concerns with CDCR's proposal to shift responsibility for conducting staff complaint inquiries away from prison-based management staff. However, the LAO notes that doing so would reduce workload

for such staff, likely taking the form of reduced spending on overtime. Yet, the proposal does not account for these savings.

2. ***Unclear How OACC Would Effectively Oversee New Inquiry Process.*** CDCR has not provided details about how OACC would effectively oversee the new inquiry process. Specifically, it's unclear whether OACC: (1) has the necessary expertise—such as staff with an understanding of investigatory techniques—to perform this function; (2) would be able to provide sufficiently independent oversight given that it is an entity within CDCR; and (3) would make its data, reports, or recommendations available to the Legislature and/or the public.

**LAO Recommendations.** The LAO recommends that the Legislature reduce the level of funding proposed for the new inquiry process to account for estimated overtime savings for prison-based staff. To the extent it is interested in doing so, the LAO would work with the administration to develop a reasonable savings estimate.

In addition, the LAO recommends that the Legislature require CDCR to provide more details on how it would ensure that OACC staff effectively oversee the new inquiry process. If the Legislature is satisfied that OACC would provide sufficiently expert and independent oversight, it may still want to establish reporting requirements to ensure that the products of OACC oversight are available to external stakeholders. If the Legislature is not satisfied that OACC can perform satisfactory oversight of the new inquiry process, it could task an independent entity—such as the OIG—with this responsibility. However, this would likely require additional resources.

**Staff Recommendation.** Hold Open.

**VARIOUS DEPARTMENTS****Issue 15: Penal Code Review (Trailer Bill Language)**

**Governor’s Proposal.** The Governor’s budget includes \$576,000 to support a new committee that will be established under the California Law Revision Commission. The new committee will have separate powers to make policies and take actions, and to review and make recommendations to the Legislature and the Governor on revisions to the Penal Code. The committee will begin an effort to simplify and rationalize criminal law and criminal procedures, establish alternatives to incarceration that aid rehabilitation and protect public safety, improve parole and probation systems, and adjust the length of sentence terms based on certain considerations. The proposal includes \$25,000 for the committee to hire an outside consultant to serve the committee’s needs.

**Background.** The following background was provided to staff by the Department of Finance:

“The California Penal Code has dramatically increased in size from about 234,000 words in 1965 to 1.2 million in 2018. There are more than 5,000 separate criminal provisions specifying criminal behavior, penalties for convictions, additional enhancements, and credit earning once incarcerated. This complex statutory structure requires study and recommendations to revise the Penal Code. The reason for the new committee to be established as a component of the California Law Revision Commission is first because it would help the committee get up and running quickly, without the need to create new administrative and operational practices. Second, it would allow both the committee and Commission to work on separate tracks, without interfering with each other’s progress. Finally, it would allow for specialization of the membership of the two panels.

Historically, the Commission’s work has not focused on criminal justice reform. Its members were not chosen for expertise in that subject and generally have careers in civil, rather than criminal law. By contrast, the members of the Committee could be selected for their experience in criminal law and policy. While the committee would be a part of the Commission for the purposes of administration and staffing, the committee would have independent authority to make recommendations to the Legislature and the Governor—Commission approval would not be required for any policy decision of the committee. The committee would conduct its own meetings, based on its own deliberative materials. The Commission would not duplicate that work nor weigh-in on the committee’s recommendations. The independence of the committee is also important to maintaining the effectiveness of the Commission.”

**Staff Recommendation.** Hold Open.

**0820 CALIFORNIA DEPARTMENT OF JUSTICE (DOJ)****Issue 16: Sex Offender Registry**

**Governor's Budget.** The budget includes \$17.2 million General Fund and 37 permanent positions in 2019-20, \$15.7 million General Fund in 2020-21, and \$13.2 million General Fund in 2021-23 to provide resources that will implement years two through four of SB 384. Year one funding of \$10 million and 25 positions were provided in the 2018 Budget Act. SB 384 requires the California Sex Offender Registry to transition from a lifetime registration system to a tier-based system for periods of 10 years, 20 years, and life beginning January 1, 2021. There are currently 104,000 sex registrants in the state, all of whom are now required to be assigned into one of the three tiers.

**Background. Existing Sex Offender Registration System.** California is one of the few states that require lifetime sex offender registration without discerning by the type of offense. Florida, South Carolina and Alabama are the only other states without some form of tiering. While this allows the public to see a majority of offenders, the public and local law enforcement have no way of differentiating between higher and lower risk sex offenders.

Currently, individuals convicted of certain sex offenses are required to register with their local law enforcement agency. These offenders generally must update their information with their local law enforcement agency annually and inform law enforcement when they move. DOJ maintains a statewide database of registered sex offenders. Depending on the convictions of these offenders, DOJ is required to make some information about them (such as their home addresses) publicly available through the California Megan's Law website. Certain sex offenders, however, are able to apply for exclusions from the website. Sex offenders who are required to register generally must do so for life.

**New Sex Offender Registration System.** Effective January 1, 2021, SB 384 will establish three tiers of registration for adult sex offenders based on specified criteria, for periods of 10 years, 20 years, and life. Juvenile offenders will be required to register as a sex offender for a minimum of either five or ten years, as specified. A tier one or tier two offender will be required to file a petition in the superior court in the county in which he or she is registered or, if the offender is a juvenile, he or she may file in juvenile court. The offender will be required to file a petition on or after the offender's birthday that follows the expiration of his or her minimum registration period in order to be removed from the registry.

SB 384 will also authorize a sex offender registrant to petition the courts for early termination from registration, as specified. The bill requires that each petition be served on the registering Local Enforcement Agency (LEA) and the district attorney of the county of conviction of the registerable offense (if different than the county where the petition is filed). The bill further requires a registering LEA to report to the district attorney whether each petitioning sex offender registrant has met the registration requirements for termination. It authorizes a district attorney to request a hearing on a petition under specified conditions. The registering LEA and the LEA of the county of conviction of a registerable offense, if different than the county where the petition is filed, shall, within 60 days of receipt of the petition, report to the district attorney and the superior or juvenile court in which the petition is filed regarding whether the person has met the requirements for termination. SB 384 will also authorize annual resubmission of petitions for termination for each tier two offender and resubmissions every one to five years for each tier one offender, as determined by the courts. Pursuant to the bill, tier two offenders will be eligible for early termination, as specified, after 10 years.

Finally, SB 384 will reduce the number of sex offender registrants in the community; however, it will not reduce the impact of registration to LEAs, courts, district attorneys, or the DOJ.

**Effect on DOJ.** SB 384 requires the DOJ's California Sex Offender Registry (CSOR) to transition from a lifetime registration system that has been in place since 1947 to a significantly more complex tier-based registration system. There are currently nearly 104,000 sex offender registrants in the state, all of whom are now required to be assigned by the CSOR to one of three tiers by January 1, 2021. To comply with this requirement, numerous existing technology systems must undergo extensive enhancements to be capable of interfacing with numerous criminal justice systems prior to transitioning away from the lifetime registration system. The DOJ also needs to develop new policies, procedures, and training modules, as well as train courts, district attorneys, and law enforcement entities on these policies and systems.

In 2004, AB 488 (Parra), Chapter 745, Statutes of 2004, mandated the DOJ to host, implement, and maintain the Megan's Law website. If an offender met specific requirements, he or she may have become eligible and applied for exclusion from the website. Under the new legislation, approximately 2,610 registrants are no longer eligible for exclusion and will need to be notified and posted to the public Megan's Law website. Until January 1, 2022, the DOJ must also maintain the existing Megan's Law website and posted offender information.

**Proposed Positions and Outcomes.** DOJ estimates that there are currently 104,000 sex offender registrants that will need to be assigned to the new tiered categories along with an average of 5,000 new registrants annually. Additionally, DOJ estimates that approximately 2,610 registrants are no longer eligible for exclusion from the public website and will need to be notified accordingly.

#### Projected Outcomes

Workload Measure	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Sex Offender registrants to be tiered	N/A	17,133	34,666	17,333	5,000	5,000	5,000
Sex Offender registrants to be terminated from registry	N/A	N/A	N/A	23,334	13,166	3,000	3,000
Applications for exclusion from Megan's Law website	N/A	N/A	N/A	1,725	1,725	180	180

The systems that support sex offender registration and notification are currently not equipped to fully facilitate the mandates of SB 384, as a large volume of the data necessary to make tiering determinations is not currently reported to, collected, or maintained by the DOJ. This necessitates significant system modifications and consultant costs. In addition to consultant costs, the CJIS Division will require IT permanent and limited-terms positions to support and assist with the implementation and ongoing maintenance of the systems.

## Summary of Approved or Requested Resources for New Tiered Sex Offender Registry

(Dollars in Millions)

Fiscal Year	Funding (In Millions)	Supported Positions		
		Permanent	Limited Term	Total
<b>Approved</b>				
2018-19	\$10.0	23	2	25
<b>Requested</b>				
2019-20	\$17.2	37	51	88
2020-21	15.7	37	99	136
2021-22	13.2	38	48	86

### **LAO Assessment and Recommendation.** *Project Could Benefit From Regular Legislative Oversight.*

The LAO finds that the level of resources being requested by DOJ to meet the requirements of Chapter 541 appear justified on a workload basis. However, given the magnitude of DOJ's estimated costs to implement the new sex offender registration system, the LAO finds that regular legislative oversight of the department's progress would help ensure that the resources provided are being used efficiently and that the department is on track to meet the 2021 implementation date. For example, regular oversight would allow the Legislature to identify any potential delays or challenges and inquire how DOJ plans to address them. The Legislature can then determine what action, if any, it may need to take to ensure the project remains on schedule and to limit cost increases.

**LAO Recommendations.** The LAO find that the Governor's proposal to provide DOJ with \$46 million in additional General Fund support for use over three years to support the implementation of a new tiered sex offender registry appears justified on a workload basis and necessary to meet the statutory time frames enacted by the Legislature. Accordingly, the LAO recommends approval of the proposal. However, in order to facilitate regular legislative oversight over the project, the LAO also recommends the Legislature adopt budget trailer legislation directing DOJ to provide an annual written progress report on key metrics to help monitor the development and implementation of the new sex offender registration system. Specifically, at minimum, the LAO recommends the Legislature direct DOJ to report on the tasks completed, changes to projects costs or deadlines for project milestones, challenges or delays that have emerged, and issues or risks that may result in project schedule or budget changes. This information would help the Legislature ensure that the project remains on schedule and on budget.

**Staff Recommendation.** Hold Open.

**Issue 17: Sexual Assault Investigations Evidence Kits (AB 3118) (BCP)**

**Governor's Budget.** The budget includes a one-time allocation of \$194,000 General Fund in 2019-20 to the DOJ to implement AB 3118 (Chiu), Chapter 950, Statutes of 2018, which requires all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all untested sexual assault kits in their possession and report their data to the DOJ.

**Background.** Existing law established the "Sexual Assault Victims' DNA Bill of Rights" which prescribes requirements for law enforcement agencies and crime labs regarding the processing of forensic evidence in sexual assault cases and requires certain notifications to be made to the victim.

AB 3118 requires all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all untested sexual assault evidence kits in their possession and report certain data to the Department of Justice by no later than July 1, 2019. The bill also requires the DOJ to prepare and submit a report to the Legislature regarding the results of these audits by no later than July 1, 2020. The data reported for each kit is as follows in AB 3118:

“(A) Whether or not the assault was reported to a law enforcement agency.

(B) For kits other than those described in subparagraph (C) [of Penal Code Section 680.4], the following data, as applicable:

(i) The date the kit was collected.

(ii) The date the kit was picked up by a law enforcement agency, for each law enforcement agency that has taken custody of the kit.

(iii) The date the kit was delivered to a crime laboratory.

(iv) The reason the kit has not been tested, if applicable.

(C) For kits where the victim has chosen not to pursue prosecution at the time of the audit, only the number of kits.”

**Previous funding.** The Budget Act of 2018 provided the DOJ with \$1 million in one-time General Fund for the compilation of information on the number of untested sexual assault kits statewide. The resources are available for grants to counties and cities to count the number of untested kits in their possession. Budget bill language requires a report from the DOJ to the Legislature regarding these identified and untested kits. The budget bill language was amended for technical reasons in SB 862(Committee on Budget and Fiscal Review), Chapter 449, Statutes of 2018. The language from 2018 reads as follows:

“Of the funds appropriated in Schedule (4), \$1,000,000 shall be available for the compilation of information on the number of untested sexual assault kits statewide. This amount shall be available for grants to counties and cities to count the number of untested sexual assault kits in their possession. This amount shall be available for support or local assistance. The Department of Justice shall report to the Legislature on the cities and counties that received grants as well as the number of untested sexual assault kits by county and city no later than July 1, 2020.”

**Staff Recommendation.** Hold open.

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*Senate Budget and Fiscal Review—Holly J. Mitchell, Chair*

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
 Senator John M.W. Moorlach  
 Senator Jim Beall



**Thursday, May 9, 2019**  
**9:30 a.m. or upon adjournment of Session**  
**State Capitol - Room 113**

Consultant: Yong Salas

## Part A

### ITEMS PROPOSED FOR VOTE-ONLY

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**Public Comment**

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## ITEMS PROPOSED FOR VOTE-ONLY

**0690 OFFICE OF EMERGENCY SERVICES****Issue 1: Capital Outlay, Relocation of Red Mountain Communications Site, Del Norte County – Reappropriation**

**Budget.** The Governor’s Office of Emergency Services (OES) requests a re-appropriation of \$1.26 million (General Fund) for the working drawings phase of the Relocation of Red Mountain Communications Site project.

**Background.** The Red Mountain communications site hosts five communications vaults and towers needed to support critical radio communications for twelve government public safety agencies and private industry serving the western side of Del Norte and Humboldt counties. These facilities provide public safety communication services supporting a population of approximately 250,000 people and provide vital communication links to state, federal, and local law enforcement, transportation, and resource agencies.

However, in the 1990s, the United States Forest Service and the California Department of Forestry and Fire Protection entered into a lease agreement with a termination, vacate, and clear date of December 31, 2022. The Public Safety Communications Office of OES had identified three alternative sites at Alder Camp, Rodgers Peak, and Rattlesnake Mountain to relocate the Red Mountain Communications Site. However, in August 2017, the National Park Service notified OES of its intent to deny a permit for the use of Rodgers Peak, citing construction as a modern intrusion on national park land. An alternate site, Big Lagoon, was identified and a scope change for this project was approved by the Public Works Board in January 2018.

Delays for the working drawings phase were due to: (1) challenges securing an architectural and engineering contract and in securing long-term leases; (2) denial of required permitting by the federal government for the Rodgers Peak site, and the need to identify another site; and (3) challenges to access road acquisition and construction agreements for the three sites.

The current project schedule estimates preliminary plans to be completed in July 2019, with the working drawings phase to begin in August 2019 and completed in December 2019. Construction is scheduled to begin in April 2020 and completed in October 2022. Demolition of the Red Mountains communications site will be completed by December 2022, pursuant to the original agreement.

Below is a history of the various appropriations that were provided since 2014-15 for the relocation of the Red Mountains communications site.\*

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20 (requested)
Preliminary Plans	<b>2,683,000</b>	<i>2,683,000</i>	<i>2,683,000</i>	<i>2,683,000</i>	<i>3,236,000**</i>	<i>3,236,000</i>
Working Drawings Phase	<i>1,261,000</i>	<b>1,261,000</b>	<i>1,261,000</i> - reapprop	<i>1,261,000</i> - reapprop	<i>1,261,000</i> - reapprop	<i>1,261,000</i> - reapprop
Equipment				<b>1,856,000</b>	<i>1,856,000</i>	<i>1,856,000</i>
Acquisition						<b>1,517,000</b>
Construction	<i>16,040,000</i>	<i>16,040,000</i>	<i>16,065,000</i>	<i>14,199,000</i>	<b>15,382,000</b>	<i>15,382,000</i>
TOTAL ESTIMATED COST	19,984,000	19,984,000	20,009,000	19,999,000	21,735,000	23,252,000

\* *Bold font indicates when the money was appropriated. Italicized font indicates estimated costs or the amount that was appropriated for this phase (included for purposes to calculate the total estimated costs of that year).*

\*\*\$553,000 was augmented for the preliminary plans phase pursuant to GC 13332.11, which allows the State Public Works Board to augment a major project up to 20 percent of capital outlay costs, with Joint Legislative Budget Committee notification required for augmentations that are more than 10 percent of capital outlay costs. These costs were for unforeseen geotechnical-related activities at the Rattlesnake Peak and Big Lagoon sites, and include the construction of a new forest road and site clearing of shrubs and trees to access these two sites for design purposes.

**Staff Recommendation.** Approve as requested.

<b>Issue 2: Capital Outlay, Relocation of Red Mountain Communications Site, Del Norte County - Augmentation</b>
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**Budget.** OES requests \$1.5 million (\$1,517,000) General Fund for the acquisition phase of the Relocation of Red Mountain Communications Site project in Del Norte County.

**Background.** Background information for the relocation of the Red Mountains communications site is detailed in the item related to the re-appropriation request for funding to execute the working drawings phase.

During the preliminary plan phase of this project, it was determined that in order to proceed the construction phase on the three sites and to ensure long-term access to each communication facility, real estate rights would need to be secured for the roads necessary to reach each mountain top site. OES proposes to enter into agreements with the Green Diamond Lumber Company, which owns the Big Lagoon and Rattlesnake Peak and surrounding property, to acquire the necessary real estate rights for use and access to the sites. While the Alder Camp site is owned by the state, the surrounding property is also owned by Green Diamond Lumber Company.

The Department of Finance states that while the Department of General Services remains the managing entity over the relocation project on behalf of OES, the entity drafting the agreement between OES and the Green Diamond Lumber Company will shift from DGS to private entity with the hope of expediting the execution of necessary agreements. Acquisition of the real property rights is necessary prior to the completion of the working drawings phase, and Finance expects the acquisition to be approved by the State Public Works Board by July 2019. The rights acquired through the agreements will allow construction to be completed prior to the December 31, 2022 deadline.

**Staff Recommendation.** Approve as requested.

### **Issue 3: Proposition 1B Extension of Liquidation Period**

**Budget.** OES requests to extend the liquidation period of Proposition 1B funds, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, from various prior fiscal years to enable cities, counties, and transit districts to continue to liquidate unexpended grant funds for transportation and security and improvement projects.

**Background.** Proposition 1B provides \$1 billion to OES for transportation security purposes. Although OES has allocated all of its apportioned Proposition 1B funds through grants to cities, counties, and local transit districts, grantees need additional time to liquidate their allocations. An extension of the liquidation period will allow local entities to complete their critical transportation security improvement projects.

The liquidation period for Proposition 1B funds appropriated in the Budget Acts of 2007, 2008, 2009, 2010, 2011, 2012, and 2013 will be extended until June 30, 2021. The liquidation period for funds appropriated in the Budget Acts of 2014, 2015, and 2016 will be extended until June 30, 2022.

**Staff Recommendation.** Approve as requested.

## ITEMS PROPOSED FOR DISCUSSION/VOTE

**0690 OFFICE OF EMERGENCY SERVICES****Issue 4: Broadband Communication, 9-1-1 Integration, and State Emergency Telephone Number Account Transfer and Trailer Bill Language**

**Governor's Budget.** The Governor's Office of Emergency Services (OES) requests ongoing \$1 million (\$1,003,000) State Emergency Telephone Number Account (SETNA) and six positions to support the implementation and ongoing workload associated with emergency communications coordination and First Responder Network Authority (FirstNet) broadband network services. The Administration is also proposing to transfer \$50 million General Fund to the SETNA with trailer bill language that would change its fee structure.

**Background.** In 2012, Congress created FirstNet within the Department of Commerce's National Telecommunications and Information Administration (NTIA). FirstNet is charged with creating a nationwide wireless broadband network for public safety; the Nationwide Public Safety Broadband Network (NPSBN), or FirstNet network, will be the first ever nationwide high speed broadband data communications network dedicated to public safety.

On March 30, 2017, FirstNet awarded a \$6.5 billion, 25-year agreement to AT&T to build the nationwide network. FirstNet and AT&T have developed "State Plans" for each state, including California. The NTIA awarded states funding through its State and Local Implementation Grant Program (SLIGP) to: (1) assist in planning for statewide deployment of the FirstNet network, and (2) assist with consultations with regional, tribal, and local entities. OES received \$5.7 million SLIGP, which had an award period from August 1, 2013 to January 31, 2018. Reverted funds from all states were combined and reallocated, and through this, OES was awarded \$1.2 million – this award period is from March 1, 2018 through February 29, 2020. Five of the six requested positions are currently funded by the SLIGP award.

