
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 601 **Hearing Date:** April 28, 2015
Author: Hancock
Version: April 20, 2015
Urgency: No **Fiscal:** Yes
Consultant: JRD

Subject: *Corrections: Prisons: Reports*

HISTORY

Source: Author

Prior Legislation: SB 601 (Hancock) – 2011, vetoed

Support: Unknown

Opposition: None known

PURPOSE

The purpose of this bill is to require the secretary of the CDCR to develop and make public a quarterly “data dashboard,” as specified.

Current law creates in state government the California Department of Corrections and Rehabilitation (CDCR), to be headed by a secretary, who shall be appointed by the Governor, subject to Senate confirmation, and shall serve at the pleasure of the Governor. (Government Code § 12838.) CDCR shall consist of Adult Operations, Adult Programs, Health Care Services, Juvenile Justice, the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board. (*Id.*) As explained in the Legislative Analyst's Office Analysis of the Governor's 2015-16 Proposed Budget:

The CDCR is responsible for the incarceration of adult felons, including the provision of training, education, and health care services. As of February 4, 2015, CDCR housed about 132,000 adult inmates in the state's prison system. Most of these inmates are housed in the state's 34 prisons and 43 conservation camps. About 15,000 inmates are housed in either in-state or out-of-state contracted prisons. The department also supervises and treats about 44,000 adult parolees and is responsible for the apprehension of those parolees who commit new offenses or parole violations. In addition, about 700 juvenile offenders are housed in facilities operated by CDCR's Division of Juvenile Justice, which includes three facilities and one conservation camp.

The Governor's budget proposes total expenditures of \$10.3 billion (\$10 billion General Fund) for CDCR operations in 2015–16.

Under current law the Secretary of the Department of Corrections and Rehabilitation is required to establish the Case Management Reentry Pilot Program for offenders under the jurisdiction of

the department who have been sentenced to a term of imprisonment under Section 1170 and are likely to benefit from a case management reentry strategy designed to address homelessness, joblessness, mental disorders, and developmental disabilities among offenders transitioning from prison into the community, as specified. The department is required to submit a final report of the findings from its evaluation of the pilot program to the Legislature and the Governor no later than three years after the enactment of Assembly Bill 1457 or Senate Bill 851 of the 2013–14 Regular Session. (Penal Code § 3016.)

This bill would require the Secretary of CDCR to develop a “data dashboard,” as specified below, on a *quarterly basis* and post those reports on the department’s Internet Web site.

This bill would require CDCR to “post both current fiscal-year reports and reports for the immediately preceding three fiscal years for each institution.”

This bill would require that each report be created using, when possible, information collected using the COMPSTAT (computer assisted statistics) reports for each prison and shall include, but not be limited to, all of the following information:

- (1) A brief biography of the warden, whether he or she is an acting or permanent warden.
- (2) A brief description of the prison and the total number and level of inmates currently residing at the prison.
- (3) Staff vacancies, overtime, sick leave, and number of authorized staff positions.
- (4) Rehabilitation programs, including enrollment capacity, actual enrollment, and diploma and GED completion rate.
- (5) Number of deaths, specifying homicides, suicides, unexpected deaths, and expected deaths.
- (6) Number of use of force incidents.
- (7) Number of inmate appeals, including the number being processed, overdue, dismissed and upheld.
- (8) Number of inmates in administrative segregation.
- (9) Total contraband seized, specifying the number of cellular telephones.

This bill states that the report should include two items not currently collected or displayed by COMPSTAT:

- (1) Total budget, including actual expenditures.
- (2) Number of days in lockdown.

This bill states that the report on the Case Management Reentry Pilot Program is due to the legislature and the governor by July 31, 2017.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity."(Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for Legislation

According to the Author:

California's correctional system lacks transparency and accountability. The public as well as the Legislature have no clear way of accessing information on the management and performance of each warden at California's 33 prisons.

SB 601 would require the Secretary of the California Department of Corrections and Rehabilitation (CDCR) to develop a quarterly report for each prison. This measure would require the CDCR to post their report on the CDCR website.

The report would include the following information:

- Staff vacancies, overtime sick leave, and the number of authorized staff prisons
- Rehabilitation programs, including enrollment capacity, and actual enrollment, and diploma and GED completion rate
- Number of deaths, specifying homicides, suicides, unexpected deaths, and expected deaths
- Number of use of force incidents
- Number of inmate appeals, including the number being processed, overdue, dismissed and upheld
- Number of inmates in administrative segregation
- Total contraband seized, specifying the number of cellular telephones and drugs
- Total Budget, including actual expenditures*
- Number of days in lockdown*

*Data not currently collected by the department using COMPSTAT.

2. Background

For the last several years the CDCR has been the subject of a great deal of scrutiny and criticism. In March of 2004 then-Governor Schwarzenegger announced the creation of an "Independent Review Panel" ("IRP") led by former Governor George Deukmejian to examine ways to improve adult and youth corrections in California. In June of 2004 the IRP released its report, urging in part the establishment of "a system of accountability that includes performance measures by which to evaluate employees and monitor levels of achievement."¹ The IRP, which assessed a state correctional system prior to the reorganization approved in 2005,² stated in part:

¹ *Report of the Independent Corrections Review Panel* (June 2004), p. 26. The report is available online at http://cpr.ca.gov/Review_Panel/.

² The reorganization of the corrections agency was codified in SB 737 (Romero), Ch. 10 Stats. 2005.

