Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Tuesday, February 15, 2022
9:00 a.m.
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

ITEMS FOR DISCUSSION

Public Comment

ALL ITEMS HELD OPEN

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ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS

0552 OFFICE OF THE INSPECTOR GENERAL (OIG)
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 1: Staff Complaint Process

Governor's Budget. The proposed budget includes the following resources for CDCR and the OIG to implement and oversee a new process for handling allegations of staff misconduct:

- CDCR requests $35.6 million General Fund and 175.0 positions in fiscal year 2022-23, scaling to 192.0 positions ongoing and $37.0 million General Fund in fiscal year 2023-24, $34.9 million General Fund in 2024-25, $35.0 million General Fund in 2025-26, and $34.2 million General Fund in 2025-26 and ongoing, to restructure the department's staff misconduct allegation complaint screening, referral, investigative, and disciplinary processes. Key changes include:
    - Establishing a Centralized Screen Team (CST) in the Office of Internal Affairs (OIA) to receive, screen, and route grievances from the incarcerated population.
    - Expanding the Allegation Investigation Unit (AIU) at OIA to handle more investigations into allegations of staff misconduct.
- OIG requests $2.3 million General Fund and 16 positions in 2022-23, and $3.6 million and 24 positions ongoing, to review approximately 30 percent of the complaints filed by incarcerated persons to determine if CST is routing complaints involving allegations of staff misconduct for the appropriate level of review, and to monitor approximately 10 percent of the staff misconduct investigations handled by the AIU.

Panelists.

- Amy Miller, Director, Division of Internal Oversight and Research, CDCR
- Amarik Singh, Inspector General, OIG
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, LAO

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

As detailed below, CDCR has made several changes to its process for handling allegations of staff misconduct, also known as the staff complaints process. These changes are largely in response to a series of reports from the OIG and recent court orders in the *Armstrong* case. The process was updated in April 2020, and then updated again effective January 1, 2022.

Staff Complaint Process. CDCR defines a staff misconduct grievance as an allegation that staff violated a law, regulation, policy, or procedure, or acted contrary to an ethical or professional standard[1]. Generally, CDCR receives these through the general grievance process, which also includes routine grievances and other requests. For example, a routine grievance could be that the temperature in a cell is too hot, whereas an allegation of staff misconduct would be that staff are deliberately raising the temperature in the cell as retaliation or punishment. An initial screening process identifies allegations of staff misconduct, and routes them for further inquiry, investigation, or action.

Historically, allegations of staff misconduct were handled within the prison. Specifically, staff were responsible for screening claims to identify those that contained allegations of staff misconduct. Staff then conducted inquiries into those allegations and reported the results to hiring authorities (typically a warden). Unless the hiring authority determined that the report warranted a referral to OIA for potential disciplinary action, these allegations were not referred outside the prison and did not rise to the attention of OIA or OIG.

Employee Discipline. If the hiring authority believed adverse action was warranted (such as dismissal or suspension), they refer the case to the Central Intake Panel (CIP) at OIA, often referred to as the "989 process." CIP reviews any information already collected and can refer the case for further investigation (including criminal investigation), or authorize the hiring authority to take direct disciplinary action without further investigation. In response to the *Madrid* case, CDCR established the Employee Advocacy and Prosecution Team (EAPT) in CDCR's Office of Legal Affairs (OLA) in 2005. EAPT staff attorneys provide legal support and guidance to CDCR throughout employee investigation and disciplinary processes.

OIG Oversight of the Staff Complaint and Employee Discipline Processes. The OIG was established in 1994 to provide independent oversight of California's prison system. Over the years, the OIG has been restructured and its duties changed multiple times, typically in response to court orders for oversight or legislative priorities. In particular, the Legislature removed much of the OIG's authority and resources in 2011, but some of has since been restored. The OIG is currently tasked with monitoring the staff complaint process and the employee discipline process. Specifically:

- *Staff Complaint Monitoring and Complaint Intake.* In 2019, OIG was tasked with monitoring the staff complaint process, and the 2019-20 budget package provided OIG with five positions and about $780,000 in ongoing General Fund support for this purpose.

- *Employee Discipline Monitoring.* The OIG has representatives on the CIP, although the final decisions are made by the OIA staff. However, in its public reports to the Legislature and Governor, OIG notes instances when its staff disagree with decisions made by OIA.

[1] The definition used to also contain "that would more likely than not subject a staff member to adverse disciplinary action (such as a reprimand, pay reduction, suspension, or dismissal) if it were found to be true," but this was removed in the most recent regulations.