After conducting outreach meetings and providing feedback, OES opted-in to FirstNet in December 2017. In 2018, AT&T began building out FirstNet in California. Prior to and during the release of the state plan, these positions have been primarily focused on outreach and information sharing as California gathered the data needed for FirstNet and AT&T to develop the plan. The positions will initially be used to support the deployment of FirstNet through 2020 and the ongoing management of FirstNet through the 25 year federal project timeline.

Chapter 1, Statutes of 2019 (AB 72, Committee on Budget) provides a \$10 million General Fund loan to the SETNA in the current fiscal year to begin upgrading the microwave network as part of Next Generation 9-1-1 system activities. The Administration is proposing to transfer \$50 million General Fund into SETNA to continue implementing improvements to the state's 9-1-1 system.

OES is providing statewide coordination to ensure the implementation meets public safety needs and is integrating FirstNet with Next Generation 9-1-1. While FirstNet and Next Generation

9-1-1 are separate and distinct systems, they must be integrated to allow data to be transferred from the 9-1-1 caller to the public safety answering point and finally to the emergency responder.

**Trailer Bill Language.** Currently, the 9-1-1 system is funded by fees assessed on a percentage rate of intrastate voice calls. OES is proposing trailer bill language that reflects modern technological advancements and consumer phone usage. Specifically, the language:

- Recasts the fee from a percentage rate surcharge of not less than 0.5% and not more than 0.75% on intrastate voice communications, to a flat rate fee based on appropriation, revenue need, and the number of access lines reported to OES. The new flat rate fee shall be no more than eighty cents (\$0.80) per access line per month.
- Expands the number of access lines from intrastate voice wireline, wireless, and Voice over IP communication to all wireline, wireless, Voice over IP, and Mobile Prepaid access lines.
- Expands the definition of a “basic system” that would be funded by the surcharge to include Next Generation 911, subsequent technologies and interfaces needed to send information, including alerts and warnings to potential 911 callers.
- Implements the operative date as January 1, 2020.

**Staff Recommendation.** Hold open.

**LEGISLATIVE PROPOSALS****Issue 5: School Safety/Communications with Emergency First Responders**

The subcommittee has received a proposal requesting \$5 million General Fund for a grant program administered by OES for K-12 public schools, community colleges, and California State University campuses to purchase interoperability technology. This technology would give local first responders, who are responding to an incident such as a school shooting, immediate video and real-time audio access to possibly enhance their ability to quickly control the incident and either prevent or minimize casualties.

**Issue 6: California Nonprofit Security Grant Program**

The subcommittee has received a proposal for one-time \$15 million for the California Nonprofit Security Grant Program, administered by OES, to assist nonprofit organizations that are likely targets of hate-motivated violence. The funds are used by nonprofit groups for security improvements at their facilities such as community centers, synagogues, mosques, schools and similar locations. Since 2015, the state has provided \$4.5 million for the California Nonprofit Security Grant Program. As part of this funding, the 2018 Budget Act provided \$500,000 which funded eight applications, despite the program receiving 115 applications that totaled \$7.9 million in requested funding.

**Issue 7: Emergency Preparedness and Hazard Mitigation Funding for City of San Jose**

The subcommittee has received a proposal for one-time \$12 million General Fund to fund emergency preparedness and hazard mitigation for the City of San Jose. These funds would support: (1) the city's emergency operations center; (2) its fire training center; (3) establishing a grant program to assist in reducing risks from soft story structure collapse; (4) maintaining Coyote Creek; and (5) staff training and recruitment for planning and community resilience.

**Issue 8: Funding for Local Modernizing Technologies**

The subcommittee has received a proposal requesting ongoing \$13 million General Fund for modernizing and improving locator technologies to allow for more efficient and effective resource deployment. These funds would be used to upgrade antiquated systems for tracking mutual aid engines.

**Issue 9: North State Public Safety Training & Emergency Operations Center**

The subcommittee has received a proposal requesting one-time \$23.7 million General Fund for building infrastructure, site development, and live fire props and facility equipment for a North State Public Safety Training & Emergency Operations Center. The structure is proposed to be built on approximately 7.5 acres of City of Yuba City-owned property, and would provide a venue for emergency response and readiness training.

**Issue 10: Human Trafficking Victim Services**

The subcommittee has received a proposal requesting ongoing \$12.5 million General Fund for human trafficking services. The Governor's Budget included ongoing \$10 million General Fund for the Human Trafficking Victim Assistance Program, and this proposal would augment the Governor's Budget with an ongoing \$2.5 million for training and education purposes.

**Issue 11: Santa Barbara County Emergency Systems**

The subcommittee has received a proposal requesting \$4.05 million to support Santa Barbara County's emergency system, including: (1) the land mobile radio systems; (2) the expansion of its call center in the Emergency Operation Center; (3) supporting its "Whole Community Outreach" program; and (4) developing Community Wildlife Protection Plans.

**Issue 12: Mobile Operations Satellite Emergency Systems (MOSES)**

The subcommittee has received a request for \$8 million to the Santa Clara County Fire Department for the purchase of four Mobile Operations Satellite Emergency Systems (MOSES) to support communications services during emergencies. MOSES is a portable, interoperable, and secure technology that can be deployed to serve a variety of communications functions.

**Staff Recommendation.** Hold open all legislative proposals.

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



Thursday, May 9, 2019  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

## PART B

Consultant: Christopher A. Francis, Ph.D.

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Issue 3	Court Appointed Counsel in Juvenile Dependency Proceedings Proposal		3
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**ITEMS FOR VOTE-ONLY**

**0250 JUDICIAL BRANCH**

1. **Deferred Maintenance BCP.** The budget proposes a one-time General Fund augmentation of \$40 million to address the most vital deferred maintenance in trial courts and appellate courts. These funds will support fire alarm systems repair and replacement. A General Fund augmentation of \$40 million allows for repairs and replacement of fire alarm systems, a small subset of the current deferred maintenance in the Judicial Branch portfolio. Fire alarm systems provide the essential first alarm on a fire/life/safety event to the building occupants and first responders, so that evacuation can be completed in an appropriate amount of time. System failures create a higher cost due to the urgent nature of the work, and the lack of time to plan the effort. This issue was heard by the subcommittee on March 14, 2019.

**Staff Recommendation.** Approve the requested funding for deferred maintenance, and adopt supplemental reporting language (SRL) requiring the Department of Finance to notify the chair of the JLBC prior to allocating deferred maintenance funding to the departments. Adopt additional SRL requiring DOF to report, no later than January 1, 2023, on which deferred maintenance projects all departments undertook with 2019-20 funds. Finally, adopt Supplemental Report Language (SRL) requiring that, no later than January 1, 2023, the judicial branch identifies how their deferred maintenance backlog has changed since 2019.

2. **Various Capital Outlay.** Through three spring proposals, the budget includes funding for capital outlay projects for the Judicial Branch. These projects are as follows:

Project Title	Purpose of Request and Funding History
Riverside County- New Indio Juvenile and Family Courthouse	<p>The Judicial Council requests an additional appropriation of \$21,130,000 (\$1,366,000 million Immediate and Critical Needs Account, \$19,764,000 Public Building Construction Fund) for working drawings (\$1,366,000) and construction (\$19,764,000) for the New Indio Juvenile and Family Courthouse project located in Riverside County. This request addresses increased project costs. Total appropriated project costs are \$54,024,000 and they are now projected to be \$75,154,000 million, a 28 percent increase. This project will consolidate court operations from two facilities.</p> <p>The subcontractor bids received were substantially over the appropriated budget. Several contributors to the funding increase include the remoteness of the project site, increases in material costs due to volatilities in the commodities market and lapses in time that have necessitated an update and re-review of the working drawings phase.</p>
Various Capital Outlay Project Reappropriations	The Judicial Council requests a reappropriation to extend the liquidation period for the construction phase for the New San Diego Courthouse in San Diego County and for the New Yuba City

	<p>Courthouse in Sutter County. This reappropriation will allow the Judicial Branch to make the final payments for these projects from the Public Buildings Construction Fund Subaccount. Construction of these projects have been completed. However, the New San Diego Courthouse has design and construction issues with the electrical system that requires engineering analysis and correction actions.</p> <p>For the New Yuba City Courthouse project, the construction vendor was very late in submitting one large invoice, and since JC has entered into a settlement agreement with this vendor there is a legal obligation to pay this last invoice. The reappropriations will allow the Judicial Council sufficient time to research and resolve final expenditures for these projects.</p>
<p>Imperial County- New El Centro Courthouse</p>	<p>The Judicial Council requests an additional appropriation of \$17,152,000 million Public Building Construction Fund for the construction phase of the New El Centro Courthouse project located in Imperial County. Total appropriated project costs are \$49,944,000, and they are now projected to be \$67,096,000. This request addresses increased project costs due to bids that were received higher than anticipated. This project will consolidate court operations from two facilities.</p> <p>Several contributors to the funding increase include the remoteness of the project site that led to fewer subcontractor bids package than anticipated, increases in material costs due to volatilities in the commodities market.</p>

**Staff Recommendation:** Approve as budgeted.

- 3. Court Appointed Counsel in Juvenile Dependency Proceedings Proposal.** The budget includes \$20.0 million General Fund in 2019-20 and ongoing to support court-appointed dependency counsel workload. This augmentation increases the total funding for this workload to \$156.7 million, which represents 76 percent of the funding need determined by the Judicial Council. This issue was heard by the subcommittee on March 14, 2019.

**Staff Recommendation:** Approve as budgeted.

- 4. Cannabis Convictions: Resentencing.** The budget includes an augmentation of \$13,901,000 General Fund in 2019-20 and \$2,929,000 in 2020-21 to support costs associated with increased workload for the trial courts as a result of the enactment of AB 1793 (Bonta), Chapter 993, Statutes of 2018 which requires sentence modification of past cannabis conviction cases pursuant to current law. The Control, Regulate, and Tax Adult Use of Marijuana Act. The proposal is based on costs estimates of challenged and unchallenged petitions—each which have unique time and financial costs. For clerks this time is comprised of acceptance, processing and preparation of the resentencing petition for review by a judicial officer. Courts indicated a judge

would spend time reviewing the petition, any relevant information pertaining to the individual that may be in the courts record as well as potential communication with prosecutors. Additionally, for petitions challenged by the prosecution, the courts' time includes assessing the merits of the prosecutor's objection(s) and discussing the case with the prosecutor and public defender.

**Staff Recommendation:** Approve as budgeted.

5. ***Case Management System Replacement.*** The budget includes a General Fund augmentation in the amount of \$23.1 million in 2019-20, \$6.7 million in 2020-21, \$3.1 million in 2021-22, \$413,000 in 2022-23, and \$347,000 in 2023-24 to replace various outdated legacy case management systems used by ten trial courts (Amador, Colusa, Contra Costa, Lassen, Marin, Mariposa, Mono, Nevada, Shasta and Solano) with a new, commercial, off-the-shelf case management system. This request includes ongoing funding of \$347,000 to support 2.0 positions (Senior Business Systems Analyst) to provide support administering the multiple statewide master service agreements with case management system vendors as well as providing technical guidance and support for the various trial courts using multiple CMS vendors. Most courts across the state have begun the process of migrating to a new technology platform for their case management systems but the ten courts in this request have not been able to do so.

**Staff Recommendation:** Approve as budgeted.

6. ***Data Analytics and Futures Commission IT Directives.*** The budget includes a General Fund augmentation of \$7.8 million one-time in 2019-20, to be spent over two years, to provide funding for evaluating and implementing a pilot program for new technology solutions, including intelligent chat, video remote hearings, natural language voice-to-text translation services, and business Intelligence/data analytics using identity management, with the plan of expanding these programs for availability to all judicial branch entities. This program directly supports delivery of three of the Futures Commission recommendations, as directed by the Chief Justice, as well as Judicial Council Technology Committee workstream on data analytics and business intelligence. Funding includes \$4.23 million for software, equipment and consulting services, and \$3.57 million for maintenance and seven positions to enable Judicial Council information Technology (JCIT) to implement, support and maintain the solutions.

**Staff Recommendation:** Approve as budgeted.

7. ***Litigation Management Program.*** The Governor's budget includes an ongoing augmentation of \$5.6 million General Fund, beginning in 2019-20, to support the defense and indemnity of all judicial branch entities. The proposed amount consists of \$5.2 million to offset existing IMF support for the program and \$449,000 related to increased litigation costs. The Judicial Council manages litigation management services and provides for the defense and indemnification of all judicial branch entities, their bench officers, and employees.

**Staff Recommendation:** Approve as budgeted.

8. ***Implementation of Phoenix Roadmap.*** The Governor's budget includes \$7.7 million General Fund and four positions in 2019-20, \$4.4 million in 2020-21, and \$3.9 million in 2021-22 and ongoing to maintain/upgrade the Phoenix enterprise resource management system. This

proposal shifts \$3.2 million from Improvement and Modernization Fund to the General Fund. The Phoenix Program manages the financial and procurement system and processes for the 58 trial courts and the payroll system and processes for 13 trial courts. A significant benefit to the courts that use the Phoenix payroll system is the inherent integration of the Phoenix Financial System, which allows for payroll results to be automatically posted to financial ledgers with internal references to the payroll system and makes reconciliation analysis more efficient and accurate. Although a technical upgrade was performed in 2008-09, the current Phoenix user interface is based on 1997 technology which is not considered efficient due to the need for scrolling and extra keystrokes required in the older design, nor does it provide a satisfactory user experience by today's standards.

**Staff Recommendation:** Approve as budgeted.

9. ***FI\$Cal Staffing.*** The budget includes six positions and \$952,000 General Fund in 2019-20 and \$887,000 General Fund in 2020-21 and ongoing to support the use and administration of the Financial Information System for California (FI\$Cal). These resources are essential for the Judicial Council to effectively manage the use of the FI\$Cal system, ensuring accuracy, integrity, and transparency of financial information. Previously, the Judicial Council used the Oracle financial system (Oracle) to perform accounting, budgeting, and procurement functions. Upon hearing the JCC Oracle system was in need of significant upgrades, the Executive Branch encouraged the Judicial Council to transition to FI\$Cal beginning in 2018-19. The JCC implemented the FI\$Cal on July 1, 2018. Since the implementation of the FI\$Cal system, the JCC has discovered that many tasks require more time to perform than in the Oracle system. The JCC's Procurement Unit requires dedicated staff who are familiar with the judicial branch and its procurement business practices and have highly functional technical expertise with FI\$Cal to determine how JCC procurements function in a system that was designed to fit executive branch procurement functions and often different legal requirements for procurements.

**Staff Recommendation:** Approve as budgeted.

10. ***Digitizing Court Records.*** The budget includes one-time General Fund augmentation of \$5.6 million in 2019-20 and an ongoing augmentation of \$176,000 for a Senior Business Systems Analyst to conduct phase one of a multi-phase program (of between six and eight courts) for digitizing mandatory court records, including paper and/or filmed case files for the Superior and Appellate Courts. The goal for phase one is to digitize the equivalent of 28,000 linear feet of paper case files. After this phase, the data, including digitization costs, timelines and business re-engineering effort, will be analyzed to refine the cost estimates, processes and techniques so that funding needed for remaining courts can be requested in the future, as appropriate for the remaining non-digitized courts.

**Staff Recommendation:** Approve as budgeted.

11. ***Trial Court Security Systems and Equipment.*** The budget proposes an ongoing augmentation of \$6.0 million General Fund beginning in 2019-20, to refresh, maintain and replace security equipment and systems totaling 580 statewide in court facilities. \$4.8 million of the requested augmentation will be used each year to replace approximately 30 systems (surveillance, access, duress, and detention control). The average cost for a system replacement is \$159,000.

Maintenance costs are based on actual expenditures, (an average of \$2,000 per service call x 600 calls per year) and pricing identified in current master agreements with equipment and service vendors.

**Staff Recommendation:** Approve as budgeted.

**12. Trial Court Facility Maintenance and Operations.** The budget includes \$20.1 million General Fund ongoing for maintenance and operation of trial court facilities constructed since 2007. This gap resulted from a growth in portfolio square footage from court facility construction authorized by SB 1732 (Escutia) the Trial Court Facilities Act of 2002 and SB 1407 (Perata), Chapter 311, Statutes of 2008. The State Court Facilities Trust Fund was created to provide a source of funding for the ongoing operations, repair, and maintenance of court facilities by requiring each county to pay to the state the amount that county historically expended for operation and maintenance (O&M) of court facilities. SB 1407 created a revenue stream from court fees, penalties, and assessments to finance courthouse construction and renovations, ensuring that these projects would be paid for from within the judicial branch rather than drawing on the state's General Fund. Since passage of SB 1407, the Judicial Council of California has constructed 26 new trial court facilities, totaling over 3.6 million square feet of space. Ten more courthouses are underway that will add an additional 1.6 million square feet of space. There is currently no mechanism by which operations and maintenance is funded for these new facilities. The funding would assist the Judicial Branch in their preventative maintenance funding as well as address utilities costs associated with the increase in responsible square footage.

**Staff Recommendation:** Approve as budgeted.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**

**13. Various Spring Capital Outlay, Part I.** In addition to 16 capital outlay proposals introduced in January and heard in the March 7<sup>th</sup>, 2019 subcommittee hearing, the budget proposes five spring capital outlay proposals. Three of these proposals are documented below:

Project Title	Purpose of Request and Funding History
Pelican Bay State Prison, Crescent City: Classroom Space	<p>This proposal requests funding to modify an existing 2,500 square foot storage room in Facility D at Pelican Bay State Prison into three separate classrooms to support education and Cognitive Behavioral Treatment (CBT) programming. Education courses will include Career Technical Education, Adult Basic Education, and college courses.</p> <p>Funding for this project was received in the 2018 Budget Act. Design documents have been completed and submitted to the State Fire Marshal for approval. However, the CDCR cannot ensure that State Fire Marshal approval of working drawings will be obtained by June 30, 2019. Therefore, the Department is requesting a reappropriation of working drawings and construction in the 2019 Budget Act to ensure funding for this project remains available. The preliminary plans began in July 2018 and were completed in February 2019. The</p>

	<p>working drawings phase begin in February 2019 and is expected to be completed in July 2019.</p>
<p>Pelican Bay State Prison, Crescent City: Fire Status: Suppression Upgrade</p>	<p>This proposal requests funding to correct fire suppression system deficiencies at the Pelican Bay State Prison identified during an inspection by the State Fire Marshal. The scope of work includes the installation of an automatic fire suppression system (sprinklers) in the general population housing units.</p> <p>Funding for the working drawings phase of this project was received in the 2018 Budget Act. Due to delays encountered with preliminary plans, working drawings will not begin by June 30, 2019. Therefore, the CDCR is requesting a reappropriation of working drawings in the 2019 Budget Act to ensure funding for this project remains available. The preliminary plans began in July 2017 and will be completed in July 2019.</p>
<p>Pelican Bay State Prison, Crescent City: Facility D Yard</p>	<p>This proposal requests funding to construct a recreation yard for Facility D at Pelican Bay State Prison (PBSP). PBSP Facility D Security Housing Unit has been repurposed to a level II housing unit. This yard will provide the necessary space for participation in recreational and physical education programs.</p> <p>Funding for preliminary plans and working drawings was received in the 2017 Budget Act and reappropriated in the 2018 Budget Act. Due to delays encountered in the preliminary plans phase, working drawings will not begin by June 30, 2019. Therefore, the Department is requesting a reappropriation of working drawings in the 2019 Budget Act to ensure funding for this project remains available.</p>

**Staff Recommendation.** Approve these three capital outlay proposals as budgeted.

**ITEMS TO BE HEARD**

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**

**Issue 14: Various Spring Capital Outlay, Part II (Spring BCPs)**

**Governor’s Budget.** In addition to 16 capital outlay proposals introduced in January and heard in the March 7<sup>th</sup>, 2019 subcommittee hearing, the budget proposes five spring capital outlay proposals. Two of these proposals are documented below (the remaining three were listed in Issue 13):

<b>Project Title</b>	<b>Purpose of Request and Funding History</b>
<p>San Quentin State Prison, San Quentin: New Boiler Facility</p>	<p>This proposal requests funding for the construction phase of a new central high-pressure steam boiler facility at San Quentin State Prison (SQ). Boiler replacement is required for compliance with Bay Area Air Quality Management District regulations for gas-fired boiler emissions standards. The design phase of the project was previously funded.</p> <p>The proposal seeks funding to demolish the existing boiler building and build a new central boiler facility because the current central boiler is noncompliant with emissions standards and CDCR faces potential fines and civil penalties of up to \$12 million. The working drawings phase begin in April 2016 and will be completed in January 2020.</p>
<p>Health Care Facility Improvement Program - Increase Lease Revenue Appropriation</p>	<p>This proposal requests trailer bill language to increase the lease revenue appropriation authorized by Government Code Section 15819.403 by \$49,850,000 to complete construction of the remaining Health Care Facility Improvement Program (HCFIP) projects.</p> <p>The proposed language would increase that maximum amount of costs authorized for those purposes to \$1,139,429,000. The bill would make the additional \$49,850,000 available for allocation to any project established by the board in the Health Care Facility Improvement Program, but would be subject to existing restrictions on the allocations of the additional amount by requiring that each allocation be approved by the board and that not less than 20 days prior to the board's approval, the Department of Finance report specified information regarding the project to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the respective fiscal committee of each house of the Legislature. By increasing the amount of funds that are continuously appropriated to the board on behalf of the department for these purposes, the bill would make an appropriation.</p> <p>Individual HCFIP projects at 25 prisons have been established by the State Public Works Board (SPWB) utilizing the lease revenue bond financing authority in Government Code Sections 15819.40-15819.404. These projects are required to improve the infrastructure</p>

	for outpatient health care services to inmate-patients. Multiple reasons such as poor architectural and engineering design performance, lack of compliance with fire/life/safety requirements and extended construction duration has led to the CDCR estimating that that their needed funding will exceed beyond the current 20 percent augmentation authority.
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**Staff Recommendation.** Hold open.