To a significant extent, the problems of California's Correctional system grow out of its structure. The Secretary of the Youth and Adult Correctional Agency, for example, has no control over line operations. Instead, the state's 32 prison wardens and eight juvenile institution superintendents each operate independently, with little consistency in procedures and minimal help from headquarters. Lines of responsibility are blurred by layers of bureaucracy between managers and functions. *Accountability is conspicuously absent, as is transparency for the public into the system's inner workings.* Clear, uniform policies governing the system's most vital functions — fiscal matters, personnel and training, internal affairs, information technology, and health care — are equally lacking. Boards, commissions, and other entities that have evolved over the decades perform duplicate and overlapping functions. And the system's organizational structure has not kept pace with the massive growth in inmate population or with the vast geographical spread of the institutions.

The sheer size and complexity of the correctional system, the critical nature of its mission, and the severity of the problems dictate the need for wholesale reform, and that reform should begin with the system's organizational structure. The Corrections Independent Review Panel therefore proposes that the state's correctional agencies be reorganized according to the plan described in this chapter. *While the restructuring alone will not produce the necessary reforms, it will serve as the foundation for cleaning up the prison system, reining in costs, curbing misconduct, holding correctional administrators accountable for the system's performance, and making communities safer by doing more to ensure that inmates and youth wards leave custody better prepared to function in society.*³

The IRP, which recommended a restructuring that “flattens” the organization by removing layers of bureaucracy that have obscured lines of authority and accountability between top managers and the functions for which they are responsible,”⁴ identified the following management principles as key to reforming the state's correctional system, and in particular recommended:

Transforming the culture of the Department of Corrections and the California Youth Authority into one in which personal integrity and loyalty to the department mission consistently take precedence over loyalty to co-workers suspected of wrongdoing, requires a vigorous, multi-pronged approach. The effort should be guided by quality management principles incorporating clear objectives and purpose; key performance measures; consistent monitoring; and a system of correction and reward. Quality management principles accomplish the following:

- Provide clarity of purpose in each employee's job;
- Link each person's work to the department's mission;
- Foster continual improvement;
- *Bring accountability to all department levels.*⁵

³ *Id.*, p. 1 (emphasis added).

⁴ *Id.*, p. 4.

⁵ *Id.*, p. 20-21 (emphasis added).

With respect to management staff, the IRP stated the department “must provide supervisors, managers, and executive management every possible opportunity to succeed.

These individuals must be given a clear understanding of the responsibilities of their positions. They must also receive performance evaluations to ensure that they grow in their positions and know how to improve their performance. To accomplish that purpose, the Department of Correctional Services should take the following actions:

- Develop specific job objectives in the job description for all managers, and executives, and rate job performance by these objectives at least annually. The specific job objectives and method of rating job performance must be standardized to ensure consistency. . . . These basic management steps must be incorporated into the performance evaluations of each manager and evaluated at least annually. Clear standards lead to better accountability of employee actions and help identify employees who need further training or mentorship. . . .⁶

Specifically with respect to wardens, the report states:

To provide a model for exceptional performance by wardens Secretary Lehman of the Washington State Department of Corrections noted:

There are five questions to ask top performing wardens to find out how effectively they deal with an issue: (1) What alternatives or options were considered? (2) What were the expected results? (3) What data was tracked? (4) What barriers were encountered? (5) What actions were taken to improve the problem?⁷

Following the IRP report, in 2005 Governor Schwarzenegger proposed to reorganize what then was the “Youth and Adult Correctional Agency.” Accountability was a key goal of the proposed reorganization:

Restructuring will establish clear lines of reporting, accountability and responsibility and performance assessment that will improve services, reduce the likelihood of repeat offenses and eliminate abuses within the current system. It will centralize services and activities to remove duplication and leverage the scale of the Department’s \$6 billion spending authority, thus reducing the cost of operations. The reorganization will deliver a safer society at less cost to the people of California.⁸

⁶ *Id.*, p. 75.

⁷ *Id.* p. 94.

⁸ Governor’s Reorganization Plan, Reforming California’s Youth & Adult Correctional Agency (Appendix “A,” *Reconstructing Government: A Review of the Governor’s Reorganization Plan: Reforming California’s Youth and Adult Correctional Agency*, Little Hoover Commission (Feb. 2005).

In its report assessing the Governor's proposed reorganization, the Little Hoover Commission stated in part:

The plan clarifies and strengthens the chain of command from the secretary to the prison wardens and Youth Authority superintendents, who under the current system operate with little accountability to the secretary or loyalty to the organization. Wardens and superintendents will report to the secretary through a division director and chief deputy secretary and will not require Senate confirmation. *The proposed reorganization would give the secretary necessary authority over all activities in the agency and its subordinate departments, thereby increasing the ability of the Governor, lawmakers and the public to hold the secretary accountable for the performance of correctional programs.*

. . . The lack of a unified structure for prison work and education programs has diminished their effectiveness. *The longstanding practice of allowing prisons to operate independently has hindered accountability and hampered the standardization of policies, contributing to inmate abuse and expensive lawsuits.*⁹

With respect to wardens prior to the 2005 reorganization, the Little Hoover Commission noted:

Under the current system, the Secretary reports to the Governor, but he does not have the actual power to change the operations of the Department of Corrections and the California Youth Authority that administer the correctional institutions. As a result, the Governor cannot truly hold the Secretary accountable for the performance of the correctional system or enact major reforms in the way prisons are administered. Nor can the Secretary dismiss a warden of an institution. *Currently the system's 32 wardens and eight superintendents do not report directly into the Secretary. Each warden employs different standards and different operating procedures. This decentralized framework, along with Senate confirmation of wardens, has helped create a system of operational silos with little accountability or sharing of best practices outside the facility walls.*¹⁰

WOULD THIS BILL IMPROVE ACCOUNTABILITY FOR PRISON OPERATIONS?

-- END --

⁹ *Id.* (emphasis added).

¹⁰ *Id.* (emphasis added).