The OIG also monitors about 15 percent of the investigations conducted as a result of the 989 process, focusing on the more serious investigations, such as cases involving alleged dishonesty, use of force, and criminal activity.

In addition to monitoring the quality of the investigatory work, OIG monitors the performance of department attorneys involved in the investigation and discipline process and hiring authorities' imposition of discipline. OIG includes these findings in its public reports to the Legislature and Governor.

Reforming the Staff Complaint Process. In 2019, the OIG released a report on the staff complaint process at Salinas Valley State Prison. The OIG report found that the inquiries performed by staff at the prison were inadequate in most cases. The staff reviewers received little to no prior training and were not sufficiently independent from the staff involved in the complaint, among other issues[2]. The report recommended an overhaul of the staff complaint process, including reassigning inquiries outside the prison's command structure, and providing ongoing and comprehensive training to staff who may conduct inquiries, among other suggestions.

Allegation Inquiry Management Section. In response to the OIG's report, CDCR implemented a new system which replaced local inquiries with a central inquiry unit at OIA called the Allegation Inquiry Management Section (AIMS). This unit contained correctional lieutenants who were assigned to specific institutions, and whose sole responsibility would be conducting staff complaint inquiries. In this system, *any* grievance containing an allegation of staff misconduct was supposed to be sent to OIA.

In February 2021, the OIG released a special review on the implementation of the new process[3]. It found that wardens only referred 23 percent of grievances that alleged staff misconduct to AIMS and continued to handle most allegations locally. The OIG again recommended a series of changes to the staff complaint process, including sending grievances directly to OIA, clarifying and simplifying the definition of staff misconduct and the criteria for routing complaints, and directing AIMS to handle a larger range of misconduct allegations. In addition, in a separate letter, the OIG expressed concern about CDCR's response to allegations stemming from the attorneys representing incarcerated persons in the *Coleman* and *Armstrong* class action lawsuits[4].

***Armstrong* Court**. In addition to the OIG reports, CDCR was directed to reform the staff complaint process as part of the *Armstrong* Remedial Plan (ARP). *Armstrong* is a class action lawsuit filed in 1994 on behalf of prisoners with disabilities that has resulted in continued court oversight and litigation. Recently, the court directed CDCR to develop measures to reform its staff complaint, investigation, and discipline processes; expand AIMS to handle alleged violations pertaining to other categories such as ADA, ARP, Health Care, Use of Force (UOF), and the Prison Rape Elimination Act (PREA), which were previously retained at the local level; and include a system for receiving complaints from third parties, including the attorneys representing class members in *Armstrong* and other lawsuits.

[2] https://www.oig.ca.gov/wp-content/uploads/2019/05/2019_Special_Review_-_Salinas_Valley_State_Prison_Staff_Complaint_Process.pdf
[3] https://www.oig.ca.gov/wp-content/uploads/2021/02/OIG-Staff-Misconduct-Process-Report-2021.pdf
[4] https://www.oig.ca.gov/wp-content/uploads/2020/01/Letter-to-Secretary-Diaz-The-Departments-Handling-of-Allegations-of-Staff-Misconduct-Raised-by-Inmates-Attorneys.pdf

New Regulations. In response to the concerns raised by the OIG report and the *Armstrong* court orders, CDCR is amending its staff misconduct processes statewide. The new emergency regulations[5], which went into effect January 1, 2022, were developed with feedback from OIG and the *Armstrong* plaintiffs (although ongoing concerns are discussed later). The major changes include:

- *Centralized Screening Team.* Grievances will be submitted directly to OIA and routed by a newly established Centralized Screening Team (CST). CST will review a wider range of grievances. These include CDCR Form 602-1 (Custody Grievance; part of existing process), CDCR Form 602-HC (Health Care Grievance; new to process), and CDCR Form 1824 (Reasonable Accommodation Request; new to process). In addition, CST will accept grievances filed by third parties, including from or on behalf of *Armstrong* plaintiffs, and from anonymous parties, CDCR staff, and families.

- *Allegation Decision Index.* CST staff will use a newly developed Allegation Decision Index (ADI) to route allegations. The index includes allegations that were previously returned to prisons, including UOF, PREA, and sexual misconduct and harassment, in addition to serious allegations including destruction of evidence, discrimination and harassment, and others. It also includes the minimum staff level (i.e. special agent, lieutenant, or sergeant) that should be assigned to the investigation.