**VARIOUS DEPARTMENTS****Issues 15-36: Legislative Requests**

The Subcommittee is in receipt of various proposals for investments in local and statewide public safety, corrections, and the judiciary.

- 15. *Keep Youth Closer to Home Act.*** This proposal includes trailer bill language that would do the following:
- Increase the cost of county confinement to DJJ from \$24,000 to \$125,000 for most youth
  - Maintain a fee of \$24,000 per youth for cases most at risk of transfer to adult court
- 16. *Extension of county age of jurisdiction.*** Accompanying item 15 is a proposal to extend the county age of jurisdiction from 21 to 25 years old, reflecting the DJJ's extension.
- 17. *Supportive Housing for Persons on Parole.*** The proposal would, upon appropriation by the Legislature, redirect funding, \$13 million, from the current Integrated Services for Mentally Ill Parolees program to a Supportive Housing for Parolees program. The program would be administered by the Department of Housing and Community Development and would incorporate similar eligibility criteria for eligible participants and similar criteria for housing funded by the program as the ISMIP program.
- 18. *Ongoing allocation for In-prison Rehabilitative Programs by Community Based Organizations.*** This proposal would augment the current funding for rehabilitative programs offered by community based organizations by \$15 million General Fund ongoing beginning in 2019-20 to continue, expand or replicate rehabilitative programs that have previously demonstrated success with inmates in CDCR facilities, made available annually through the Request for Innovative Ideas (RFI2) process. Accompanying trailer bill language is proposed to shape the disbursement of funds, performance measures and method of selecting organizations.
- 19. *County Law Libraries.*** This proposal would include a \$16.5 million General Fund line item for County Law Libraries as of the 2019-20 budget and ongoing.
- 20. *CalVIP Separate Funding Requests.*** There are two requests for funding of the California Violence Intervention and Prevention (CalVIP) program:
- a) \$39 million per year for three years
  - b) A \$3 million ongoing General Fund augmentation above FY 2018-19 levels of funding to bring the total funding to \$12 million per year and language to set aside 15 percent of total grant funding for rural cities having a population of 40,000 or less.
- 21. *Testing of Sexual Assault Evidence Kits.*** This proposal requests \$854,000 General Fund ongoing allocation to support the DNA ID Fund for testing costs at the Department of Justice and a one-time \$2 million General Fund allocation for local law enforcement grants to ensure the prompt testing of newly collected sexual assault evidence kits.
- 22. *Reentry preparation and services for the transgender, gender non-conforming, and intersex people.*** This request is for a one-time allocation of \$3,000,000 General Fund to help transgender,

gender non-conforming, and intersex (TGI) people prepare and reintegrate themselves into society. Funds are proposed to be distributed across the state to Transgender led organizations and should guide this work to support other TGI individuals both inside and outside of corrections.

23. ***CDCR Programming Access and Credits.*** This proposal would provide the same credit earning and incentives for rehabilitative programming for people who participate in in-prison programming as those who participate in the CDCR's fire camps.
24. ***Health Transitions Hub Pilot.*** This proposal is for a one-time augmentation of \$5 million General Fund over five years to establish a Health Transitions Hub Demonstration Project for the CDCR. This would establish a five year demonstration project to determine the effectiveness of a care coordinator model that would provide pre-release planning and coordination to facilitate the transition of medical fragile inmates to the community.
25. ***Restorative Justice Pilot.*** This proposal requests a \$30 million one-time allocation from the General Fund for a Restorative Justice Pilot Program, which would be a five-year pilot program in three counties to create a pretrial diversion program for people accused of serious and violent crimes. Of that amount \$5 million per year would be for the selected counties to implement the program and \$1 million would be for the BSCC to administer the grant process and contract for independent evaluation.
26. ***Judgeships.*** This proposal supports the ongoing appropriation of \$36.5 million to support 25 new and already authorized judges and staff.
27. ***Trial Court Funding.*** This proposal would make ongoing augmentations of \$75 million General Fund in discretionary funds for all trial courts plus \$45 million General Fund for the most underfunded courts—for a total of \$120 million ongoing.
28. ***Fund renovations of the Challenger Memorial Youth Facility.*** This proposal requests a one-time appropriation of \$10 million General Fund to assist Los Angeles County with the refurbishment of the Challenger Memorial Youth Center into a voluntary, residential educational and career training facility for at-risk young men and women.
29. ***County Reimbursement of Golden State Killer Trial Costs.*** This proposal requests \$20 million General Fund to support counties impacted by the trial of the Golden State Killer. The funding would reimburse the prosecution and defense of the case.
30. ***Claremont Police Station.*** The proposal requests \$2 million General Fund one-time for occupant safety improvements and seismic retrofitting for the Claremont Police Station.
31. ***Body Worn Cameras and Technology.*** The request is for a one-time allocation of \$1.2 million General Fund to the Cities of Baldwin Park, Azusa, West Covina, and South El Monte for body-worn camera, and policy technology upgrades such as GPS tracking systems that include separate forms of advance communication, body armor, and less-lethal projectiles.

- 32. Downey Police Department.** This proposal includes \$25,000 General Fund one-time to acquire gear for the Downey police's tactical team and \$85,000 General Fund one-time for recruitment vehicles that can be taken to community events and other recruitment events.
- 33. Butte County Jail Project.** This proposal requests a one-time General Fund allocation of \$7,713,928 to the BSCC for the Butte County Jail Project. In 2015, Butte County received state funding of \$40 million with a local match of \$4.4 million.
- 34. Southern California Public Safety Task Force.** This proposal would be for \$112 million General Fund over four years to expand the existing North Orange County Public Safety Task Force into most of Southern California.
- 35. Grants for School Resource Officers.** This proposal requests a \$5 million appropriation for the Department of Justice to administer a competitive grant program for cities, counties, or local law enforcement agencies to provide school resource officers.
- 36. Bureau of Environmental Justice.** This proposal requests an ongoing General Fund appropriation of \$3.5 million for the California Attorney General's Bureau of Environmental Justice.

**Staff Recommendation.** Hold all requests open.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



**Tuesday, May 14, 2019**  
**10 a.m.**  
**State Capitol - Room 113**

Consultant: Christopher Francis, Ph.D.

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#### Public Comment

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**ITEMS FOR VOTE-ONLY****5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**

- 1. *Tattoo Removal Program.*** The May Revision includes a reduction of \$1,400,000 General Fund in 2019-20 and \$369,000 General Fund in 2020-21, 2021-22 and 2022-23 to revise the level of funding for the inmate tattoo removal program included in the Governor's January Budget. This results in total funding of \$1.1 million and 1.0 position in 2019-20, and \$2.1 million and 1.0 position in 2020-21, 2021-22 and 2022-23, General Fund for the tattoo removal program.

Given the potential post-release employment benefits, along with the significant interest and participation of the existing program, CDCR surveyed participants in the gang debriefing process (a formal, multi-step gang disassociation process) to assess whether there was interest in a tattoo removal program. The survey found that 91 percent of Debrief Processing Unit people (who are in the process of debriefing) and 39 percent of Transitional Housing Unit people (who have completed the gang debriefing process) were interested in participating in a tattoo removal program. The current tattoo removal contract is funded by CalPIA, and cannot be expanded without additional resources. Based on current contract rates and the estimated number of eligible participants, CDCR developed a plan to expand services statewide. CDCR is proposing to offer tattoo removal services to people who are nearing release to the community, as well as people who have completed the debriefing process. According to the Strategic People Management System (SOMS), roughly 15 percent of people currently have highly visible tattoos. Based on the number of people with highly visible tattoos who are nearing release or who have participated in the debriefing process, CDCR estimates that 3,032 people could receive treatment each fiscal year.

Expanding the program also requires additional administrative staff and funding for custody overtime. CDCR is requesting one Staff Services Manager I (Specialist) (SSMI) to provide contract oversight, develop and oversee the expansion of the program, and to track and report data. CDCR will also need Correctional Officer (CO) overtime hours to escort inmates and provide supervision during tattoo removal services. Captains at each institution will serve as the local Tattoo Removal Program Coordinators. The Coordinators will ensure offenders interested in the program meet the criteria and are scheduled treatment appointments with the approved contractor. Correctional Officers at each institution will escort offenders to the appointment. The contractor will be required to take "before" photos, and institutional staff will take "after" photos for updated inmate identification cards. In addition, a survey or quality control form will be required to document each offender undergoing the tattoo removal treatments to ensure tattoo removal services are successful, safe, and compliant.

**Staff Recommendation.** Approve as budgeted.

- 2. *Support for Victims Services.*** The May Revision includes \$2 million Inmate Welfare Fund in 2019-20 and ongoing to support the Office of Victims and Survivor Rights and Services' Victim People Dialogue program and to establish or expand Innovate Programming Grants targeting victim impact programs. The fund would provide grants to non-profit organizations focused on helping inmates understand the impact of crime on victims.

**LAO Assessment and Recommendation.** According to the LAO, the CDCR would use a small portion of the funds in 2019-20 for start-up activities, including conducting outreach to victims and inmates and developing a tracking system to monitor one of the programs. It appears that these start-up activities may not be an allowable use of the IWF. This is because current law requires all IWF funds used for programs focused on offender responsibility to be passed through to non-profit organizations and not to be used by department staff or for administration of the program. The administration informed the LAO that it agrees with this concern and will attempt to fund these start-up activities within existing resources. As such, the LAO recommend the Legislature reduce the 2019-20 funding amount accordingly.

**Staff Recommendation.** Approve \$2 million Inmate Welfare Fund ongoing to directly support victim impact programs as authorized by Penal Code 5006. Direct CDCR to absorb the \$75,000 for the database upgrade and evaluation component within existing General Fund resources.

3. ***Sign Language Interpreter Services.*** The May Revision includes a General Fund increase of \$1,504,000 and 12 positions to provide Sign Language Interpreter positions to provide services to inmates for whom sign language is their primary method of communication. According to the Strategic Offender Management System, there are currently 79 inmates who require SLI services, and 11.0 authorized Support Service Assistant (SSA I) positions. One SSA I is assigned to each institution where SLI inmates are housed, with two additional assigned to the Substance Abuse Treatment Facility (SATF) based on the inmate population need and agreements with plaintiffs.

CDCR has increased hearing impaired inmate participation in programs, services, and activities by 13,468 hours since last year alone (6,236 hours for 2017 versus 19,704 hours in 2018). This is over a 1,000 hour increase in programming per month, and does not include hours for SLI services required during Rules Violation Report hearings, interviews, medical appointments, inmate requests to attend religious services, monthly training for job assignments, etc.

Each position provides approximately six hours of sign language interpreter services per day. SSAIs are scheduled fewer than eight hours due to the intense nature of signing communication and must be allowed intermittent breaks (usually after 20 minutes of signing). The remaining time is used to travel to different facilities to conduct assignments, attend meetings and trainings, etc.

Programming at these institutions is 7 days per week, and begins at 7:00 am and goes until 6:00 pm. CDCR is requesting to establish posted positions to cover these programming hours by adding twelve (12.0) SSAIs to the nine institutions currently providing SLI services. Positions will be allocated based on mission as well as general numbers of SLI inmates that will require services. According to CDCR, this solution enables a more stable programming schedule for the disabled inmates for both second and third watch, and on weekends.

**Staff Recommendation.** Approve as budgeted.

4. ***Workforce Innovation and Opportunity Act, Data Sharing.*** The May Revision includes trailer bill language to allow the California Department of Corrections and Rehabilitation and California Prison Industry Authority to access relevant quarterly wage data necessary for the evaluation and reporting of their respective program performance outcomes as required and permitted by various state and federal laws pertaining to performance measurement and program evaluation under the federal Workforce Innovation and Opportunity Act.

**Staff Recommendation.** Approve as proposed.

5. ***Council on Criminal Justice and Behavioral Health Reappropriation.*** The May Revision includes a one-time reappropriation of \$415,000 Mental Health Services Act funds (Proposition 63) for 2019-20 for CCJBH. The 2018 Budget Act provided CCJBH with an ongoing allocation of \$795,000 in MHSA funds ongoing to support one position at \$125,000 and \$670,000 for stakeholder consumer contracts for individuals with mental illness who are involved in the criminal justice system. With a one-time \$415,000 reappropriation in FY 2019-20 CCJBH can award roughly \$1,100,000 in contracts (\$670,000 approved last year plus the \$415,000 requested this year) for individuals and organizations that represent (or advocate for) the programs and priorities of individuals (or families and children and youth) who are formerly incarcerated and living with mental health challenges.

**Staff Recommendation.** Approve the proposal.

6. ***Medical Adjustment for Reentry Facilities.*** It is requested that Item 5225-001-0001 be decreased by \$1,550,000 and Item 5225-008-0001 be decreased by \$5,053,000 to reflect revised medical and dental costs for people in reentry facilities.

**Staff Recommendation.** Approve as budgeted.

7. ***Receiver- Medical Classification Model Update.*** The May Revision includes \$27,919,000 General Fund and 102.4 positions in 2019-20 and ongoing to reflect the Receiver's update to the Medical Classification Model changes that will increase staffing levels for health care operations throughout California's prison system.

**Staff Recommendation.** Approve as budgeted.

8. ***Receiver- Contract Medical Augmentation.*** The budget includes an augmentation of \$61.9 million for the CA Correctional Health Care Services contract medical services.

**Staff Recommendation.** Approve as budgeted.

## **0390 CONTRIBUTIONS TO THE JUDGES' RETIREMENT SYSTEM**

9. ***Mallano Lawsuit Judgment.*** The May Revision includes a \$40 million General Fund augmentation to reflect funding for the class action lawsuit related to the *Judges' Retirement System (JRS), Ma/Jana v. John Chiang* (Superior Court of California, County of Los Angeles, Case No. BC-533770), to satisfy the court-ordered post-judgment award of back salaries, associated benefits, and interest related to retired judges. Additionally, it is requested that provisional language be added to Item 0390-001-0001 to specify that any funds appropriated to this item for the Ma/Jana post-judgment settlement in excess of the amount actually required for the payment of those claims shall revert to the General Fund within 45 days after final payment has been made.

In the case of Robert M. Mallano, et al. v. John Chiang, Controller of the State of California (SCO), the Judges' Retirement System (JRS), and the Judges' Retirement System II (JRS II), the judge issued a Statement of Decision which orders judicial salary increases to be given to the judges for the fiscal years 2008-09, 2009-10, 2010-11 and 2013-14 plus 10 percent interest per annum for each year that the judicial salaries were not increased within those fiscal years.

**Staff Recommendation.** Approve as budgeted.

**10. Judges' Retirement System Contributions.** The May Revision includes a \$6,226,000 General Fund augmentation to reflect an increase in state retirement contributions to JRS. Government Code section 75101 requires the state provide General Fund payments to the system in an amount equal to 8 percent of aggregate annual salaries of judges covered by the system. These changes increase General Fund costs to \$219,344,000, from the \$213,118,000 General Fund included in the Governor's Budget. This increase in the state retirement contribution to JRS is due to changes in the number of retired members, and an increase in member salaries.

**Staff Recommendation.** Approve as budgeted.

## 0250 JUDICIAL BRANCH

**11. Trial Court Reserves.** The May Revision includes trailer bill language be added to increase the cap on trial court reserves from one percent to three percent. Since 2014, trial courts have been restricted to only carrying over one percent or less in reserves from the prior year operating budget. In 2018-19, this equals approximately \$27 million statewide. Increasing the cap enables courts to retain funding to cover immediate costs for budgeted expenses such as payroll and other ongoing operating expenses in the event of an unanticipated one-time disruption in funding, gives courts the flexibility to address local needs that are unique to certain jurisdictions, and allows courts to adjust to mid-year cost changes.

**Staff Recommendation.** Approve as budgeted.

**12. Trial Court Employee Benefits Adjustment.** The May Revision requests that Items 0250-101-0932 and 0250-111-0001 each be decreased by \$3,404,000 to reflect the updated health benefit and retirement rate changes for trial court employees.

**Staff Recommendation.** Approve the adjustment as budgeted.

**13. Trial Court Trust Fund Revenue Shortfall Adjustment.** The May Revision requests that Item 0250-113-0001 be decreased by \$10,991,000 to reflect a reduction to the amount to backfill revenue shortfalls based on the most current estimates of Trial Court Trust Fund fee revenues for fiscal year 2019-20.

**Staff Recommendation.** Approve the adjustment as budgeted.

**14. Legal Aid for Renters in Landlord-Tenant Disputes.** The May Revision is requesting an additional \$20 million one-time General Fund for the Equal Access Fund. The budget already includes \$20.4 million General Fund and \$5.5 million Trial Court Trust Fund ongoing for the Equal Access Fund to provide grants to over 100 nonprofit service organizations to provide legal assistance to low-income Californians, particularly the indigent, homeless, disabled, elderly, and

victims of domestic violence. These services include, but are not limited to: legal technical assistance, training, advice and consultation, and representation.

**Staff Recommendation.** Approve language as proposed.

**15. *Dependency Counsel Title IV-E Funding.*** The May Revision includes \$1.5 million ongoing General Fund for the Judicial Council to administer federal reimbursements for court-appointed dependency counsel costs. The May Revision includes federal reimbursements, which are estimated to be \$34 million, to supplement the amount of funding provided in the Governor's January Budget.

The Governor's January Budget included \$20 million ongoing General Fund (approved by subcommittee 5 on 5/9/2019) Therefore, the total dependency counsel funding due to these augmentations will therefore be brought up to \$190.7 million annually beginning in 2019-20.

**Staff Recommendation.** Approve as budgeted.

**16. *Courts of Appeal Workload.*** The May Revision includes \$5 million General Fund in 2019-20 and ongoing for the Courts of Appeal to address general operation cost increases, workload growth due to more complex litigation, new case duties related to recent law changes seeking retroactive decisions, and voter approved initiatives requiring Courts of Appeal review.

**Staff Recommendation.** Approve as budgeted

**17. *Language Access Expansion in each California Court.*** The May Revision includes \$9.6 million General Fund in 2019-20 and \$9.3 million General Fund in 2020-21 and ongoing for the expansion of interpreter services into all civil proceedings, the ability to cover the increased costs in criminal proceedings, and court interpreter salary & benefit increases.

**Staff Recommendation.** Approve as budgeted.

## **8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)**

**18. *State Penalty Fund Trailer Bill Language.*** The May Revision includes trailer bill language to amend Government and Penal Code to abolish the Peace Officers' Training Fund, which is no longer used by POST and designate the State Penalty Fund as its successor fund.

**Staff Recommendation.** Approve as proposed.

## **0820 DEPARTMENT OF JUSTICE (DOJ)**

**19. *Peace Officers, Video and Audio Recordings, Disclosure (AB 748).*** The budget includes \$447,000 General Fund and three positions in 2019-20 and \$412,000 General Fund in 2020-21 and ongoing to the DOJ to implement AB 748 (Ting), Chapter 960, Statutes of 2018. The bill establishes a standard for the release of body-worn camera footage by balancing privacy interests with the public's interest in the footage. Specifically, it allows a video/audio recording that relates to critical incidents involving peace officers to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation. The requested resources would be housed within the department's Division of Law Enforcement to review, redact where

appropriate, and determine if video and audio recordings of critical incidents that are requested can be disclosed to the public.

**Staff Recommendation.** Approve \$135,000 and one position in 2019-20 and ongoing and adopt placeholder trailer bill language.

**20. Dispositions Workload Increase.** The budget includes \$203,000 General Fund and two positions in 2019-20, and \$188,000 General Fund in 2020-21 and ongoing to the DOJ's California Justice Information Services Division to process the increase in dispositions and corresponding criminal history record updates resulting from the passage of AB 865, AB 2599, AB 2942, and SB 1437.

**Staff Recommendation.** Reject this proposal.

**21. New and Expanded Crimes.** The budget includes \$145,000 General Fund and one position in 2019-20, \$136,000 General Fund in 2020-21 and ongoing to process the additional workload of 25 bills signed into law.

**Staff Recommendation.** Reject this proposal.

**22. CA Internet Consumer Protection and Net Neutrality Act of 2018.** The budget requests a permanent augmentation of three Deputy Attorneys General (DAG), two Associate Governmental Program Analyst (AGPA), two Staff Services Analyst (SSA), the legal complement of two Legal Secretaries, and an increase in spending authority of \$1,846,000 Unfair Competition Law Fund for 2019-20, and \$1,775,000 in 2020-21 and ongoing, to support the implementation of, and thereafter, to address the mandates associated with SB 822 (Wiener), Chapter 976, Statutes of 2018.

**Staff Recommendation.** Adopt LAO Recommendation and modify this proposal by adopting budget bill language specifying that funding can only be used if all court prohibitions preventing implementation or enforcement have expired or been removed.

**23. Crime Prevention/Investigation: Informational Databases (AB 2222).** The budget includes \$135,000 General Fund and one position in 2019-20 and \$126,000 General Fund in 2020-21 and ongoing to the DOJ to implement AB 2222 (Quirk), Chapter 864, Statutes of 2018. AB 2222 expands which law enforcement agencies are required to report information about firearms that are reported lost, stolen, or recovered. The position would be a permanent Field Representative position including wages, benefits, equipment, and operating expenses, to provide audit support to the department's Automated Firearms System (AFS).

Generally, sheriff and police departments are required to submit to DOJ, directly into the appropriate automated property system, descriptions of serialized property, or non-serialized property that is uniquely inscribed, that has been reported lost, stolen, found, recovered, held for safekeeping, or under observation. Specific to firearms, this information is submitted into AFS. Also with respect to firearms only, the information entered into AFS must remain in the system until the gun has been found, recovered, is no longer under observation, or it is determined that the record was entered erroneously. Additionally, police and sheriffs' departments are required to, and other law enforcement agencies may, report to DOJ any information in their possession necessary to identify and trace the history of a recovered firearm that is illegally possessed, has been used in a crime, or is suspected of having been used in a crime.

**Staff Recommendation.** Modify this proposal. Approve one new permanent Field Representative position at \$125,000 General Fund ongoing per Senate Appropriations analysis. .

**24. Criminal Law: DNA Collection of minors (AB 1584).** The budget includes \$149,000 General Fund in 2019-20, \$136,000 General Fund in 2020-21 and ongoing and one position to the DOJ to implement AB 1584 (Gonzalez-Fletcher), Chapter 745, Statutes of 2018 which prohibits law enforcement from collecting a buccal DNA swab or any biological sample from a minor without first obtaining written consent of the minor and approval of the minor's consent from a parent, legal guardian, or attorney.

The DOJ states that one position is needed to develop a training curriculum for the proper sample collection from juvenile offenders and to make the training curriculum available to agencies statewide. In addition to this training component, they raise the issues that there will be an influx of calls inquiring on samples that were previously collected from juveniles. The third component of the legislation calls for an expungement process for voluntarily submitted samples. Samples received by the DOJ's Data Bank Program require a thorough vetting process prior to expungement and the new position will assist with the increase in workload that AB 1584 will produce. The estimated costs for AB 1584 cannot be funded from the DNA Identification Fund as current DNA ID revenues are insufficient to cover these costs.

**Staff Recommendation.** Reject this proposal. The bill was keyed non-fiscal.

**25. Sexual Assault Investigations Evidence Kits (AB 3118).** The budget includes a one-time allocation of \$194,000 General Fund in 2019-20 to the DOJ to implement AB 3118 (Chiu), Chapter 950, Statutes of 2018, which requires all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all untested sexual assault kits in their possession and report their data to the DOJ. This item was heard on May 2, 2019.

**Staff Recommendation.** Reject this proposal.

**26. Payment of Settlements and Judgments.** The May Revision includes a \$2,069,000 General Fund increase to pay for five settlements related to the Reproductive Freedom, Accountability, Comprehensive Care and Transparency Act along with provisional language stating the following:

Of the funds appropriated in Schedule (4), \$2,069,000 shall be available for settlements and judgements related to the Reproductive Freedom, Accountability, Comprehensive Care, and Transparency Act. Any unexpended funds shall revert to the General Fund.

**Staff Recommendation.** Approved as proposed.

## ITEMS TO BE HEARD

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

#### Issue 27: General Population Adjustments and Notable Population-Based Proposals

**May Revision Proposed Adjustments.** The May Revision makes the following population adjustments based upon updated caseload projections and additional alternative custody program placements:

***Adult Population Adjustment*** – The May Revision projects the average daily population of adult inmates at 127,993 in the current year, and 126,705 in the budget year. This is a decrease of 341 in 2018-19, and a decrease of 266 in 2019-20, as compared to the January estimates. In addition, the May Revision projects the average daily population of parolees to be 48,535 in the current year, and 50,442 in 2019-20, a decrease of 166 in the current year and an increase of 497 compared to the Governor's Budget projection.

The population adjustments, as shown in the proposal, are reflected by a net increase of \$2,057,000 and a net decrease of 135.6 positions, which is comprised of an increase of \$2,097,000 General Fund and a reduction of \$40,000 Inmate Welfare Fund.

***Custody to Community Transitional Reentry Program.*** The May Revision includes \$8.4 million General Fund and 13.0 positions in 2019-20 to establish two 60-bed Custody to Community Transitional Reentry (CCTRP), one in Los Angeles and one in Beaumont for women who are incarcerated.

***Juvenile Population Adjustment*** – The May Revision requests that Item 5225-001-0001 be increased by \$7,501,000 and 53.6 positions, reimbursements be increased by \$26,000, and Item 5225-011-0001 be decreased by \$573,000 and four positions. The May Revision reflects an estimated average daily population of 782 wards in 2019-20, which is 23 more wards than projected in the Governor's Budget.

**Background on CCTRPs.** The Custody to Community Transitional Reentry Program (CCTRP) allows eligible people with serious and violent crimes committed to prison to serve their sentence in the community at a CCTRP as designated by the CDCR, in lieu of confinement in prison and at the discretion of the Secretary. The CCTRP intends to provide a range of rehabilitative services that assist with alcohol and drug recovery, employment, education, housing, family reunification, and social support.

Under CCTRP, one day of participation counts as one day of incarceration in State prison, and participants in the program are also eligible to receive any sentence reductions that they would have received had they served their sentence in State prison. Participants may be returned to an institution to serve the remainder of their term at any time with or without cause.

Female participants who volunteer for CCTRP will be placed into the program with a minimum of 45 days and a maximum of 30 months to participate prior to their release date. All of the participants receiving services through the CCTRP will be required to reside at the CCTRP program. CDCR will have the final decision regarding program placements and retains the right to remove participants from the program at any time.

CDCR currently has CCTRPs at the following locations:

- San Diego – 112 bed facility
- Santa Fe Springs – 112 bed facility
- Bakersfield – 75 bed facility
- Stockton – 50 bed facility
- Sacramento – 50 bed facility

According to the CDCR's Office of Research, the one-year conviction rate for participants of the program released in 2013-14 released to Parole or Post Release Community Supervision between September 2014 and October 2017 was 4.4 percent and those returning to CDCR at 1.3 percent.

***Locations, staffing, and summary of funding.*** The CDCR states that there are 1,821 women who are incarcerated and from L.A. County, of which 1,086 will be eligible for release in two years. The proposed CCTRP L.A. site would be in northern Los Angeles County and close to the San Fernando Valley with staffing levels of Correctional Counselor III (one), Parole Agent II (two), and Correctional Counselor II specialist (two).

The CDCR states that there are 785 women who are incarcerated and from Riverside County, of which 391 will be eligible for release in two years. The proposed CCTRP Beaumont site would be in Beaumont within Riverside County with staffing levels of Correctional Counselor III (one), Parole Agent II (two), and Correctional Counselor II specialist (two).

Encompassing the total requests are facility staffing, contract acquisition costs, administrative support and vehicle leases. CCTRP participants have an Electronic Monitoring Device and the parole agent is responsible for installation and monitoring of the device as well as monitoring/responding to program violations, investigate and resolving alerts when a device malfunctions and/or is tampered with. The additional staffing would be analyst and staff services manager positions to provide contracting and auditing functions for the Women and Children's Services Unit, the unit responsible for supporting CCTRP.

***LAO Assessment and Recommendation. Several Policy Changes Currently Being Implemented Are Expected to Impact Correctional Population.*** In 2019-20, several recent policy changes are anticipated to accelerate the release of certain inmates from prison. For example, the 2018-19 Budget Act provided resources for CDCR to refer inmates to courts for possible sentence reduction due to sentencing errors or because of their exceptional behavior while incarcerated. In addition, the LAO discovered that CDCR is in the process of using its authority under Proposition 57 to further increase credits inmates earn for participating in rehabilitative and educational activities starting in May 2019. The department is not currently required to notify the Legislature when it makes changes to its credit earning policies. For example, CDCR plans to increase the number of days inmates earn off of their prison sentences for earning a high school diploma from 90 days to 180 days. As a result of these policy changes, the inmate population is expected to decline and the parolee population is expected to temporarily increase. Both of these estimated impacts are not reflected in CDCR's current population projections. Given that the current population projections form the basis of the administration's population-related budget requests, it is possible that the requested level of resources may be more than the department will need.

***Lack of Legislative Notification of Credit Changes Makes It Difficult to Account for Potential Population Impacts.*** Given the authority provided to CDCR under Proposition 57 to reduce inmates'

terms by awarding them credits for good behavior or participation in rehabilitative programs, CDCR will likely continue to make changes to credit policies that could significantly impact the inmate and parolee populations and the level of resources necessary to support them. The LAO also notes that changes to credits can have implications for sentencing, offender rehabilitation, public safety and other areas of interest to the Legislature. However, CDCR makes credit changes through the regulatory process, which means it is difficult for the Legislature to become aware of the changes in a timely manner. For example, as mentioned above, the Legislature was not directly notified of the department's recent credit changes, despite the fact that these changes could affect the department's resource needs.

In January, the LAO recommended that the administration revise its population projections to account for recent policy changes. While CDCR did update its population projections to account for the policy changes, the adult inmate population budget request is based on population projections that are not adjusted for these changes. This means that CDCR is requesting more funding than it is expected need based on its own adjusted population projections. The LAO thus recommends that the Legislature direct the administration to adjust its population budget request downward to account for the adjusted projections.

***On the CCTRP proposal.*** At this time, CCTRP has not been evaluated in terms of its cost-effectiveness in reducing recidivism relative to a standard prison environment. Accordingly, while the program could have merit, the LAO believe it should be evaluated to assess its cost-effectiveness before it is expanded. As such, the LAO recommends the Legislature—regardless of whether it approves the proposed expansion—direct CDCR to contract with independent researchers to evaluate the cost-effectiveness of the program. The results of such an evaluation would assist the Legislature in determining future funding levels for the program. The LAO estimates that the cost of such an evaluation would likely not exceed a few hundred thousand dollars.

To the extent that the Legislature approves the proposed expansion, the LAO notes that there is a technical error with the proposal that would result in CDCR being over budgeted by a few million dollars. Specifically, it appears that program participants are being double counted in CDCR's inmate housing estimates. In addition, the LAO notes that the Legislature could consider reducing the funding for 2019-20 to account for a phased-in implementation.

**Staff Recommendation.** Hold Open

**Issue 28: Receiver-Integrated Substance Use Disorder Program**

**May Revision.** The May Revision includes \$71.3 million General Fund and 280.2 positions in 2019-20, growing to \$161.9 million General Fund with an additional 150.8 positions in 2020-21, and growing to \$164.8 million General Fund in 2021-22 and ongoing for the Integrated Substance Use Disorder Treatment Program (making the totals \$165 million General Fund annually and 431 positions by 2021-22) to implement an Integrated substance use disorder (ISUDT) program that would be CDCR and the federal Receiver for inmate medical care. According to the administration, the goals of this program are to treat substance use disorder as a chronic illness, reduce fatalities associated with it, and improve CDCR's rehabilitative environment. The total includes the following:

- **Changes to Existing Programs (\$4 Million in 2019-20, Increasing to \$57 Million in 2020-21).** CDCR contracts for the provision of Substance Use Disorder Treatment (SUDT) and Cognitive Behavior Therapy (CBT) programs. (CBT programs focus on addressing certain needs that, if left unaddressed, can increase recidivism, such as anger management.) Under the Governor's proposal, requirements for SUDT and CBT contractors would be revised. For example, contractors would be required to employ staff with greater qualifications, increase their pay rates, and use specific evidenced-based curricula.
- **Establishes New Statewide Medication Assisted Treatment (MAT) Program (\$8 Million, Increasing to \$29 Million in 2021-22).** Under this program, individuals with alcohol use disorder and opioid use disorder would generally receive various medications designed to reduce the likelihood that they relapse while undergoing SUDT. The Receiver currently operates limited MAT pilot programs at three prisons.
- **Increases Medical and Corrections Staffing (\$59 Million).** The administration proposes to increase medical staff to implement the MAT program and screen inmates for substance use disorders, among other duties. Additional correctional staff is also proposed to escort inmates and provide security during programming.

**Background. The Devastating Effects of SUD.** SUD affect Americans on a daily basis. The Substance Abuse and Mental Health Services Administration defines SUD as "the clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home" due to frequent alcohol and/or drug use. The opioid epidemic and related overdoses are a driver of SUD. Opioids are as a class of drugs that are both illegal, such as heroin, synthetic, such as fentanyl, and legal, such as oxycodone, hydrocodone, codeine, and morphine. The spike in opioid overdoses has impacted healthcare, the economy, and public safety. The Centers for Disease Control and Prevention (CDC) estimates an annual economic burden of \$78.5 billion in the United States because of opioid overdoses.<sup>1</sup> Moreover, these overdoses strip those impacted of their homes, cars, and families. They impact school-aged children and endangers child welfare. And, they are associated with high rates of Hepatitis C and HIV infections. Most significantly, opioid overdoses lead to rises in death rates across the United States.

**The Opioid Overdose Crisis in the U.S. And California.** Opioid overdose is a main contributor to high overdose death rates across the United States and California. The CDC reports that there were

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<sup>1</sup> C.S.Florence, C. Zhou, F.Luo, L. Xu. The Economic Burden of Prescription Opioid Overdose, Abuse, and Dependence in the United States, 2013. *Med Care.* 2016;54(10):901-906.

70,237 drug overdose deaths in the United States in 2017, of which<sup>2</sup> 47,600 were from opioid use. An estimated 130 people die every day from opioid overdoses.<sup>3</sup> And, drug overdose death rates had more than doubled from 2000 to 2016, from 6.2 to 13.3 per 100,000 persons.<sup>4</sup> Overall, the numbers suggest that the United States has a significant crisis.

The epidemic has also significantly hit California and its prison population over the last decade. In 2017, California had 2,196 opioid overdose deaths, 429 fentanyl overdose deaths, and 4,281 opioid overdose emergency department visits (excluding heroin).<sup>5</sup> In state prisons, the CCHCS reported that the overdose rate increased by four times—from 5.9 per 100,000 people in 2007 to 22.1 per 100,000 people in 2016. In total, there were 144 deaths that resulted from drug overdose in the past six years.<sup>6</sup> CCHCS estimates that the prevalence of SUD among the CDCR population is approximately 80 percent or 100,000 patients, with “at least 26 percent” of these individuals having an opiate use disorder.<sup>7</sup> The table below shows the number of drug overdose deaths in state prisons, as well as death rates in all U.S. and California state prisons. These statistics show that policy decisions must result in program development and expansion to address addictions within prisons. Heavy emphasis on such programs will decrease dependency on drugs and alcohol, reduce inmate-on-inmate violence, reduce recidivism and improve health outcomes.

**Table 1:** Comparison of drug overdose death rates across California and U.S. prisons.

<b>Year</b>	<b>CCHCS DRUG OVERDOSES DEATHS (TOTAL)</b>	<b>CCHCS DRUG OVERDOSE DEATH RATE (per 100,000)</b>	<b>U.S. PRISONS OVERDOSE DEATH RATE (per 100,000)</b>
2006	17	9.9	4
2007	9	5.3	3
2008	19	11.2	4
2009	14	8.3	4
2010	23	13.8	3
2011	12	7.4	4
2012	15	11.1	3
2013	24	18	4
2014	19	14.1	4
2015	19	14.7	--
2016	29	22.5	--
2017	38*	30	--

<sup>2</sup> H. Hedegaard, A.M. Miniño, M. Warner Drug overdose deaths in the United States, 1999–2017. NCHS Data Brief, no 329. Hyattsville, MD: National Center for Health Statistics. 2018.

<sup>3</sup> CDC/NCHS, [National Vital Statistics System](https://wonder.cdc.gov), Mortality. CDC WONDER, Atlanta, GA: US Department of Health and Human Services, CDC; 2018. <https://wonder.cdc.gov>.

<sup>4</sup> Ibid.

<sup>5</sup> California Opioid Overdose Surveillance Dashboard. <https://discovery.cdph.ca.gov/CDIC/ODdash/>.

<sup>6</sup> J. Clark Kelso. “Treatment to Reduce the Burden of Disease and Deaths from Opioid Use Disorder,” <https://cchcs.ca.gov/wp-content/uploads/sites/60/Reports/Drug-Treatment-Program.pdf>. 2018.

<sup>7</sup> Ibid.