- *Allegation Investigation Unit.* Allegations on the ADI, considered the most serious, will be retained at OIA for investigation by a new Allegation Investigation Unit (AIU), which will absorb the existing AIMS staff. This unit will only conduct full investigations, rather than inquiries, which typically ended when reasonable belief was established. In addition, legal representation and advice will be provided in these cases by the EAPT attorneys, as these investigations may be used as the basis for taking direct adverse action or have other implications on employee discipline.

- *Local Inquiries.* The new process retains the use of local inquiries for allegations not listed on the ADI, which are considered less serious. However, these can be escalated directly to AIU without going through the hiring authority first. In addition, the Locally Designated Investigator (LDI) will be required to be at least one rank above the highest-ranking officer in the allegation.

- *Elimination of 30-day requirement.* There is no longer a time constraint for submitting allegations of staff misconduct. There is still a 60-day time limit for submitting routine grievances.

- *Determinations.* The new process requires a hiring authority to render a determination in every allegation and follow through with corrective or adverse action when an allegation of staff misconduct is sustained.

[5] https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2021/12/Staff_Misconduct_Emergency_Reg_Approval_ADA-12.31.21.pdf

- *Tracking Database.* OIA will establish a database for tracking allegations of staff misconduct and employee discipline, called the Allegation Against Staff Tracking System (AASTS). CDCR indicates that this database will be used as an early warning system, to identify concerning patterns at institutions or with certain staff, but the details have not been finalized. OIG will have access to this database. The database will also include other sources of information, including data about the employee discipline process.

- *Removal of the "likely to lead to adverse action" requirement.* Previously, CDCR's definition of staff misconduct specified that the act not only had to violate policy or law, but also had to be likely to lead to adverse action. This was a subjective criterion, and its use has largely been eliminated in the new process.

Specifically, the new process will work as follows:

1. *Intake, Screening, and Routing.*

    - Grievances will be collected by the prison's Office of Grievances, and screened for any urgent issues (i.e. anything that would require an immediate response) within one business day.

    - Grievances will be sent to the new CST and processed within three to five business days. There, staff will decide a course of action:

        - If it is a routine grievance, it will be returned to the prisons to be handled.

        - If it contains an allegation of misconduct that is included on the ADI, it will be routed to the appropriate staff in AIU for a full investigation.

        - If it contains an allegation of misconduct not on the ADI, it is returned to the prison for a local inquiry. However, CST staff have the discretion to elevate these to AIU rather than return them to the prison if deemed appropriate. In addition, hiring authorities can return cases to AIU if they feel that a local inquiry would be insufficient.

        - CST staff may also follow up with the person who submitted the grievance for more information if needed to determine the correct routing.

    - CST staff will log the grievance in the new database.

2. *Investigation, Inquiry or Other*. Depending on the decision of CST, AIU will perform an investigation within 120 days, or an LDI will perform a local inquiry within 60 days. In the case of a local inquiry, the final report must be reviewed by an AIU Captain before the inquiry is completed. If the LDI establishes reasonable belief that an allegation occurred that is likely to lead to adverse action, the LDI is supposed to stop the inquiry and escalate the complaint directly to AIU. Finally, either the AIU Investigation Report or the LDI Inquiry Allegation Report is returned to the hiring authority for review and disposition.

3. *Resolution*. Once the report is back with the hiring authority, the process remains largely the same as before. Hiring authorities must order some action if an allegation of staff misconduct is sustained (although they are the ones that make that decision – as before, the reports only contain a finding of facts, not a determination about the allegation). In addition, the outcome is recorded in the new database.

Estimated Workload. CDCR expects CST to review 220,000 complaints. Of these, they expect 21 percent (46,000) will contain allegations of staff misconduct, and the rest will be returned to the prisons as routine claims. Of the allegations of staff misconduct, CDCR expects 8,424 to be directed to AIU for investigation, and 37,576 to be returned to the institutions for local inquiries.

The implementation schedule for the new process is:

- January 2022 – Statewide implementation of CST screening for all CDCR Form 602-1 Inmate/Parolee Grievances.
- March 2022 through January 2023 – Phased implementation of the new inquiry and investigation processes, for CDCR Form 602-1 Inmate/Parolee Grievances.
- February 2023 through March 2023 – Statewide Implementation of the new processes for CDCR Form 602-HC Healthcare Grievances.
- April 2023 – Statewide Implementation of the new processes for CDCR 1824 Reasonable Accommodation Requests.
- May 2023 through June 2023 – Statewide Implementation of the new processes for staff misconduct complaints made outside of the grievance and CDCR 1824 processes (e.g., third party complaints, citizen complaints, ombudsman, advocacy letters and any related interviews, etc.) received either electronically, telephonically, or in writing.

Previously Allocated Resources. The initial resources for AIMS were included in the 2019 Budget. CDCR received $9.8 million General Fund and 47 positions in 2019-20 and ongoing. The new process went into full effect on April 1, 2020. In addition, CDCR requested $80.5 million General Fund and 152.1 positions in 2021-22 and $28 million General Fund in 2022-23 and ongoing to implement new requirements for expanded video surveillance and to reform the staff complaint process to comply with the *Armstrong* court order.

Requested Resources. The 2022-23 Governor's Budget includes the following additional resources for the new staff misconduct process:

- ***CDCR Staff Misconduct Funding***. CDCR requests $35.6 million General Fund and 175.0 positions in fiscal year 2022-23, scaling to 192.0 positions ongoing and $37.0 million General Fund in fiscal year 2023-24, $34.9 million General Fund in 2024-25, $35.0 million General Fund in 2025-26, and $34.2 million General Fund in 2025-26 and ongoing. This funding is in addition to the previously allocated ongoing resources. Under the proposal, CDCR would receive 175 additional positions in 2022-23 (increasing to 192 positions in 2023-24).

  This will result in 179 staff in AIU (including 133 existing AIMS staff and 46 new staff) and 45 staff in CST (including 9 existing positions and 36 new positions). It also includes 61 new positions for EAPT, 34 new positions for the Division of Adult Institutions staff

for on-site support, and other support and administrative staff. The funding also covers the new database and related IT and data storage costs.

In addition, because the new regulations took effect partway through the current fiscal year, CDCR requested an additional $5,354,000 General Fund in 2021-22 to cover the January through June period. This funding will be used to stand up CST and provide some resources to OIA and OLA.

Current Level of Resources (CDCR)	Proposed 2022-23	Proposed 2023-24	Total at Full Implementation
$28.52 million	$35.6 million	$37 million	**$65.52 million**
142 positions	175 positions	192 positions	**334 positions**

- ***OIG Staff Misconduct Oversight Funding***. OIG requests $2.3 million General Fund and 16 positions in 2022- 23, and $3.6 million and 24 positions ongoing to:

    - Review approximately 30 percent (44,937/152,372 annually) of the 602-1s filed by incarcerated persons to determine if CST is correctly routing complaints. The proposal does not include resources for OIG to monitor the remaining 72,500 claims consisting of health care grievances, requests for reasonable accommodation, and third-party claims. OIG indicates that it plans to focus on regular grievances, rather than other types of claims, because it believes they are more likely to contain allegations of staff misconduct.

    - Monitor approximately 10 percent (842/8,424 annually) of the staff misconduct investigations handled by the new AIU.

Current Level of Resources (OIG)	Proposed 2022-23	Proposed 2023-24 and Ongoing	Total at Full Implementation
$555,000	$2.3 million	$3.6 million	**$4.15 million**
5 positions	16 positions	24 positions	**29 positions**

Employee discipline resources. The 2022-23 proposed budget also includes a request for $6.2 million General Fund and 33 positions in 2022-23 growing to $11.8 million General Fund and 62.0 positions in 2024-25 and ongoing for OIA to conduct timely and thorough investigations through the 989 process and the CIU, and to strengthen the department's disciplinary processes. This funding will also help create the Performance and Corrective Action Unit, to support supervisors and help them effectively deliver corrective actions.

LAO Comments.

Funding Proposed for CDCR to Implement New Process Appears Reasonable. We find that the funding proposed for CDCR to align its process for handling inmate and parolee allegations of staff misconduct to its current emergency regulations appears reasonable and would likely help address concerns that have been raised over the years.

Proposed Level of OIG Monitoring May Not Meet Legislative Expectations. The goal of monitoring is typically to be able to draw conclusions about an entire system by focusing on an adequately sized sample of cases processed in the system. There is no universally agreed upon percentage of cases that constitutes a sample size adequate to carry out effective monitoring. Under the Governor's proposal, OIG would be monitoring a relatively small sample size of investigations—and not monitoring the screening of certain claims or quality of local inquiries at all. As such, it is possible that the Governor's proposal may not meet legislative expectations.