*\*According to the CDCR the 2017 data point is preliminary as four cases are still under review through autopsies, a process completed by the county, which can take up to 10 months. Statistics with a (--) indicate data was not obtainable at the time of this writing.*

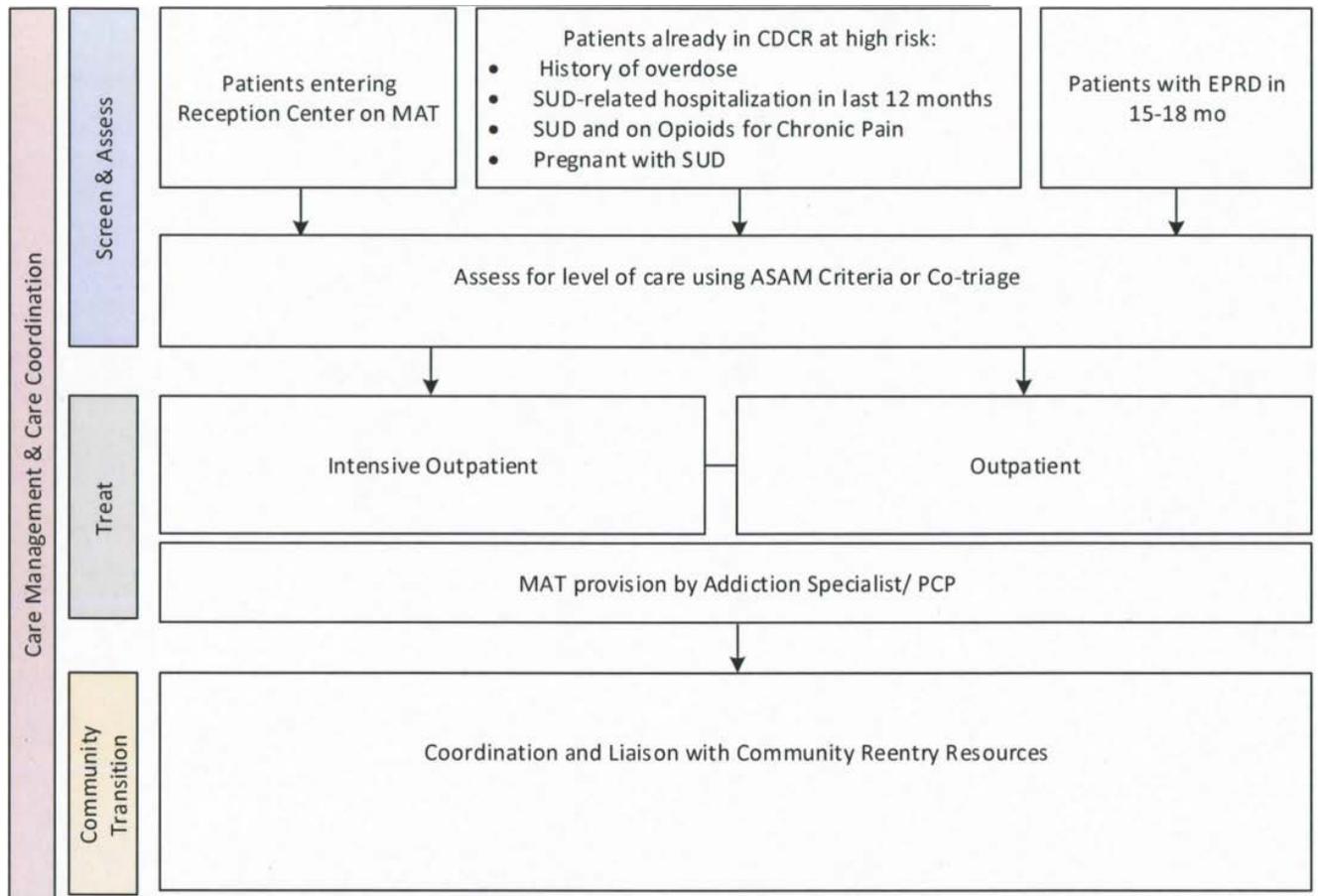
California has significantly expanded the Drug Medi-Cal Organized Delivery System (DMC-ODS) program to build a delivery system for SUD treatment in the community. The DMC-ODS program is county-based and participation has grown from about 12 out of 58 counties (20 percent) to 56 out of 58 counties (97 percent) in 2017. The increase in counties participating in a SUD treatment and providing MAT will greatly improve the success of released patients being able to continue with their MAT programs.

**Phases and implementation.** Because of the size and scope of the undertaking, the CDCR /CCHCS says will take time for CDCR/CCHCS to fully develop the infrastructure and capacity to implement a robust statewide ISUDTP that is able to offer SUD treatment to the population affected with SUD. This will require a phased approach to this program, which will be facilitated by CCHCS and DRP within CDCR, with full implementation over a five-year timeline. Below is a simplified walkthrough of the SUD program model.

In its initial phase, the proposed ISUDTP will focus on assessment and risk stratification for those at highest risk, revamping and expanding core SUD rehabilitative programming statewide, and strengthening the release process in order to assure successful transition back to the community. This request focuses on the first two years of this multi-year implementation timeline, and on assessing and treating patients who are: 1) entering Reception Centers (RCs) on MAT; 2) currently incarcerated patients identified as high risk; and 3) patients with estimated prison release dates (EPRDs) within the next 15 to 18 months. Based on these evaluations, patients may be referred to one of two treatment paths: Intensive Outpatient, or Outpatient. Within each treatment path, there are three distinct stages of care management and care coordination: 1) Screening and Assessment, 2) Treatment, and 3) Community Transition.

**Targeted Population.** Three distinct groups of patients are targeted as the first priority for this proposal:

1. Patients who enter prison already on MAT have presumably been assessed prior to their arrival and started on a care plan. The number of patients presenting to RCs on MAT is expected to steadily increase as a result of the expansion of MAT in county jails by the Department of Health Care Services (DHCS) and in the community through the Medi-Cal expansion program.
2. Patients already in prison who categorize themselves as high risk by: surviving resuscitative efforts following a drug overdose; a recent hospitalization for SUD-related comorbidity (e.g., osteomyelitis, or endocarditis) in the past year; having SUD and a coexisting chronic pain condition on chronic opioid therapy; having SUD during pregnancy; or other conditions associated with high risk for drug overdose.
3. Patients who are anticipating release from prison in the near future. Patients with untreated OUD are approximately 45 times more likely to die within the first two weeks of release compared with age matched controls in the community. Therefore, to allow enough time to implement a comprehensive treatment plan - estimated to require approximately 12 months to complete for most patients - CCHCS will target patients with an expected release date within 15-18 months. This group will comprise the largest proportion of the three targeted as our first priority.



The next charts show the monthly patient enrollment estimates and implementation milestones.

**Screening and Assessments.** At points of entry (i.e., RCs and Receiving and Release (R&R) centers), patients are screened by a licensed nurse through the Initial Health Screen. The nurse then links the patient to services to ensure continuity of care across a wide spectrum of services, settings, and staff, including the primary care team, NTPs, pharmacy services, addictions services, headquarters' (HQ) team, custody and the DRP programs. Screening and risk stratification of patients anticipating release within 15-18 months will be accomplished through administration of the NIDA Quick Screen and Modified Assist instruments, which require between 0.1 and 0.5 hours each, and can be administered by nursing and social work staff. The NIDA screening tools were adapted from earlier versions developed, validated, and published by the World Health Organization to be effective screening tools for identifying substance use and is specifically designed to fit into busy primary care clinical practices.

Subsequent multidimensional assessments to determine the level of SUD-related care for each patient, based on criteria published by ASAM, will be applied to all three patient groups identified to be at moderate to high risk for SUD related harm.

**MAT and Community transition coordination.** In addition to the counseling and structured therapeutic programming within each level of care, MAT provisioning is proposed for those with disorders amenable to supplemental MAT, specifically, OUDs and AUDs.

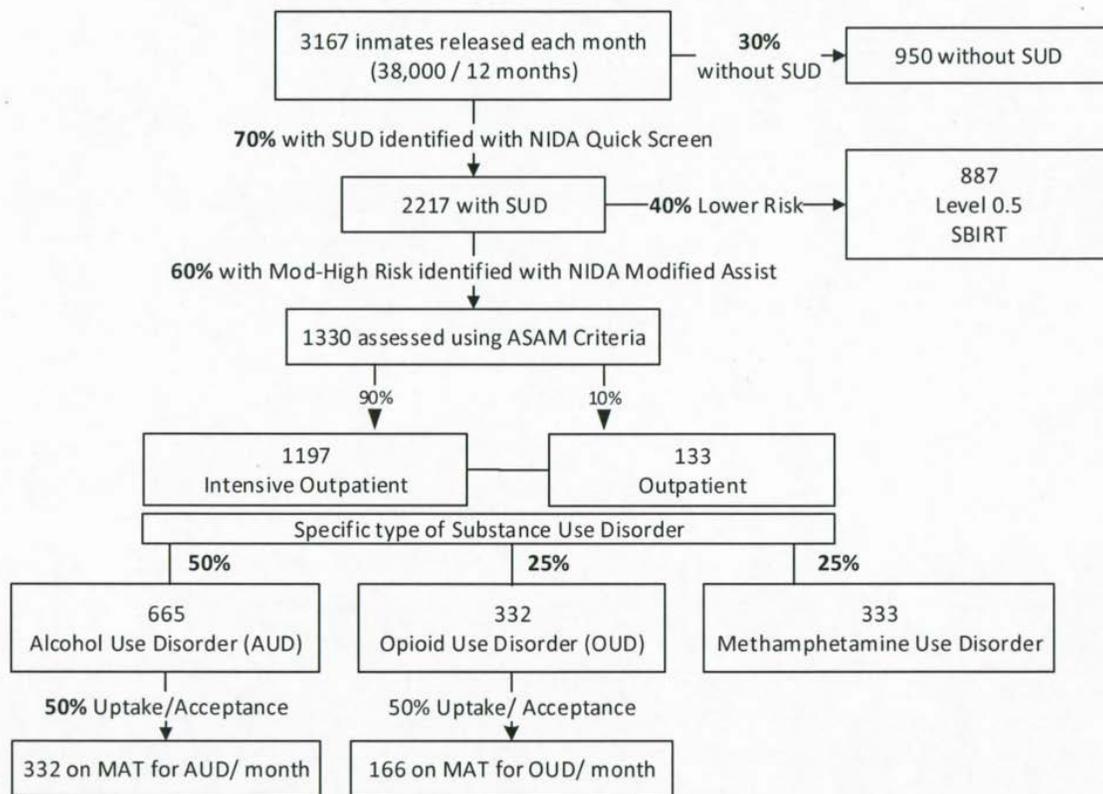
The Whole Person Care program is a model of care spearheaded by nursing services that is responsible for providing care coordination throughout the spectrum of incarceration from entry to release. The goals of the WPC program are to:

1) Provide comprehensive care coordination from RCs and R&Rs across care teams, external resources (hospitals, external specialty consultants). Triage and Treatment Area, and MAT.

2) Ensure comprehensive care coordination with the community transition teams at time of release, to include enrollment in a Medi-Cal plan, scheduling and arranging transportation to initial health appointments, securing records, and liaising with county resource partners, probation community supervision and parole, and other community health workers and/or other peer support.

Within the last 15-18 months of Incarceration, all patients will receive five weeks of Transitions Reentry Services by an interdisciplinary team. Services will include, but are not limited to, resume production, job interview preparation, finance management, and applications for Medi-Cal, CalFresh, Social Security, and the Department of Motor Vehicles. Achieving effective case management across the spectrum of health care, social services, and other resources to achieve a smooth and successful transition back to communities, while maintaining efforts in SUD recovery, will require coordination between CCHCS, CDCR, and county partners. The WPC program offers significant enhancements and bridges gaps in the services already in place that are offered by the Transitional Case Management Program and DAPO.

**Table 1: Monthly Patient Enrollment Estimates for MAT Provision.**



Integrated SUD Treatment Program - Health Care

Timeline	2019					2020					2021														
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	
<b>Phase I Jul-19 to Dec-19 Milestones:</b>																									
Hire All HQ Management and Supervisory Staff																									
Hire Addiction Medicine Providers																									
Hire All Institution Supervising RN Staff																									
Hire LCSW and NCPR Staff																									
<b>Phase II Jan-20 to Jun-20 Milestones:</b>																									
Hire HQ Admin/ Analytical Support Staff																									
Hire Pharmacy Staff																									
Hire Lab Staff																									
Hire Remaining LCSW and NCPR Staff																									
Hire Institution RN and Support Staff																									
Start Screening/ Assessment (ERD 15-18 mo) Statewide																									
Initiate MAT Statewide																									
Begin WPC Community Transition Program																									
<b>Phase III Jul-20 to Jun-21 Milestones:</b>																									
Implement SUDT at All Institutions Statewide																									
Continue Screening/ Assessment (ERD 15-18 mo) Statewide																									
Continue MAT Statewide																									
Fully Implement WPC Community Transition Program Statewide																									

**LAO Assessment. Large Scale Implementation of Untested Program.** While aspects of the proposed program are evidence-based, other aspects have not been evaluated. Furthermore, this particular combination of programs has not been tested to determine if it would be a cost-effective approach. As such, it is unclear how effective this program would be. This is particularly concerning given the scale of the proposal.

- **Cost Estimates Subject to Significant Uncertainty.** The estimates used to determine the level of resources for various aspects of the proposal are based on limited information, such as studies from other states, and are subject to error. For example, the proposal includes \$5 million to prescribe naloxone—a drug designed to reverse opioid overdoses—to over 25,000 offenders released from CDCR on an annual basis. However, the administration estimates that only 4,000 individuals are released each year with opioid use disorders.
- **Full Cost of Implementation Not Identified.** The administration indicates that it would take at least five years to fully implement the ISUDT program. However, it has only provided information on costs for the first three years of implementation. In addition, it is possible that additional infrastructure could be needed due to the large increases in staff, medication distribution, and SUDT and CBT programs.
- **Potential Implementation Challenges.** The Receiver has indicated that there are significant challenges in hiring and maintaining medical staff. Despite this, the proposal assumes the state would be able to fill 300 medical positions in three years. Moreover, it is unclear how effectively the proposal would link offenders to treatment upon release and whether there is sufficient treatment capacity in the community for these offenders. This is problematic because community treatment is a key component of effective SUDT as offenders are at significant risk of overdose during the first two weeks after release.
- **Limited Departmental Oversight of CBT Programs.** A recent audit by the State Auditor found that CDCR’s CBT programs lack sufficient oversight to ensure that contractors comply with best practices. While the department is currently developing oversight tools for existing CBT curricula, it is uncertain whether such tools would be applicable to the new curricula being proposed. In addition, the May Revision does not propose additional resources or changes to ensure sufficient oversight of the CBT programs proposed.

**LAO Recommendation.** In view of the LAO's concerns, the LAO recommends that the Legislature implement the Governor's ISUDT program on a pilot basis—rather than statewide—at the three facilities that are currently piloting MAT programs (the Substance Abuse Treatment Facility in Corcoran, the California Institution for Men in Chino, and the California Institution for Women in Corona).

- The LAO also recommends that the pilot include oversight to ensure that contractors follow best practices and an independent evaluation by researchers to determine the effect of the program on substance use in prisons, inmate health, and offender outcomes upon reentry, including recidivism and overdose death.
- Based on the administration's estimates for a statewide program, the LAO estimates that a pilot of this magnitude would cost less than \$10 million in 2019-20 and would be unlikely to exceed \$20 million at full implementation.
- The LAO's recommended pilot would allow the Legislature to assess the effectiveness of the program and determine whether it should be implemented statewide. It would also allow the department to collect data to better determine the costs and resources necessary to expand the program to other facilities.
- To the extent the Legislature would like to implement a statewide ISUDT program, the LAO recommends modifying the Governor's proposal to address some of the LAO's concerns. Such modifications include requiring (1) a more gradual implementation, (2) an annual progress report from CDCR and the Receiver on the program's implementation and costs, and (3) an independent evaluation once the program is fully implemented.

**Staff Recommendation.** Hold Open.

**0250 JUDICIAL BRANCH****Issue 29: Judgeships**

**May Revision.** The May Revision includes \$30.4 million General Fund in 2019-20 and \$36.5 million General Fund in 2020-21 and ongoing to allocate 25 of the 48 remaining trial court judgeships authorized by AB 159 (Jones), Chapter 722, Statutes of 2007.

It is also requested that Trial Court Security be increased by \$2,917,000 General Fund for accompanying trial court security costs. Trial Court Security was realigned from the state to the counties through the 2011 Public Safety Realignment, and Proposition 30 (2012) requires the state to provide annual funding for newly required activities that have an overall effect of increasing county costs in this realigned program. Per this requirement, one bailiff is allocated to support each new judgeship. The funding would therefore be \$2,917,000 General Fund in 2019-20 and \$3,500,000 General Fund in 2020-21 & ongoing for trial court security.

**Background.** The judicial branch is constitutionally required to accept all filings that come to the courts. However, trial court judgeships have not kept pace with workload growth, meaning that courts must prioritize workload, giving precedence to any case with a constitutionally-mandated deadline and deferring others without such requirements. In 2005, the Judicial Council decided to seek 150 new trial court judgeships over three years. The status of these judgeships is as follows:

- **50 Authorized and Funded.** In 2006, the state enacted SB 56 (Dunn), Chapter 390, Statutes of 2006, which authorized 50 new judgeships. The 2007-08 Budget Act subsequently appropriated funding for those judgeships.
- **50 Authorized, But Not Funded.** In 2007, the state enacted AB 159 which authorized another 50 new judgeships. However, no funding was appropriated for these judgeships. Initially, funding for these 50 judgeships would have allowed appointments to begin in June 2008. Because of budget constraints, funding was delayed until July 2009 to shift the fiscal impact from 2008-09 to 2009-10; however, no funding was included in the 2009 Budget Act to support the 50 judgeships. The 2018 Budget Act provided funding for two judgeships out of the 50, to be allocated to the Riverside Superior Court, but otherwise the 48 remaining judgeships continue to be unfunded.
- **50 Neither Authorized Nor Funded.** The last 50 judgeships have not been authorized via enacted statute nor less funded.

**Assessment of current needs.** Table 1 below shows a breakdown of the Judicial Branch's currently authorized judgeships, filled judgeship positions, authorized but unfunded AB 159 judgeships as well as judicial need.

	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Authorized Judgeships*	1,682	1,695	1,715	1,726	1,732	1,738
Filled Judgeships Positions*	1,560	1,579	1,597	1,618	1,601	TBD
Vacant and Unfunded AB 159 Judgeships	50	50	50	50	50	48
<b>Judicial Need</b> (according to Judicial Needs Assessment)**	263.9	269.8	269.8	269.8	188.5	186.5

\*As of July 1st, of each fiscal year; year to year changes are due to Subordinate Judicial Officer conversions.

\*\*Excludes Unfunded AB 159 Judgeships; includes two judgeships authorized and funded in the 2018 Budget Act

In 2006, Government Code section 69614 was enacted, requiring the Judicial Council to report to the Legislature and the Governor on the need for new judgeships in each superior court using the uniform criteria for the allocation of judgeships described in subdivision (b). The latest report, *The Need for New Judgeships in the Superior Courts: Preliminary 2018 Update of the Judicial Needs Assessment* shows a need for 127 new judgeships in the superior courts. Table 2 below is from that report and shows the needed judgeships by county.

**Table 2. Need for New Judgeships, by Court**

Court	A	B	C	D
	Authorized and Funded Judicial Positions	2018 Assessed Judicial Need	Number of Judgeships Needed* AJN – AJP (B – A)	% Judicial Need over AJP (C / A)
Imperial	11.3	12.3	1.0	9
Tehama	4.3	5.4	1.0	23
Merced	12.0	13.2	1.0	8
Sutter	5.3	6.6	1.0	19
Humboldt	8.0	9.4	1.0	13
Shasta	12.0	14.4	2.0	17
Kings	8.6	11.0	2.0	23
Tulare	23.0	25.6	2.0	9
Placer	14.5	17.4	2.0	14
Ventura	33.0	36.3	3.0	9
Stanislaus	24.0	28.2	4.0	17
San Joaquin	33.5	38.6	5.0	15
Fresno	49.0	56.9	7.0	14
Kern	43.0	53.5	10.0	23
Sacramento	72.5	84.3	11.0	15
Riverside	80.0	116.2	36.0	45
San Bernardino	88.0	126.2	38.0	43
			<b>127.0</b>	

The shortfall is considerably higher in some counties because, according to the Judicial Council: 1) prior to statutory adoption of the council's methodology for allocating judgeships, judgeships were sometimes

allocated without using a common workload metric; 2) some counties have experienced higher filings growth than others; and 3) resource allocation has not kept pace with workload levels. The 2018 report showed that eight courts have a need at least 20 percent higher than authorized resources, with two courts showing a need 40 percent higher. Due to lower case filings, the overall statewide need for judges is less than identified in the previous Judicial Needs Assessment. A new assessment will be released in summer 2019 and will be used to update the courts that are most in need of judgeships.

This request estimates the total cost per additional judgeship, which includes judicial compensation, judicial operating expenses and equipment, court interpreters, and court staffing, at \$1,460,000. This is consistent with the addition of the two judgeships in the 2018 Budget Act.

**LAO Assessment and Recommendation.** The May Revision proposes \$30.4 million General Fund—increasing to \$36.5 million annually in 2020-21—to support 25 new trial court judges (and associated court staff) who will be distributed to those trial courts with the greatest judicial need based on their workload in accordance with the Judicial Needs Assessment (JNA), which identifies that 17 trial courts need 127 judges. (The judgeships would not be allocated until the JNA’s underlying workload methodology is fully updated in the summer of 2019, which could result in a changed level of identified need.) The LAO notes that while 17 trial courts lack a sufficient number of judges according to the JNA, other courts currently have roughly 130 more judgeships than justified by their workload. Thus, in addition to approving the Governor’s proposal, the Legislature could consider reallocating judgeships (as they become vacant) from courts with more than their assessed need to those with less than their assessed need as a way to redistribute judicial resources based on workload needs.