Specifically, under the Governor's proposal:

OIG Would Not Monitor Certain Types of Claims Received by CST. As previously mentioned, under the proposal, CST screening of the annual estimated 68,000 health care grievances, requests for reasonable accommodation, and third-party claims would not be monitored by OIG, based on the assumption that they are less likely to contain allegations of staff misconduct than regular grievances. According to CDCR, based on three months of data, about 22 percent of regular grievances contain allegations of staff misconduct, whereas CDCR estimates that about 19 percent of all other claims will contain allegations of staff misconduct. Accordingly, the frequency with which misconduct allegations are expected to be found in other claims is not substantially lower than for regular grievances.

OIG Would Monitor Lower Percent of Investigations Than Under 989 Process. Under the Governor's proposal, OIG would monitor about 10 percent of investigations conducted by AIU. In comparison, OIG reports that it typically monitors about 15 percent of investigations under the 989 process. It is unclear why OIG would monitor a lower percentage in this case.

OIG Would Not Monitor Local Inquiries. CDCR expects that CST will annually identify 37,600 claims that contain allegations of less serious misconduct that would not be investigated by AIU. These claims will be sent by CST back to the referring prison or parole staff for a local inquiry into the matter. Reports prepared based on these inquiries will be reviewed for completeness by OIA staff. However, the Governor's proposal does not include resources for OIG to monitor these reports or the quality of review performed by OIA staff. This is notable because concerns about the quality of local inquiries were a key driver for creation of CDCR's new process.

Staff Comments.

Concerns of *Armstrong* plaintiffs. The *Armstrong* plaintiffs indicated that the emergency regulations largely reflect the agreed upon remedial plans. However, they have raised two primary concerns about implementation of the new staff complaint process[6]. The first is the length of the proposed investigations, which allow 120 days for AIU to complete. The plaintiffs would like to see this reduced to 90 days. The second is the lack of a post-investigation review panel, which the plaintiffs had anticipated as the court had also ordered CDCR to improve its post-investigation review process. In the most recent Joint Case Status Statement, filed January 18, 2022, the plaintiffs also indicated that the implementation timeline, which goes through June 2023, is too

[6] https://rbgg.com/wp-content/uploads/Armstrong-Order-Re-Plaintiffs-Objections-to-Defs-Proposed-RJD-Plan-and-5-Prisons-Plan_-12-13-2021.pdf

long. They are requesting that the full process be implemented in the six prisons that are the focus of the *Armstrong* lawsuit on an accelerated timeline.

Use of local inquiries. CDCR has indicated that 81 percent of allegations of staff misconduct will be returned to the institutions for local inquiries, resulting in 37,576 local inquiries annually. These local inquiries will be performed in a similar manner as past processes, which may give rise to similar issues and concerns, namely that LDIs are not adequately trained or sufficiently independent. Second, while the local inquiries may be directly escalated to OIA, the threshold for escalation is reasonable belief that staff misconduct occurred that it is likely to lead to adverse action. Thus, it still relies on this subjective judgement. In addition, as noted by the LAO, the OIG request does not have resources to monitor these local inquiries. The OIG indicated that they would need 52 additional monitoring staff to monitor 10 percent of local inquiries (and would need additional supervisory, managerial, and support positions on top of that).

OIG Oversight. Considering the complicated changes to the staff misconduct process, the role of OIG in uncovering past issues, and developments in the *Armstrong* case and other cases, it is critical to ensure that OIG is properly staffed and provided with sufficient authority to conduct meaningful oversight of the prison system. There are few key considerations, outlined below:

- *Resources for Staff Complaint Oversight*. As noted above, the requested resources would allow OIG to monitor 10 percent of AIU investigations. However, that may not be enough to get a full understanding of the system and any challenges. The Legislature could consider funding OIG to monitor 20 to 30 percent of investigations. In addition, resources should be provided to OIG to monitor at least 10 percent of local inquiries. Finally, expanded oversight of these processes may lead to more instances in which the OIG needs to work with the department to fix issues. It is not clear whether the requested funding would be enough to cover this additional work.

- *Restoration of Investigative Authority*. Currently, the OIG can only monitor internal CDCR investigations and provide non-binding feedback. They may also conduct general reviews but cannot investigate specific complaints. The Legislature should consider whether the OIG should be allowed to initiate investigations in response to complaints received through their complaint intake or if OIA declines to investigate or does not investigate thoroughly.