**Staff Recommendation.** Hold Open.

*Senate Budget and Fiscal Review—Holly Mitchell, Chair*

**SUBCOMMITTEE NO. 5**

**Agenda**

**Senator Nancy Skinner, Chair**  
**Senator John Moorlach**  
**Senator Jim Beall**



**Thursday, May 16, 2019**  
**9:30 a.m. or upon adjournment of session**  
**State Capitol - Room 113**

Consultant: Yong Salas

**PART A**

**ITEMS PROPOSED FOR VOTE-ONLY**

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**Public Comment**

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**ITEMS PROPOSED FOR VOTE-ONLY****0690 OFFICE OF EMERGENCY SERVICES****Issue 1: Mutual Aid System**

**Governor's Budget.** The Governor's Office of Emergency Services (Cal OES) requests ongoing \$25 million General Fund for prepositioning of existing Cal OES and local government resources that are part of the statewide mutual aid system with the goal of enhancing disaster response readiness. Prepositioning occurs in areas of identified potential fire threat, which is determined through various means such as weather modeling, high wind zones, low humidity, and dense fire load.

The subcommittee heard this item at its March 28, 2019 hearing.

**Background.** The state reimburses costs that are related to pre-positioning requests activated through the mutual aid system that were requested by the local agencies, and approved by Cal OES. The 2016 Budget Act provided one-time \$10 million General Fund for investments in the mutual aid system. The 2017 Budget Act provided one-time \$25 million Greenhouse Gas Reduction Fund (GGRF) for local fire response assistance. The 2018 Budget Act provided: (1) one-time \$25 million GGRF to Cal OES for the procurement and maintenance of fire engines as well as to support the mutual aid system, and (2) one-time \$25 million General Fund for equipment and technology that improves the mutual aid system. This request is ongoing from the General Fund, and would fund reimbursements for prepositioning resources in advance of possible fires and other disaster events.

**Staff Recommendation.** Approve the \$25 million ongoing General Fund for pre-positioning activities, with placeholder budget bill reporting language on the activities funded from this appropriation.

**Issue 2: California Disaster Assistance Act Funding**

**Governor's Budget.** The Governor's Office of Emergency Services (Cal OES) requests one-time \$28.75 million General Fund to increase the amount of funding available through the California Disaster Assistance Act.

**Background.** When a local government or eligible private non-profit is impacted by an emergency or disaster that is beyond their capabilities, Cal OES provides services and funding assistance under the provisions of the California Disaster Assistance Act (CDAA) for recovery. The CDAA is used to repair, restore, or replace public real property damaged or destroyed by a disaster, and to reimburse local governments for costs associated with certain emergency activities undertaken in response to a state of emergency. Many events are considered "state-only events" meaning they do not receive any federal funding because they do not meet the threshold for a Presidential Disaster Declaration. Funding for CDAA includes a General Fund

match for federally-declared disasters, and General Fund for state-only events, which are funded exclusively by the General Fund.

The 2018 Budget Act provided a one-time augmentation of \$88.1 million General Fund for the CDAA, which brought its total funding to \$127.2 million in 2018-19. The 2017 Budget Act provided a one-time augmentation of \$73.6 million General Fund for the CDAA. This request will bring the total funding for CDAA in 2019-20 to \$88.2 million General Fund.

**Staff Recommendation.** Approve as requested.

### **Issue 3: Fire Fleet Vehicle Acquisition Extension of Liquidation**

**May Revision.** Cal OES requests to extend the liquidation date of approximately \$6.9 million in funding from the Budget Act of 2016, from June 30, 2019 to June 30, 2020 to complete the acceptance and deployment of 12 fire engines and 2 incident support vehicles.

**Background.** Cal OES owns a fleet of firefighting engines, vehicles, and other apparatus, and is entered into agreements with local fire agencies throughout the state to staff the vehicles. Pursuant to these agreements, local government agencies that host CAL OES mutual aid equipment provide 24/7 accessibility when required to respond under the mutual aid system. The assignee agreement further requires, when assigned apparatus are utilized locally, that the assignee pay the costs of fuel, repair of any damage, replacement of lost or damaged equipment, and any consumables used during the local response.

Cal OES entered into contracts to purchase 23 fire engines and four incident support vehicles. To date, CAL OES has received and accepted 11 Type I Fire Engines and two Incident Support Vehicles. The vendor experienced an issue regarding the power steering specifications, which, although already resolved, delayed the delivery and acceptance of the remaining 12 fire engines. In addition, the remaining two incident support vehicles are currently undergoing final inspections at the Department of General Services (DGS). Cal OES anticipates delivery and acceptance of remaining fire engines and the remaining two incident support vehicles within the 2019-20 fiscal year.

The liquidation date extension will allow Cal OES to complete the procurement of these vehicles.

**Staff Recommendation.** Approve as requested.

### **Issue 4: Grant Programming**

**May Revision.** Cal OES requests one-time funding for the following programs:

1. *Student, Teachers, and Officers Preventing (STOP) School Violence Act of 2018* – Cal OES requests \$1 million one-time federal fund for the STOP School Violence Act, which

supports efforts by state and local units of government and federally recognized tribal governments to prevent and reduce school violence.

2. ***California State Nonprofit Security Grant Program*** – Cal OES requests \$15 million one-time General Fund for the state Nonprofit Security Grant Program, which supports security efforts to nonprofit organizations that are at high risk of a terrorist attack, particularly from hate crimes based on ideology and beliefs. The federal counterpart for this program limits participation to urban areas; the state program would support organizations that are otherwise eligible but not located in the federally-designated urban areas.

**Staff Recommendation.** Approve as requested.

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**Issue 5: California Earthquake Early Warning System**

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**Budget.** The Governor’s Office of Emergency Services (Cal OES) requests one-time \$16.3 million General Fund to further the build out of the California Earthquake Early Warning (CEEW) System based on findings in a recent business plan. Additionally, Cal OES requests to extend the liquidation date from June 30, 2019 to June 30, 2020, for approximately \$3 million in funding from the Budget Act of 2016 for the California Earthquake Early Warning Program, to complete the installation of seismic stations.

**Background.** Chapter 803, Statutes of 2016 (SB 438, Hill), established the CEEW program and the CEEW Advisory Board. This requires Cal OES, in collaboration with a variety of stakeholders, to develop a comprehensive statewide earthquake early warning system in California through a public private partnership.

By completing the CEEW system network build out, Cal OES will be able to leverage future additional federal and private funding to realize the full benefit of the system. The Federal Emergency Management Agency’s (FEMA) Hazard Mitigation Grant Program provides funding to state and local jurisdictions to install technology to reduce seismic risk at individual sites. FEMA has stated that once the network build out is complete, the requirements necessary to compete for this grant program will be satisfied and local entities will be able to leverage this funding stream to install end-user applications, such as earthquake alerts in classrooms for schools, automated shut off valves for waste management, and automated rollup doors at fire stations. The CEEW system has previously benefited from other federal grants. The United States Geological Survey (USGS) funded the installation of some of the existing sensor stations. Additionally, USGS awarded \$3.7 million in 2016-17 and \$4.9 million in 2017-18 to support the development of ShakeAlert, a prototype earthquake early warning technology utilized by the CEEW system.

The 2016 Budget Act included a one-time appropriation of \$10 million General Fund and four positions for Cal OES to install and upgrade stations to the CEEW system. With this funding, Cal OES purchased and installed 183 seismic stations, created a connection for the CEEW System to the state microwave network, and ran an initial public service announcement campaign. In 2017-18, these positions were funded through savings in the 2016 Emergency Management Performance Grant. This grant provides federal funding to assist state, local, tribal, and territorial governments in developing emergency preparedness systems. The 2018 Budget Act provided \$15.8 million General Fund with \$750,000 General Fund ongoing to support the buildout of the remaining sensor stations and continuing the position authority.

This request will include the installation of GPS stations, funding a complete public service announcement and outreach campaign, upgrading telemetry components, and administrative support. Below is a breakdown of the costs:

TABLE 1: ESTIMATE OF UNFUNDED CAPITAL AND ONE-TIME COSTS FOR CALIFORNIA EEW Capital/One-Time Costs for 2019-20	
CEEW Components	(Millions)
Seismic stations	\$2.4
GPS stations	\$2.1
Backbone telemetry	\$2.0
Outreach and education	\$6.9
<i>Subtotal</i>	<i>\$13.4</i>
Contingencies	\$2.9
<i>TOTAL</i>	<i>\$16.3</i>

**Ongoing Funding.** The original Business Plan outlined \$16.4 million in ongoing funding to support operations and maintenance, telemetry, outreach and education, research and development, and program management. Cal OES states that it is working with the Public Utilities Commissions and the investor-owned utilities, the California Transportation Commission and local transportation boards, and considering the State Emergency Telephone Number Account, to identify necessary mechanisms to invest in ongoing operations and maintenance of the CEEW system.

**Staff Recommendation.** Approve as requested.

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**ITEMS PROPOSED FOR DISCUSSION/VOTE****0690 OFFICE OF EMERGENCY SERVICES****Issue 6: Disaster Preparedness and Response**

**May Revision.** Cal OES requests ongoing \$7.316 million General Fund, \$874,000 Federal Trust Fund, and 94 positions to support activities related to disaster planning, preparedness, and response. In addition, Cal OES requests one-time \$20 million General Fund to establish a Mission Tasking Fund to provide funding to state agencies that have been mission tasked to perform response and recovery activities for declared disasters.

**Background.** Over the past five years, Cal OES processed almost 4,000 mission task assignments for multiple state entities. To address the response efforts, staff are redirected from their daily workload to respond to disasters as they occur. This results in delays to daily work, much of which has strict timeframes and penalties for non-compliance. Cal OES states that increases in workers' compensation claims, employee fatigue, and retention are major issues that state agencies and Cal OES face.

This request includes three components:

- **Steady State Planning and Preparedness.** \$5.073 million General Fund, \$874,000 Federal Trust Fund, and 76 positions to enhance situational awareness of natural and human-caused threats; mobilize fire and rescue resources ahead of emerging threats; expand the department's capability to manage the logistical requirements of major events; provide a greater level of planning capacity for statewide community resiliency efforts; maintain and enhance a robust statewide hazard mitigation program; and increase capacity to ensure timely processing of post disaster reimbursement claims. Of the 76 positions, 36 are currently limited-term positions that are supporting ongoing workload, and will be converted to permanent positions.
- **Mission Tasking.** \$1.532 million General Fund and 12 positions to monitor and track a new \$20 million General Fund mission tasking appropriation with Cal OES' budget. This funding will be for state agencies that have been mission tasked by Cal OES to perform response and recovery activities for declared disasters. When state entities are mission tasked, some staffing costs associated with those activities are not absorbable within existing budgets, nor are these costs eligible for the California Disaster Assistance Act or Disaster Response-Emergency Operations Act funding. This new appropriation will provide funding to efficiently and transparently fund those costs. Cal OES will be responsible for coordinating and tracking the use of these funds as well as anticipated federal reimbursements, as applicable. This funding provides departments with the necessary resources to respond to disasters, and provides Cal OES with an efficient way to track expenditure of the funds in real time, which will assist in the collection of necessary data for submission to the federal government and help maximize federal reimbursements. To receive full recovery of the federal cost share, all expenditure

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information and supporting documentation to be gathered timely and uploaded into the federal grants management system through a web-based portal.

- **Disaster Reserve Corps.** \$711,000 General Fund and 6 positions to develop and implement a Statewide Disaster Reserve Corps resource pool, including the potential development of a personnel database to address continuity and surge capacity. Such a system would be used to identify and track prescreened and qualified personnel willing to deploy as part of incident support teams or to temporarily assist by fulfilling workload regularly completed by deployed state personnel. This Reserve Corps would support the necessary response to a disaster, and also maintain continuity of government by assisting the daily workload of other state departments. Cal OES will need to ensure the appropriate information is being collected so the potential staff are appropriately placed based on their interest, training, experience, expertise, and availability. Once the program is developed, there may be a need to develop a database to house the information. Should that be necessary, testing and refinement of the system will be vital to ensure appropriate access is granted to those who will be using the system and to ensure it can withstand the surge of information placed on it during a disaster.

**Staff Comment.** The proposal for steady state planning and preparedness brings the staffing resources commensurate to the workload demand that resulted from the various disaster incidents that has occurred over the last several years. Additionally, the Mission Tasking Fund and positions will help Cal OES accurately track resources the state is dedicating to each disaster, and allow the state to secure the federal share of costs resulted from disasters.

However, staff believes that approving permanent positions and funding for the Disaster Reserve Corps, of which the specific need seems unclear, is pre-mature at this time. If the mission tracking proposal allows Cal OES to track the surge staffing resources that are used per incident, then it could also track the deficit staffing needed to continue the day-to-day needs of a particular state entity where staffing resources were re-directed.

Should the subcommittee approve the state planning and preparedness and mission tasking proposals, an assessment should be made by the Department using its mission tasking resources to determine the need of a Disaster Reserve Corps, and the potential impacts of establishing such a team.

**Staff Recommendation.** Approve \$5.894 million General Fund, \$874,000 federal fund, 88 positions, and one-time \$20 million General Fund for mission tasking activities, with placeholder budget bill reporting language requiring Cal OES to report, along with the submission of the 2020-21, on its use of funds for mission tasking provided in 2019-20. Reject \$711,000 General Fund and 6 positions to establish the Disaster Reserve Corps.

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**Issue 7: Public Safety Power Shutdown Resiliency**

**May Revision.** Cal OES requests \$75 million one-time General Fund for activities to respond to investor-owned utility (IOU)-led Public Safety Power Shutdown (PSPS) actions.

**Background.** IOUs have signaled their intent to increase the use of PSPS on their energized power lines to prevent wildfires during high wind or other severe weather events. A consequence of this action is that affected areas may potentially be without power for several hours, days and, in some cases, weeks.

IOU-led implementation of PSPS could have a significant impact on regions of the state, especially critical services and the state's most vulnerable populations, some of whom depend on a steady, reliable power supply to operate life-sustaining equipment. In addition, implementation of PSPS will coincide with the hotter summer months. Extreme heat conditions will likely exacerbate health risks to affected populations in general, and especially to vulnerable populations, such as the elderly and health compromised. Cal OES is working with the California Public Utilities Commission (CPUC), CALFIRE, and the IOUs to coordinate public education, information and community preparedness activities to improve community awareness and resiliency in response to IOU-initiated PSPS events.

This funding would provide resources to maintain an alternative power supply for critical infrastructure, as the majority of CALFIRE stations and several Cal OES Regional Centers do not have back-up power. Additionally, vulnerable populations who depend on power supplies to operate life-sustaining equipment are affected by IOU-initiated PSPS events, and could compromise their health and safety. Additionally, the department stated that a portion of the \$75 million proposed would be provided to local governments as planning grants to improve local preparedness for IOU-driven PSPS events to: (1) convene regional stakeholders to discuss PSPS preparedness efforts and local response actions; (2) update emergency plans to include an addition for PSPS events; and (3) hold trainings, discussions, and exercises to reinforce planning assumptions.

**Staff Recommendation.** Approve as requested, with placeholder budget bill language reporting on the uses of this funding.

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator John M.W. Moorlach  
Senator Jim Beall



**Thursday, May 16, 2019**  
**Upon adjournment of session**  
**State Capitol - Room 113**  
**PART B**  
Consultant: Christopher Francis, Ph.D.

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### Public Comment

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## ITEMS FOR VOTE-ONLY

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) AND 0530 HEALTH AND HUMAN SERVICES AGENCY

1. *Reorganization of the Division of Juvenile Justice and various proposal (Trailer Bill Language).* The budget proposes moving the DJJ from CDCR to a new department under the California Health and Human Services Agency (CHHS). The new department will be called the Department of Youth and Community Restoration.

The proposed trailer bill language focuses on transferring authority from CDCR to the new Department, allowing current day-to-day operations to continue during the transition. The move will require additional resources to establish the administrative structure of the new Department.

The Department will develop and launch a new independent training institute that will train all staff on best practices so they can further the new Department's rehabilitative mission. This item was heard on May 2, 2019.

**Staff Recommendation.** Approve as proposed and adopt placeholder trailer bill language shifting all juvenile justice grants and programs to the new department by January 1, 2021.

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

2. *Division of Juvenile Justice Transition.* The May Revision includes a General Fund increase of \$1,234,000 and 8.8 positions to facilitate the proposed reorganization of the Division of Juvenile Justice from the California Department of Corrections and Rehabilitation to the California Health and Human Services Agency. The positions will be responsible for the administrative needs of the reorganization and the establishment of a new training institute in Stockton.

**Staff Recommendation.** Approve as budgeted.

3. *Division of Juvenile Justice Apprenticeship Conservation Corps.* The May Revision includes 2.4 positions and associated General Fund totaling \$344,000 beginning in fiscal year 2019-20 and ongoing.

The California Conservation Corps (CCC) requests two program support staff positions and \$1,085,000 one-time General Fund in 2019-20 and \$581,000 ongoing General Fund beginning in 2020-21, which includes \$876,000 in 2019-20 and \$376,000 ongoing for certified local conservation corps.

Requested resources will support the implementation of the DJJ Apprenticeship Conservation Corps (ACC) pilot program to present DJJ youth with skill-building and job-readiness opportunities.

**Staff Comments.** A pilot program is typically considered a small-scale and short-term experiment – a preliminary study to evaluate the feasibility, study the design, and analyze the effectiveness of the project to determine whether the program should be carried out on a larger

scale. The proposed pilot program in the May Revision would be ongoing. As a pilot program, it would be reasonable to limit the term of the program and assess it at the end of that term.

**Staff Recommendation.** Approve the following:

- **DJJ:** 2.4 positions and associated General Fund totaling \$344,000 beginning in fiscal year 2019-20 for five years.
  - **CCC:** Two positions and \$1.085 million one-time General Fund in 2019-20 and \$581,000 General Fund for four years beginning in 2020-21, which includes \$876,000 in 2019-20 and \$376,000 for four years thereafter for certified local conservation corps.
- 4. Receiver-Integrated Substance Use Disorder Program.** The May Revision includes \$71.3 million General Fund and 280.2 positions in 2019-20, growing to \$161.9 million General Fund with an additional 150.8 positions in 2020-21, and growing to \$164.8 million General Fund in 2021-22 and ongoing for the Integrated Substance Use Disorder Treatment Program (making the totals \$165 million General Fund annually and 431 positions by 2021-22) to implement an Integrated substance use disorder (ISUDT) program that would be CDCR and the federal Receiver for inmate medical care. According to the administration, the goals of this program are to treat substance use disorder as a chronic illness, reduce fatalities associated with it, and improve CDCR's rehabilitative environment.

**Staff Recommendation.** Approve as budgeted.

- 5. General Population Adjustments and Notable Population-Based Proposals.** The May Revision makes the following population adjustments based upon updated caseload projections and additional alternative custody program placements:

**Adult Population Adjustment** – The May Revision projects the average daily population of adult inmates at 127,993 in the current year, and 126,705 in the budget year. This is a decrease of 341 in 2018-19, and a decrease of 266 in 2019-20, as compared to the January estimates. In addition, the May Revision projects the average daily population of parolees to be 48,535 in the current year, and 50,442 in 2019-20, a decrease of 166 in the current year and an increase of 497 compared to the Governor's Budget projection.

The population adjustments, as shown in the proposal, are reflected by a net increase of \$2,057,000 and a net decrease of 135.6 positions, which is comprised of an increase of \$2,097,000 General Fund and a reduction of \$40,000 Inmate Welfare Fund. **\*\*\* The LAO recently identified a couple of errors in the population adjustment we proposed in the May Revision for the California Department of Corrections and Rehabilitation. Specifically, they correctly noted that the proposed adjustment was based on population projections which did not reflect (1) the impact of emergency regulations implemented in 2018 and (2) the reduction in the population of the 35 prisons that will result from the activation of the two 60-bed Custody to Community Transitional Reentry Program (CCTRP) facilities.\*\*\***

**Custody to Community Transitional Reentry Program.** The May Revision includes \$8.4 million General Fund and 13.0 positions in 2019-20 to establish two 60-bed Custody to

Community Transitional Reentry (CCTRP), one in Los Angeles and one in Beaumont for women who are incarcerated.

**Juvenile Population Adjustment** – The May Revision requests that Item 5225-001-0001 be increased by \$7,501,000 and 53.6 positions, reimbursements be increased by \$26,000, and Item 5225-011-0001 be decreased by \$573,000 and four positions. The May Revision reflects an estimated average daily population of 782 wards in 2019-20, which is 23 more wards than projected in the Governor's Budget.

**Staff Recommendation.** Approve the May Revision juvenile population adjustments and associated proposals in accordance. Hold open the May Revision adult population adjustments and associated proposals until CDCR and DOF present updates.