  This was one of the authorities revoked in the restructuring of the OIG in 2011, but it is typical authority of IGs. Creating independent and objective entities to conduct investigations was one of the three central tenets of United States Inspector General Act of 1978, which created inspectors general at the federal level (92 Stat. 1101, section 2). The Inspector General for the United States Department of Justice has authority to investigate allegations of misconduct by employees of the Federal Bureau of Prisons. Florida and New York (among other states) have independent Inspector Generals who can investigate complaints about the corrections systems[7].

  In addition, the Legislature should consider if restoring peace officer status is appropriate for investigators in OIG. While this classification was highly scrutinized in the 2011 report

[7] https://ig.ny.gov/offices/inspectorgeneral; http://www.dc.state.fl.us/ig/index.html

and resulting restructuring of the OIG, it puts OIG investigators on equal footing with correctional staff and the OIA, and provides them equal access to critical incidents and to the incarcerated population.

Additional resources would be required to support the restoration of this authority. The 2021 Budget Act included $7 million ongoing General Fund, contingent upon the passage of Legislation, but no agreement has been reached.

Use of the new tracking data. CDCR is developing methods for using the new tracking system to identify problems at certain institutions or with certain staff, but those processes are still under development. The Legislature may wish to get more information about this system, such as how alerts will be triggered. In addition, the Administration indicated a willingness to provide aggregated information to the Legislature and the public, and the Legislature could consider including specific reporting requirements.

Further integration of all allegations of staff misconduct and employee discipline. The new process still leaves a complicated system for handling staff issues at CDCR. CDCR could consider how it could further integrate and streamline these processes, including the 989 and employee discipline processes, allegations of staff misconduct against non-incarcerated persons (such as other staff), and allegations of staff misconduct received by the OIG through its complaint intake process. While these changes include the process for third parties to submit allegations, CDCR is still refining that, and it is not clear if there will be any exclusions. The OIG has recommended that all allegations, regardless of source, should be handled through the same process, which should include clear deadlines, thorough investigations, and clear documentation.

LAO Recommendation.

Ensure Level of Monitoring Resources Meets Legislative Expectations. As noted above, in recent years, the Legislature has expressed interest in OIG oversight of CDCR's handling of staff misconduct allegations arising out of the grievance and request for reasonable accommodation processes. In reviewing the Governor's proposal, we recommend that the Legislature determine its specific expectations and adjust the level of resources proposed by the Governor as needed to ensure its expectations are met. Specifically, the Legislature will want to consider the following:

- *Should OIG Monitor All Types of Claims Received by CST?* Under the proposal, OIG would monitor 30 percent of regular grievances screened by CST but would not monitor screening of health care grievances, requests for reasonable accommodation, and third-party claims. If the Legislature wants OIG to monitor 30 percent of *all* types of claims submitted to CST, we estimate that an additional five positions and about $600,000 annually above the Governor's proposal would be required.

- *Should OIG Monitor a Larger Portion of AIU Investigations?* Under the proposal, OIG would monitor about 10 percent of AIU investigations. If the Legislature wants OIG to monitor a higher percent of AIU investigations it would need to provide additional resources. For example, we estimate that having OIG monitor 15 percent of AIU investigations—the same as the portion of investigations that OIG monitors in the

989 process—would require an additional seven positions and $1 million annually at full implementation.

- *Should OIG Monitor Local Inquiry Reports?* The Legislature could consider funding OIG so that it would be able to monitor a portion of the estimated 37,600 local inquiry reports. For example, we estimate that requiring OIG to monitor 20 percent of these reports—similar to the portion of investigations that OIG monitors in the 989 process—would require an additional four positions and $500,000 above the Governor's proposed resources. We note, however, that the Legislature could make this change in a relatively cost neutral manner by reducing the portion of these reports monitored by CDCR OIA staff from 100 percent to 80 percent and redirecting savings from CDCR to pay for the increased OIG staff.

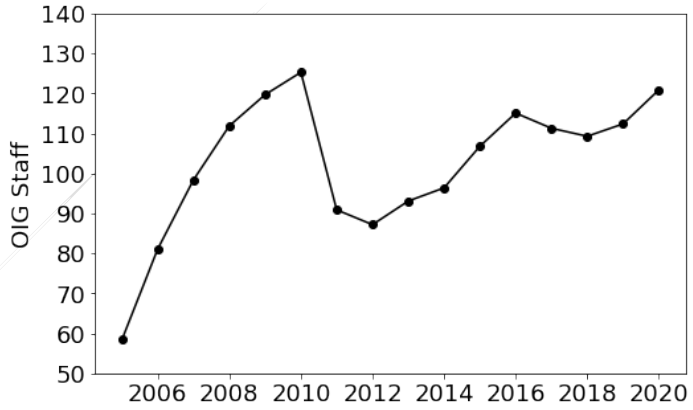
Staff Recommendation. Hold open.

0552 OFFICE OF THE INSPECTOR GENERAL (OIG)

The Office of the Inspector General (OIG) provides independent oversight of California's prison system, run by the California Department of Corrections and Rehabilitation (CDCR). The proposed 2022-23 budget includes $36.3 million and 175.8 positions for the OIG, a significant increase over the resources provided in the current year ($29.9 million and 139.8 positions).

History of the OIG. The OIG was established by statute in 1994 as an office within the Youth and Adult Correctional Agency (which no longer exists) and was responsible for basic oversight of the correctional system. In 1998, in response to reports of widespread abuse in the prisons, the Legislature expanded the OIG's role and established it as an independent entity with discretionary authority to conduct audits and investigations. The OIG faced extreme budget cuts in 2003, but funding was restored in 2004 in response to ongoing oversight related to the *Madrid* litigation. A new Bureau of Independent Review was created within the OIG, and additional staff and resources were provided. Its duties were also expanded to include monitoring the employee discipline process and warden vetting and audits.

However, the office was restructured in 2011, largely in response to a report from the Senate Office of Oversight and Outcomes[8]. This report focused on the peace officer status of OIG staff and highlighted unnecessary expenditure on firearms and state cars. It also criticized OIG for establishing a Bureau of Criminal Investigation in 2009, even though very few cases from OIG were criminal. In response, the Legislature removed the office's discretionary audit and investigation authority, limited the oversight to specific areas, and required that special reviews be approved by the Governor or the Legislature. During this time, the staffing and resources provided to the office were also reduced.



Data from Department of Finance.

In 2019, the Legislature reinstated the office's authority to conduct discretionary audits and required the office to monitor CDCR's handling of allegations of staff misconduct. The 2019 Budget agreement included $3.5 million General Fund and 21 positions, primarily for the audit and review teams.

8 https://sooo.senate.ca.gov/sites/sooo.senate.ca.gov/files/gun_toting_auditors_attorneys_report.pdf

Current duties. OIG's responsibilities are established in Penal Code Sections 2641 and 6125-6141, and include:

- Monitoring CDCR's processes for employee discipline, handling allegations of staff misconduct, and use-of-force reviews.
- Providing immediate, on-site responses to critical incidents, including riots, use of deadly force, and unexpected inmate deaths.
- Monitoring CDCR's implementation of the reforms outlined in the *Blueprint*[9].
- Evaluating the quality of medical care.
- Conducting audits (discretionary) and special reviews (requested by the Governor, Assembly or Senate).
- Maintaining a hotline to receive complaints about CDCR from any source.
- Acting as an ombudsperson for sexual abuse complaints and reviewing allegations of mishandled sexual abuse investigations.
- Vetting wardens and superintendents.

[9] https://www.cdcr.ca.gov/wp-content/uploads/2019/12/an-update-to-the-future-of-california-corrections-january-2016-1.pdf

Issue 2: Additional Resources

Governor's Budget. In addition to the resources requested for monitoring the staff complaint process, the OIG is requesting additional resources for two other units:

- $3,262,000 General Fund annually for three years to support additional staffing for the Medical Inspection Unit to complete medical inspections of CDCR institutions every two years, rather than the three or more years it takes currently. Additionally, the OIG requests $589,000 ongoing General Fund for two additional editors to facilitate timelier medical inspection reports and a Nursing Supervisor position to support general unit operations.

- $232,000 ongoing General Fund to fund 2.0 permanent positions to address the increased workload of the OIG's Oversight, C-ROB, and Intake (OCI) Unit.