6. **Staff Complaint Inquiry Unit.** The budget proposes \$9.8 million General Fund and 47 positions in 2019-20 and ongoing to implement a new regional model for reviewing and investigating inmate complaints of staff misconduct, as well as revise CDCR's grievance review process. This item was heard on May 2, 2019.

**Staff Recommendation.** Approve the following:

- Adopt placeholder trailer bill language that requires the California Department of Corrections and Rehabilitation (CDCR) to adopt emergency regulations on or before December 1, 2019, in consultation with the Office of Inspector General. These emergency regulations shall require that CDCR process all grievances involving potential staff misconduct and inmate allegations against staff—except those that have already been referred to the Office of Internal Affairs for a formal investigation—with a staff complaint inquiry conducted by the Office of Internal Affairs in addition to any other regular or specialty grievance processes that are applicable. This would ensure that inmate allegations against staff pertaining to unnecessary and excessive force, Prison Rape and Elimination Act or Sexual Abuse in Detention Act, safety or emergency concerns, and classification time calculations, would be subject to a staff complaint inquiry conducted by the Office of Internal Affairs.
  - Adopt budget bill language that approves the \$9.8 million and 47 positions in requested resources that restricts the release of funds until CDCR adopts the emergency regulations referenced above.
7. **Consolidated Legislation Budget Change Proposal and adjustments.** The May Revision includes a decrease by \$1,833,000 and 14.5 positions to revise the original request for resources related to chaptered legislation based on actual data following implementation of SB 1421 (Skinner) Chapter 988, Statutes of 2018 and the revised estimated resources needed to implement the provisions of the bill. The original number of positions for SB 1421 implementation was 30.5 in January but has now been reduced to 16 permanent positions and 9.3 two-year limited term positions in the May Revision.

The January Budget proposed \$9 million General Fund and 42.5 positions in 2019-20 and \$8.3 million General Fund in 2020-21 and ongoing to comply with legal mandates established by Assembly Bills 2327, 2845, and Senate Bills 960, 1421, and 1447. The budget includes a proposal and corresponding May Revision adjustment as detailed below. This item was heard on March 7, 2019.

Bill Number	2019-20		Summary of Need for Positions from CDCR and DOF
	PY	Funding (General Fund)	
AB 2327	4.0	\$ 681,000	Create and maintain records of peace officer misconduct and make available for the requesting agency to review.
AB 2845	7.0	\$ 1,397,000	Provide the Board of Parole Hearings resources to address anticipated increases of pardon and commutation reviews.
SB 960	1.0	\$ 181,000	Comply with newly enacted Suicide Watch reporting requirements  The CDCR states the position “will fulfill Senate Bill 960’s data collection and technical reporting requirements....This position will ensure all reporting requirements are met and that the report is posted on the CDCR website.”
SB 1421	30.5 in January but has now been reduced to 16 permanent positions and 9.3 two-year limited term positions in May Revise	\$ 6,204,000 in January but has now been reduced to \$4,371,000 in budget year.	(1) 8.5 positions to handle <i>new</i> workload involving redacting records and managing the PRA process and (2) 22 positions to conduct investigations—which are <i>existing</i> workload—into staff misconduct on an expedited timeline.
Senate Bill 1447	Position authority not requested to reflect that positions would be limited term	\$508,000	Comply with new prescription authorization requirements  “The pharmacies located within the institutions do not have authority to allow for additional pharmacy staff after hours, and the volume of these after-hour prescriptions does not warrant extending staffing at all 35 locations.”
<p><b>Total Funding and Positions requested:</b></p> <ul style="list-style-type: none"> <li>• 42.5 in January but has now been reduced <i>to 28 positions</i></li> </ul>			

- \$9 million General Fund in 2019-20 and \$8.3 million General Fund in 2020-21 and ongoing in January but has now been reduced to approximately *\$ 7,200,000 General Fund in 2019-20 and \$6.5 million General Fund in 2020-21, and \$5.1 million in 2021-22 and ongoing*

**Staff Recommendation.** Approve the following:

- Approve the proposed positions and funding related to the implementation of SB 1447, AB 2327, AB 2845, and SB 960.
  - Regarding SB 1421: Approve 9.3 two-year limited term positions and adopt placeholder budget bill language that directs the CDCR to report to the Legislature by January 1, 2020 and June 30, 2020 on their workload associated with SB 1421.
8. ***Supplemental Reforms for Parole Consideration.*** The Governor’s budget includes \$4.7 million General Fund and 12.5 positions in 2019-20, \$6.1 million General Fund and 12.5 positions in 2020-21, and \$1.9 million General Fund and 12.5 positions in 2021-22 and ongoing to complete workload related to a projected increase in parole hearings. Since 2011, BPH has scheduled between 4,000 and 5,300 parole hearings annually. Current projections indicate that BPH will need to schedule a total of 7,200 hearings in 2019-20 and 8,300 hearings in 2020-21. This item was heard on April 25, 2019.

**Staff Recommendation.** Adopt placeholder trailer bill language that would (1) delay implementation of the structured decision-making framework for one year pending consideration of additional information on the framework by the Legislature; (2) require BPH to provide a copy of the final proposed framework for Legislative review and report information on its development, implementation, use, and evaluation; (3) adjust the duties and increase the numbers of parole commissioners and deputy commissioners as necessary for BPH to accomplish its hearing workload in 2019-20. Adopt placeholder budget bill language that would allow the Director of Finance to augment BPH’s budget (with 30 day notification to the Joint Legislative Budget Committee) as necessary for BPH to accomplish its 2019-20 workload.

9. ***Fleet Asset Replacement.*** The budget includes \$24 million General Fund and four positions in 2019-20 and ongoing to establish a seven-year schedule for critical fleet assets. CDCR developed a fleet replacement tool to track the age and condition of its fleet eligible for replacement per Department of General Services’ replacement thresholds. CDCR will redirect \$8 million from the Division of Adult Institutions to be combined with this request for a total of \$32 million for a newly created budget sub-program specifically for the purpose of tracking fleet asset replacements. This item was heard on April 25, 2019.

**Staff Recommendation.** Reject the four positions and associated funding with these positions and approve the remaining funding for 2019-20 only.

10. ***Council on Criminal Justice and Behavioral Health Research Unit.*** The budget proposes \$497,000 General Fund and four positions in fiscal year 2019-20 and ongoing, and \$300,000 General Fund in 2019-20 for one-time contract funding, to expand the research capacity of the Council on Criminal Justice and Behavioral Health. This item was heard on April 25, 2019.

**Staff Recommendation.** Approve as budgeted.

**11. Increasing Inmate Literacy.** The budget proposes \$5.5 million General Fund and 35.0 positions in 2019-20 and ongoing to establish and support a literacy mentor program across all adult institutions. This item was heard on March 21, 2019.

**Staff Recommendation.** Approve as budgeted.

**12. January and May Capital Outlay.** The Governor's budget proposes 18 January and May proposals that were heard in subcommittee hearings on March 7<sup>th</sup> and May 9<sup>th</sup>:

Priority Number	Project Title	Purpose of Request and Funding History	Funding (Proposed and Total)	Staff Recommendation
1	California Correctional Center, Susanville (CCC): Health Care Facility Improvement Program--Central Health Services Building Renovation	<p>Construction phase of Phase II of the CCC Prison's Health Care Facility Improvement Project.</p> <p>Includes additional work at the Central Health Services building including renovations to the Inmate Waiting Area and Staff Workroom, Specialty Care area, and mechanical/fire alarm upgrades to the building.</p>	<p><b>Current Requested Amount:</b> \$8,069,000 General Fund for Construction</p> <p><b>Total Estimated Project Cost:</b> \$35,275,000 Total Funds (\$8,069,000 General Fund)</p>	Approve as budgeted
2	California Institution for Men: Health Care Facility Improvement Program—Primary Care Clinics B and C	Funding is being requested for the construction phase of Phase II. Phase II includes renovations to the Primary Care Clinics in Facilities B and C.	<p><b>Current Requested Amount:</b> \$9,703,000 General Fund for Construction</p> <p><b>Total Estimated Project Cost:</b> \$63,926,000 Total Funds (\$9,703,000 General Fund)</p>	Approve as budgeted
3	Correctional Training Facility, Soledad: Health Care Facility Improvement Program—Specialty Care Clinic	Funding is being requested for the construction phase of Phase II. Phase II includes renovations to the Specialty Care Clinic in Facility C.	<p><b>Current Requested Amount:</b> \$10,435,000 General Fund for Construction</p>	Approve as budgeted

			<p><b>Total Estimated Project Cost:</b> \$42,678,000 Total Funds (\$10,435,000 General Fund)</p>	
4	Sierra Conservation Center, Jamestown: Health Care Facility Improvement Program—Central Health Services Building Renovation	Funding is being requested for the construction phase of Phase II. Phase II includes renovations to the Central Health Services building.	<p><b>Current Requested Amount:</b> \$12,033,000 General Fund for Construction</p> <p><b>Total Estimated Project Cost:</b> \$34,350,000 Total Funds (\$12,033,000 General Fund)</p>	Approve as budgeted
5	Pelican Bay State Prison, Crescent City: Facility D Yard	This proposal requests funding to construct a recreation yard for Facility D at Pelican Bay State Prison (PBSP). PBSP Facility D Security Housing Unit has been repurposed to a level II housing unit. This yard will provide inmates with the necessary space to participate in recreational and physical education programs.	<p><b>Current Requested Amount:</b> \$2,067,000 General Fund for Construction (reversion of \$1,854,000 and new appropriation of \$3,921,000)</p> <p><b>Total Estimated Project Cost:</b> \$4,460,000 General Fund</p>	Approve as budgeted
6	Correctional Training Facility, Soledad: Administrative Segregation Cell Door Retrofit	This proposal requests funding to replace the existing 144 barred cell fronts with more secure cell fronts with vision panels in the O-Wing Administrative Segregation Unit at the Correctional Training Facility (CTF) outside Soledad. The renovation of ASUs with new cell fronts addresses an important security need within prison facilities. In addition, the replacement of barred cell fronts and	<p><b>Current Requested Amount:</b> \$15,658,000 General Fund for Construction</p> <p><b>Total Estimated Project Cost:</b> \$16,939,000 General Fund</p>	Reject this proposal

		cell modifications related to heating and ventilation systems reduces suicide risks, which is of interest to the federal court in Coleman v. Brown.		
7	Folsom State Prison, Folsom: Water Storage Tanks	Funding is being requested for the construction phase of this project. This proposal requests funding to construct two new 750,000 gallon water storage tanks necessary to support building fire suppression requirements as part of the Health Care Facility Improvement Program Improvements.	<p><b>Current Requested Amount:</b> \$9,627,000 General Fund for Construction</p> <p><b>Total Estimated Project Cost:</b> \$66,821,000 Total Funds (\$9,627,000 General Fund)</p>	Approve as budgeted
8	Deuel Vocational Institution, Tracy: New Boiler Facility	This proposal requests a reappropriation of funding for the design and construction of a new central high-pressure steam boiler facility. Boiler replacement is required for compliance with the San Joaquin Valley Air Pollution Control District regulations for gas-fired boiler emissions standards.	<p><b>Current Requested Amount:</b> \$4,041,000 General Fund for Working Drawings &amp; Construction (this is considered a reappropriation of \$4,041,000 General Fund that was not encumbered by June 30, 2018)</p> <p><b>Total Estimated Project Cost:</b> \$4,414,000 General Fund</p>	Reject this proposal

9	Medication Distribution Improvements - Phase II	The requested funding is for the working drawings phase of the 13 separate projects, each subject to project authority separately and individually. These improvements will increase staff productivity and safety as well as ensure compliance with the Plata Court by providing timely inmate-patient access to medication.	<p><b>Current Requested Amount:</b> \$3,694,000 General Fund for Working Drawings (total for 13 projects)</p> <p><b>Total Estimated Project Cost:</b> \$36,978,000 General Fund (total for 13 projects)</p>	Approve as budgeted
10	California Institution for Men, Chino: Air Cooling Facility A	This proposal requests funding for the working drawings phase of the project. This proposal requests funding to install air cooling systems with required fire/life/safety improvements in Facility A housing units at the California Institution for Men to ensure that indoor temperatures will be maintained at or below 89° Fahrenheit in accordance with the CDCR’s Design Criteria Guidelines.	<p><b>Current Requested Amount:</b> \$931,000 General Fund for Working Drawings</p> <p><b>Total Estimated Project Cost:</b> \$11,926,000 General Fund</p>	Approve as budgeted
11	California State Prison, Sacramento: New Cognitive Behavioral Treatment Classrooms	This proposal requests funding for the working drawings phase to design and construct three 1,300 square foot classrooms with inmate and staff restrooms and staff offices to support the Cognitive	<p><b>Current Requested Amount:</b> \$491,000 General Fund for Working Drawings</p> <p><b>Total Estimated Project Cost:</b></p>	Approve as budgeted

		Behavioral Treatment program at California State Prison, Sacramento.	\$6,445,000 General Fund	
12	San Quentin State Prison, San Quentin: Cognitive Behavioral Treatment Space	This proposal requests funding for the working drawings phase of the project for the remodel of approximately 8,000 square feet of Vocational Building 32 for Cognitive Behavioral Treatment programs at San Quentin State Prison.	<p><b>Current Requested Amount:</b> \$484,000 General Fund for Working Drawings</p> <p><b>Total Estimated Project Cost:</b> \$7,156,000 million General Fund</p>	Approve as budgeted
13	Valley State Prison, Chowchilla: Arsenic Removal Water Treatment Plant	This proposal requests funding for the preliminary plans phase of the project. This proposal requests funding for the design and installation of an arsenic removal water treatment plant at Valley State Prison (VSP) due to the increase in arsenic levels in the wells at VSP and the adjacent Central California Women's Facility.	<p><b>Current Requested Amount:</b> \$1,508,000 General Fund for Preliminary Plans</p> <p><b>Total Estimated Project Cost:</b> \$21,053,000 General Fund</p>	Approve as budgeted
14	Statewide: Budget Packages and Advanced Planning	This request provides annual funding to perform advanced planning functions and prepare budget packages for capital outlay projects to enable the Department to provide detailed information on scope and costs on requests for future projects proposals.	<p><b>Current Requested Amount:</b> \$250,000 General Fund for Study</p> <p><b>Total Project Cost:</b> \$250,000 General Fund</p>	Approve as budgeted

15	Reappropriation of AB 900 General Fund	<p>Requesting a reappropriation of the unexpended funding. This reappropriation is necessary to ensure the balance of this appropriation remains available for completion of these projects.</p> <p>Assembly Bill 900 as amended originally appropriated \$300,000,000 General Fund for design and construction of infrastructure, dental, medication distribution improvements and for projects in the Health Care Facility Improvement Program (HCFIP) at prisons statewide. This amount was reduced to \$249,754,000 since the original appropriation in 2006.</p> <p>Five HCFIP projects and multiple medication distribution improvement projects are authorized from this funding source. Preliminary plans and working drawings have been completed for these</p>	<p><b>Current Requested Amount:</b> \$0 General Fund for Construction (reappropriation of \$11.8 million General Fund)</p> <p><b>Total Estimated Project Cost:</b> \$249,754,000 General Fund</p>	Approve as budgeted

		<p>projects; however, construction has been delayed due to fire alarm system connectivity issues, delayed approvals of fire sprinkler submittals, and phasing to maintain safe prison and medical operations during construction.</p>		
16	<p>Statewide: Master Plan for Renovation/Replacement of Original Prisons— Study</p>	<p>Extend reversion date of funding provided in 2016 to complete a study of the prisons constructed prior to 1980 from June 30, 2019 to June 20, 2020 to allow for time to process invoices and close out contracts.</p>	<p><b>Current Requested Amount:</b> \$0 General Fund for Study (language only to extend the liquidation period)</p> <p><b>Total Project Cost:</b> \$5,406,000 General Fund</p>	<p>Approve as budgeted</p>
17	<p>Health Care Facility Improvement Program - Increase Lease Revenue Appropriation</p>	<p>This proposal requests trailer bill language to increase the lease revenue appropriation authorized by Government Code Section 15819.403 by \$49,850,000 to complete construction of the remaining Health Care Facility Improvement Program (HCFIP) projects.</p> <p>The proposed language would increase that maximum amount of costs authorized for those purposes to \$1,139,429,000. The bill would make the additional \$49,850,000 available for allocation to any project established by the board in the Health Care Facility</p>		<p>Approve as proposed</p>

		<p>Improvement Program, but would be subject to existing restrictions on the allocations of the additional amount by requiring that each allocation be approved by the board and that not less than 20 days prior to the board's approval, the Department of Finance report specified information regarding the project to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the respective fiscal committee of each house of the Legislature. By increasing the amount of funds that are continuously appropriated to the board on behalf of the department for these purposes, the bill would make an appropriation.</p> <p>Individual HCFIP projects at 25 prisons have been established by the State Public Works Board (SPWB) utilizing the lease revenue bond financing authority in Government Code Sections 15819.40-15819.404. These projects are required to improve the infrastructure for outpatient health care services the amount of funds that are continuously appropriated to the board on behalf of the department for these purposes, the bill would make an appropriation.</p>		
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**13. Prison Maintenance Funding Methodology.** The CDCR’s Division of Facility Planning, Construction and Management, requests (1) replacement of the existing methodology for funding prison maintenance, which adjusts funding annually based on changes in the prison population, with a formula based on square footage, and (2) an increase in funding for maintenance and plant operations of \$18.5 million General Fund in 2019-20, \$37.1 million in 2020-21, and \$55.6 million in 2021-22 and ongoing. This item was heard on March 7, 2019.

**Staff Recommendation.** Reject the proposal and adopt placeholder supplemental reporting language requiring CDCR to submit a report by January 10, 2020 to the budget committees of each house and the Legislative Analyst's Office. In this report, CDCR should explain how it currently prioritizes funds for preventative and ongoing maintenance and provide a plan for how—if it is provided with increased ongoing preventative maintenance funds in the future—it would (1) prioritize the use of these increase preventative maintenance funds and (2) ensure that its deferred maintenance backlog does not grow.

**14. Allocation for Deferred Maintenance.** The budget includes a one-time increase of \$25 million in fiscal year 2019-20 to the Special Repair (SR)/Deferred Maintenance (DM) funding allocation. Additionally, CDCR is requesting Provisional Language to allow the funding to be available for encumbrance until June 30, 2021. This item was heard on March 7, 2019.

**Staff Recommendation.** Reject this proposal

## 0552 OFFICE OF INSPECTOR GENERAL (OIG)

**15. Auditing and Oversight.** The Office of Inspector General (OIG) was first established in 1994 within the Youth and Adult Correctional Agency, which has since been abolished. Duties included conducting investigations, reviewing policy, and performing management review audits of wardens and superintendents. As a result of widespread abuse in the state's correctional system, the Legislature responded in 1998-99 by expanding the OIG's oversight responsibility and making it an independent entity with discretionary authority to conduct audits and investigations. The Legislature further expanded the OIG's duties to include the discipline monitoring process, warden vetting, and follow-up warden audits. In 2011, the OIG's office was restructured in a manner that removed their authority to conduct discretionary audits and investigations, limited their oversight to only specified areas, added a medical inspection process, and required that special reviews be authorized only by the Governor, the Office of the Speaker, or the Office of the pro Tem.

**Staff Recommendation.** Adopt placeholder trailer bill language to reinstate the Office of Inspector General's office's ability to conduct discretionary audits and provide oversight over the California Department of Corrections and Rehabilitation staff complaint process and provide ongoing General Fund of \$7.913 million beginning in 2019-20 and thereafter to the Office of Inspector General to fulfill this workload.

## 5226 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)

**16. Funding for the Standards and Training for Local Corrections Program.** The budget proposes \$6.2 million General Fund in 2019-20 and ongoing for the Standards and Training for Local Corrections (STC) Program through an April 1<sup>st</sup> BCP. This item was heard on April 25, 2019.

**Staff Recommendation.** Reject this proposal.

**17. Leasing Capacity Trailer Bill Language.** Currently, counties that received jail construction funds from the state (via SB 1022 in 2012 or SB 844 in 2016) are not allowed to lease any additional jail capacity that they achieved as a result of the grant to another agency for a period 10 years. The proposed trailer bill language would except the leasing of housing capacity to state

agencies from this covenant requirement, thereby expanding the use of continuously appropriated funds and making an appropriation.

**Staff Recommendation.** Modify the placeholder trailer bill language to reflect the address the concerns of the specific agency (or agencies) that would need to make use of the new language.

**18. California Violence Intervention and Prevention Program.** The January Governor's Budget included \$9 million General Fund ongoing for the CalVIP program. This competitive grant program provides funds to cities and community based organizations for evidence-based violence intervention and prevention activities. The May Revision includes a one-time General Fund augmentation of \$18 million (one-year) to support additional grants to eligible cities and community-based organizations.

**Staff Recommendation.** Approve as budgeted with an additional \$3 million General Fund one-time to bring the total to \$30 million in 2019-20 and \$9 million in 2020-21 and ongoing.

**19. Post Release Community Supervision Population.** It is requested that Item 5227-106-0001 be increased by \$2,983,000 to adjust the amount provided to county probation departments to supervise people on Post Release Community Supervision. The adjustment reflects a revised estimate of the temporary increase in the number of people expected to be released to Post Release Community Supervision as a result of the Public Safety and Rehabilitation Act of 2016 (Proposition 57).

**Staff Recommendation.** Approve as budgeted.

## 8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)

**20. Peace Officer Standards and Training.** The Governor's Budget proposes \$34.9 million General Fund and 11 positions ongoing to restore POST to prior levels of funding. Resources will be provided for POST administration, additional training opportunities, and increased funding for local assistance and reimbursement provided to local law enforcement agencies.

**Staff Recommendation.** Approve as budgeted.

## VARIOUS DEPARTMENTS

**21. Penal Code Review Trailer Bill Language.** The Governor's budget includes \$576,000 to support a new committee that will be established under the California Law Revision Commission. The new committee will have separate powers to make policies and take actions, and to review and make recommendations to the Legislature and the Governor on revisions to the Penal Code. The committee will begin an effort to simplify and rationalize criminal law and criminal procedures, establish alternatives to incarceration that aid rehabilitation and protect public safety, improve parole and probation systems, and adjust the length of sentence terms based on certain considerations. The proposal includes \$25,000 for the committee to hire an outside consultant to serve the committee's needs. This item was heard on May 2, 2019.

**Staff Recommendation.** Approve as proposed

**22. *Prison to Community Pipeline Subcommittee Package.*** Throughout Subcommittee 5's hearings, multiple special panels discussed in-prison rehabilitative programming, parole preparation services, juvenile justice reform, and reentry into the community. These special panels were a continuing effort from last year to expand programs and services within these areas. The subcommittee therefore proposes the following package based on the feedback from special panels:

**Invest approximately \$124 million General Fund one-time in strategies that are proven to reduce recidivism and increase successful reentry. Increase investments in:**

- Augment the current funding for rehabilitative programs offered by community based organizations by \$15 million General Fund in 2019-20 to continue, expand or replicate rehabilitative programs that have previously demonstrated success with inmates in CDCR facilities, made available annually through the Request for Innovative Ideas (RFI2) process. Adopt placeholder trailer bill language that shapes the disbursement of funds, performance measures and method of selecting organizations. (\$15 million plus accompanying placeholder trailer bill language as proposed on May 9, 2019).
- Reentry housing support (\$85 million General Fund one-time to continue administration of the Adult Reentry Grant program) Of this \$85 million, \$10 million will be shifted from the 2018 Budget Act Adult Reentry Grant program (rehabilitation of property or buildings for housing offenders released from prison) to fund reentry housing support and warm handoff and \$5 million for rehabilitation of property or buildings for housing offenders released from prison will be reappropriated to Amity Foundation.
- Parolee population substance use treatment via the state's Specialized Treatment for Optimized Programming (STOP) (\$12 million)
- CSU, UC, and CCC to provide higher education services for formerly incarcerated (Project Rebound, Comm. College, and Underground Scholars (\$8.75 million)
- Parole preparation (\$5 million General Fund one-time to fund a pilot program through UnCommon Law. UnCommon Law would institute a three-year pilot with reporting and auditing to prepare 300 inmates serving life without the possibility of parole sentences at DVI for parole hearings with therapeutic counseling)
- Provide \$8 million per year and adopt placeholder trailer bill language for a three-year pilot in which therapeutic communities are established within DJJ facilities.
- Reentry support for California exonerated people through After Innocence (\$200,000 over three years)

Additionally, adopt budget bill and placeholder trailer bill language requiring the following:

1. The Department of Justice to produce a plan for upgrading or replacing the JCPSS juvenile justice data system, including costs and options for modernization that will result in a capacity for recidivism related analysis.

2. The plan should be developed in coordination with key stakeholders and experts, to identify the goals, options and costs related to system replacement.
3. The plan shall be produced and submitted to the Joint Legislative Budget Committee, the Assembly and Senate budget subcommittees on public safety, and the Assembly and Senate Public Safety Committees by January 1, 2021.
4. Provide one-time \$1.52 million General Fund to the DOJ to support this workload.

**Staff Recommendation.** Approve this proposed package.

## 0250 JUDICIAL BRANCH

**23. Access to Justice Subcommittee Package.** On March 14, 2019 Subcommittee 5 held a Judicial Branch-focused hearing that in which the need for family law and civil court reporters, court investigators and court room clerks, discretionary funding for trial courts, dependency counsel workloads. The subcommittee therefore proposes a Legislative package to complement the Judicial Branch's proposed access to justice proposals. The package includes the following:

- Restoration of the state appropriation limit (SAL) adjustment to the Trial Court Trust Fund from 2009 and prior and include placeholder trailer bill language that requires the that funding be used to provide courts and their employees a predictable funding source in recognition of the ongoing paying for other costs of doing business. The language would also require that each court will receive the full SAL amount to prevent manipulation of the SAL where some courts may receive more than others. The amount for 2019-20 would be \$90 million. The SAL would be provided for 2019-20, and establish the expectation that the SAL will be provided in future years as well.
- \$50 million General Fund ongoing and placeholder trailer bill language directing the courts to hire family law and civil court reporters to comply with recent court decisions that require indigent litigants are entitled to a court reporter and a transcript .
- \$10 million General Fund ongoing and adopt placeholder trailer bill language for court investigators and court room clerks.
- \$5 million for implementation of increases to the court reporter transcript rate.
- Adopt language authorizing a limited remote reporting pilot in Santa Clara Superior only.
- \$10 million General Fund for collaborative courts and adult diversion programs
- \$5 million General Fund ongoing for Equal Access Fund
- \$500,000 ongoing to the Equal Access Fund for the CA Commission on Access to Justice to operate independent of the State Bar and adopt placeholder trailer bill language establishing the independent Commission.

**Staff Recommendation.** Approve this proposed package.

**24. Pre-Trial Decision-Making Pilot Budget Bill Language.** The budget proposes budget bill language outlining a pre-trial decision-making pilot. The language proposes a \$75 million

allocation to the Judicial Council to fund the implementation, operation, or evaluation of programs or efforts in eight to ten courts related to pretrial decision-making.

**Staff Recommendation.** Approve as budgeted and adopt placeholder trailer bill language.

**25. Judgeships.** The May Revision includes \$30.4 million General Fund in 2019-20 and \$36.5 million General Fund in 2020-21 and ongoing to allocate 25 of the 48 remaining trial court judgeships authorized by AB 159 (Jones), Chapter 722, Statutes of 2007.

**Staff Recommendation.** Approve as budgeted and adopt placeholder trailer bill language detailing methodology of allocation of judgeships.

**0820 CALIFORNIA DEPARTMENT OF JUSTICE (DOJ)**

**26. Bureau of Gambling Control-Cardroom and Third-Party Provider Workload.** The May Revision includes a permanent Gambling Control Fund augmentation of \$4,399,000 in 2019-20 and ongoing to retain 32.0 existing positions necessary to continue reducing the backlog and maintaining ongoing workload associated with California cardroom and third-party providers of proposition player services license (TPPPS) applicants.

The following provisional language is also proposed to allow BGC's budget to be adjusted based on workload needs:

*1. The Department of Finance may augment or reduce the amount in Schedule (2) of this item based on workload changes related to the processing of license applications, renewals, and background investigations for cardrooms and third-party providers. The Director of Finance shall not approve any augmentation or reduction unless the approval is made in writing to the Chairperson of the Joint Legislative Budget Committee not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may determine.*

**Staff Recommendation.** Adopt placeholder trailer bill language on cardrooms. Additionally, modify by adopting the State Auditor's May 16, 2019 recommendations on the BGC. Specifically:

- Direct the BGC to establish a formal plan by November 2019 for completing its review of the remaining pending applications to ensure that it approaches its backlog strategically and that it is accountable for its use of resources, the bureau.
- Direct the BGC to properly and equitably report and bill the time they spend conducting such investigations to ensure that it fairly charges applicants for the costs of their background investigations. The bureau should establish and implement policies by July 2019.
- Approve funding for two-year limited term positions to give the bureau time to clear its backlog of applications and to implement our recommendations to improve its application processing.

**27. Implementation of Various CURES Legislation.** The May Revision includes various proposals in relation to Controlled Substance Utilization Review and Evaluation System (CURES) program legislation:

- A reimbursement authority of \$474,000 in 2019-20 and 2020-21 to meet mandates associated with SB 482 (Lara), Chapter 708, Statutes of 2016.
- Permanent position authority for one position and reimbursement authority of \$1,179,000 in 2019-20, \$200,000 in 2020-21, and \$191,000 in 2021-22 and ongoing to meet the mandates of AB 149 (Cooper), Chapter 4, Statutes of 2019 and AB 1753 (Low) Chapter 479, Statutes of 2018.
- An increase in position authority of three positions and reimbursement authority of \$1,017,000 in 2019-20 and \$402,000 in 2020-21 and ongoing to meet the mandates outlined in AB 1751(Low), Chapter 478, Statutes of 2018.

The DOJ would be reimbursed for these costs from the CURES Fund, which is administered by the Department of Consumer Affairs.

**Staff Recommendation.** Approve as budgeted.

**28. Human Trafficking and Sexual Predator Apprehension Teams.** The budget includes \$4,192,000 General Fund and 15.0 permanent positions in 2019-20 and \$3,421,000 General Fund in 2020-21 and ongoing to establish two investigative teams, focused on human trafficking and child exploitation organizations.

**Staff Recommendation.** Approve as budgeted.

**29. *Peace Officer Release of Records (SB 1421).*** The budget includes three positions and \$477,000 General Fund in 2019-20 and \$442,000 General Fund in 2020-21 and ongoing, for the Division of Law Enforcement (DLE) to implement the provisions of SB 1421 (Skinner), Chapter 988, Statutes of 2018.

**Staff Recommendation.** Approve one position and \$155,000 General Fund in 2019-20 and ongoing with placeholder budget bill language specifying that the expenditure of allocation is contingent on the DOJ implementing SB 1421 on a pro rata basis.

**30. *Sex Offender Registry.*** The budget includes \$17.2 million General Fund and 13 permanent positions in 2019-20, \$15.7 million General Fund in 2020-21, and \$13.2 million General Fund in 2021-22 to provide resources that will implement years two through four of SB 384. Year one funding of \$10 million and 25 positions were provided in the 2018 Budget Act. SB 384 requires the California Sex Offender Registry to transition from a lifetime registration system to a tier-based system for periods of 10 years, 20 years, and life beginning January 1, 2021. There are currently 104,000 sex offender registrants in the state, all of whom are now required to be assigned into one of the three tiers. This item was heard on May 2, 2019. (Note: In the May 2nd, 2019 hearing this item was heard and the BCP has since been corrected to account for the addition of 13 positions instead of 37).

**Staff Recommendation.** Approve the 13 permanent positions and proposed funding.

**31. *CA Consumer Privacy Act of 2018 (AB 375, SB 1121).*** The budget proposes a permanent augmentation of 23.0 positions and \$1,827,000 General Fund and \$2,912,000 Unfair Competition Law Fund in 2019-20 and \$1,746,000 General Fund and \$2,808,000 Unfair Competition Law Fund in 2020-21 and ongoing, to implement and enforce the mandates of AB 375 (Chau), Chapter 55, Statutes of 2018, and SB 1121 (Dodd), Chapter 735, Statutes of 2018.

**Staff Recommendation.** Reject this proposal.

**32. *Major League Sports Raffle Program (AB 888).*** The budget includes \$1.26 million Major League Sporting Event Raffle Fund and five positions in 2019-20, \$1.15 million in 2020-21, 2021-22, and 2022-23, and \$609,000 in 2023-24 to the DOJ to provide regulation of the Major League Sports Raffle Program as authorized by AB 888 (Low), Chapter 575, Statutes of 2018, which extends the sunset date of this program from December 31, 2018 to January 1, 2024, increases the fee amounts that can be assessed to registrants, and makes changes to the raffle reporting requirements by eligible organizations.

**Staff Recommendation.** Approve the following:

- Provide one full-time auditor (\$72,500), one legal secretary (\$31,000), one Deputy Attorney General (\$139,000), and one part-time special agent (\$44,500) and associated staff benefits through the sunset of this program.
- Approve operating expenses and equipment as specified in the budget proposal.
- Adopt placeholder trailer bill language.

**33. *Price Gouging, State of Emergency (AB 1919).*** The budget requests spending authority of \$365,000 Unfair Competition Law Fund and two positions in 2019-20 and \$352,000 in 2020-21

and ongoing to the DOJ to implement AB 1919 (Wood), Chapter 631, Statutes of 2018, which expands the scope of law to include rental housing and resources for enforcement of price gouging in times of disaster.

**Staff Recommendation.** Reject this proposal. The bill creates misdemeanors that are enforceable by local law enforcement.

**34. *Crime Prevention/Investigation: Informational Databases (AB 2222).*** The budget includes \$135,000 General Fund and one position in 2019-20 and \$126,000 General Fund in 2020-21 and ongoing to the DOJ to implement AB 2222 (Quirk), Chapter 864, Statutes of 2018. AB 2222 expands which law enforcement agencies are required to report information about firearms that are reported lost, stolen, or recovered. The position would be a permanent Field Representative position including wages, benefits, equipment, and operating expenses, to provide audit support to the department's Automated Firearms System (AFS).

Generally, sheriff and police departments are required to submit to DOJ, directly into the appropriate automated property system, descriptions of serialized property, or non-serialized property that is uniquely inscribed, that has been reported lost, stolen, found, recovered, held for safekeeping, or under observation. Specific to firearms, this information is submitted into AFS. Also with respect to firearms only, the information entered into AFS must remain in the system until the gun has been found, recovered, is no longer under observation, or it is determined that the record was entered erroneously. Additionally, police and sheriffs' departments are required to, and other law enforcement agencies may, report to DOJ any information in their possession necessary to identify and trace the history of a recovered firearm that is illegally possessed, has been used in a crime, or is suspected of having been used in a crime.

**Staff Recommendation.** Approve as budgeted.

**35. *Subsequent Arrest Notification (AB 2461).*** The budget proposes \$1.18 million Fingerprint Fees Account and six positions in 2019-20 and \$742,000 in 2020-21, and ongoing to implement AB 2461 (Flora), Chapter 300, Statutes of 2018, which makes it a requirement for DOJ to pass along all subsequent arrest and conviction information to DSS, the Medical Board of California, the Osteopathic Medical Board of California when they had lawfully requested and received such information, including DSS.

**Staff Recommendation.** Approve five positions per Senate Appropriations analysis, \$831,000 Fingerprint Fees Account in 2019-20 and \$742,000 Fingerprint Fees Account in 2019-20 and ongoing.

**36. *California State Auditor Report: Hate Crimes in California.*** The budget includes \$797,000 General Fund and five positions in 2019-20, \$693,000 in 2020-21 and ongoing to address recommendations identified in 2018 California State Auditor Report on Hate Crimes. Recommendations related to training and auditing law enforcement agencies (LEAs) are new responsibilities. Specifically, the recommendations pertaining to training and auditing LEAs create a significant time and resource demand on the DOJ. Training and auditing LEAs, analyzing trend data, and performing quality control functions will require additional resources.

**Staff Recommendation.** Reject this proposal. There is no mandate on DOJ to implement the Auditor's recommendations.

**37. Bureau of Firearms Workload.** The Governor's Budget includes \$6.875 million Dealer Record of Sale (DROS) authority in 2019-20 and 63 positions (a combination of new positions, converting temporary positions to permanent positions, and positions with authority but no funding) in the DOJ's Bureau of Firearms, and \$6.41 million DROS authority in 2020-21 and ongoing to maintain time-sensitive firearms workloads. The positions would be placed in the Background Clearance Unit, Phone Resolution Unit, DROS Quality Assurance Team, Reporting and Quality Assurance Section, and Armed Prohibited Persons Section. This item was heard on April 4, 2019.

**Staff Recommendation.** Approve as budgeted.

**38. Armed Prohibited Persons Systems Investigations.** The budget initially included 26.0 positions and \$5,601,000 (\$16,901,000 General Fund, -\$11,300,000 Dealers' Record of Sale Account) in fiscal year 2019-20, and \$4,656,000 (\$15,956,000 General Fund, -\$11,300,000 Dealer's Record of Sale Account) in 2020-21 ongoing to conduct Armed and Prohibited Persons System (APPS) investigations.

The result of the aforementioned proposal would be not only an increase in support for the APPS program, but also a funding swap between the Dealers' Record of Sale (DROS) Account and the General Fund. The APPS program would effectively shift to be fully funded by the General Fund.

An April Finance Letter was submitted requesting an increase of \$575,000 General Fund to make APPS investigations entirely funded by the General Fund. This adjustment accounts for employee compensation related increases that were erroneously not included in the Governor's Budget proposal.

The April Finance Letter also requested a corresponding decrease in special fund resources to shift APPS to the General Fund. This request, however, included the incorrect fund for the adjustment. The fund used in the April Finance Letter is Fund 0032—Firearm Safety Account; however, the correct fund should be Fund 1008—Firearms Safety and Enforcement Special Fund.

The net result of both of these proposals is: (1) the APPS program will be funded with \$17,476,000 General Fund, and (2) the DROS Unit will be split funded (\$6,779,000 DROS Account and \$5,334,000 FSE), in contrast to historically being entirely DROS-funded.

This item was heard on April 4, 2019 and May 2, 2019.

**Staff Recommendation.** Approve the following:

- Cover only existing support for APPS investigation teams on a one-time basis with \$11.875 million General Fund. Adopt placeholder trailer bill language that directs the DOJ to assess and report the Legislature the fund condition of DROS and ways that durable solutions can be implemented to maintain a sufficient fund balance.
- Adopt placeholder budget bill language specifying that an additional \$3 million General Fund be allocated one-time to create a pilot grant program to support local law enforcement agencies who wish to carry out sweeps of APPS in their jurisdiction. Moreover, adopt budget bill language that would require participating jurisdictions to submit a report detailing the use of funds and efficacy of the program.

- Continue to provide the DROS Section with \$12.113 million in support, but with \$5.334 million from the FS&E Special Fund and the remaining \$6.779 million from the DROS Special Account. Adopt placeholder trailer bill language to require reporting on APPS investigation team workload. The reporting language should specify that once the backlog is eliminated, DOJ should begin reporting on the new or expanded activities the APPS investigation teams engage in. This could help the Legislature determine the extent to which ongoing resource levels should be adjusted in the future.
39. ***DNA Identification Fund Revenue Backfill.*** The budget includes \$25 million (\$15 million General Fund and \$10 million redirecting existing General Fund and backfilling expenditures with Fingerprint Fees) to the Bureau of Forensic Services (BFS). This item was heard on April 4, 2019.

**Staff Recommendation:** Approve the proposal and placeholder supplemental report language (SRL) requiring the Department of Justice (DOJ) assess the following:

- How DOJ currently provides services to state and local governmental agencies.
  - How DOJ's provision of services compares to those provided by local governments or other facilities (including the charging of fees for services).
  - The operational or other changes would be needed to operate within the revenues available in the DNA Identification Fund or other non-General Fund sources.
40. ***Control Section 5 Language.*** The Administration proposes language to allow DOF to adjust any appropriation to reimburse DOJ for legal services provided to client agencies. This was included in anticipation of DOJ modifying its billing rate structure (such as increasing its hourly billing rates) to ensure it sufficiently recovered its costs for providing legal services.

**Staff Recommendation.** Adopt LAO recommendation. Modify this language to: (1) require DOJ submit a report detailing its new billing rate structure and demonstrating how the new structure ensures its costs of providing legal services is covered no later than 30 days before DOF begins the process of making any augmentations, (2) require DOF provide 30 day notification to JLBC before any adjustments are made, and (3) require DOF submit an annual report to summarize all augmentations that were made under the authority of this language. These changes will increase legislative oversight of the state's legal services expenditures.