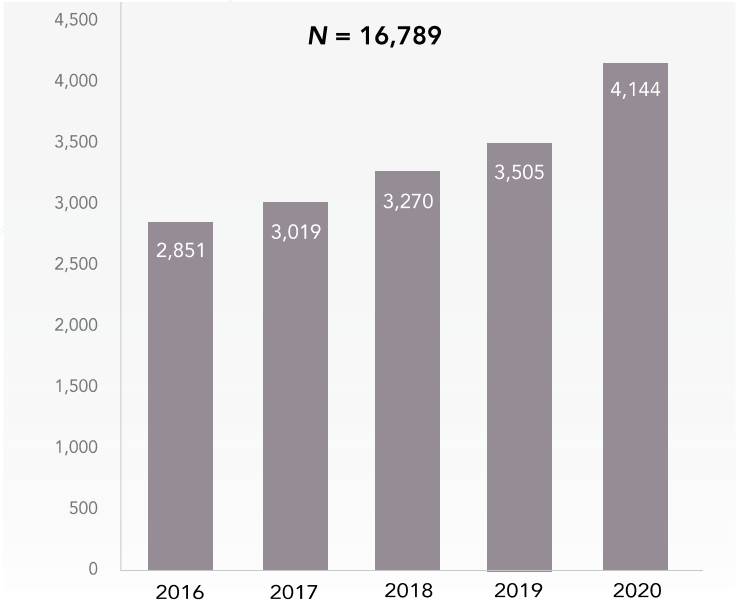
Panelists.

- Amarik Singh, Inspector General, OIG
  The Department of Finance and LAO are available for questions.

Background.

OCI Unit. The OCI Unit currently vets warden and superintendent candidates, receives and reviews complaints from incarcerated persons and members of the public, reviews CDCR's adherence to its 2012 *Blueprint*, and performs duties that inform and support the work of the California Rehabilitation Oversight Board (C-ROB). These additional resources are necessary to ensure the OIG can meet its mandated functions, particularly considering an increase in the number of complaints filed with the OIG over the past six years (below).

Complaints Received by the OIG



Source: The Office of the Inspector General.

CDCR Complaint Intake. The OIG maintains a statewide complaint intake process. In 2020, OIG received 4,144 complaints, an increase of 30 percent from 2019[10]. Most of these complaints (83 percent) come from incarcerated adults, but the OIG also receives complaints from the public, department employees, Department of Juvenile Justice wards, parolees, and anonymous complainants. While incarcerated individuals may also submit grievances through the staff complaint process that was the focus of the previous item, they may also submit complaints to OIG for advice or fear of retaliation.

In 2020, the largest categories of complaints included prison conditions (26 percent), allegations of staff misconduct (25 percent), and the appeals and grievance process (17 percent). OIG also received 350 complaints related to CDCR's handling of COVID-19. OIG staff review each complaint (within their jurisdiction, as they sometimes receive complaints about federal prisons or other entities). The typical result is that the OIG provides the complainant with advice and guidance. The OIG may also contact or visit the prison to conduct a general inspection. OIG does not have the authority (nor the resources) to initiate investigations based on these complaints.

The OCI Unit current has 7 staff, unchanged since 2011. The increased volume of complaints during this period have led OIG to redirect staff from other units and use student assistants and temporary staff, and have reduced the ability of the OCI Unit to perform its other duties. Accordingly, the OIG is requesting two permanent positions to handle the increased volume of complaint-related workload.

Medical Inspection Unit.

The *Plata* case is a class action lawsuit that includes all prisoners. The lawsuit alleged that CDCR inflicted cruel and usual punishment by being deliberately indifferent to serious medical needs. A settlement agreement was reached in 2002, but a lack of progress led a federal judge to place California's prison medical care system under the control of a court-appointed Receiver in 2005[11].

In 2007, OIG began inspecting CDCR's medical care at the suggestion of the Receiver and in coordination with the parties in *Plata*. In 2011, the legislature amended the OIG's authority in Penal Code section 6126(f) to require that "the Inspector General shall conduct an objective, clinically appropriate, and metric-oriented medical inspection program to periodically review delivery of medical care at each state prison."

Currently, it takes the OIG approximately three to three and a half years to complete a full cycle of medical inspections for every CDCR institution. One contributing factor is that the system has developed significantly since 2011, expanding to include substance use disorder treatment and hepatitis C treatment (both discussed in later items), as well as increased telehealth services, external eConsult services, an electronic health reporting system, and palliative and hospice care.

The OIG estimates that these resources will allow them to complete a full cycle in two years. However, the level of resources needed is not entirely clear, so the Administration is requesting primarily limited-term positions while additional data can be collected.

[10] https://www.oig.ca.gov/wp-content/uploads/2021/04/OIG-2020-Annual-Report.pdf
[11] https://prisonlaw.com/post_case/plata-v-brown/

Staff Comment. As noted in the previous item, the Legislature may wish to consider whether these resources are sufficient to provide the level of oversight desired.

In addition, the Legislature may wish to consider whether providing limited-term positions is necessary for the medical oversight unit. CDCR's health care systems have been under federal oversight for nearly 15 years. However, 19 prisons have been delegated back to the state by the Receiver. As more institutions are delegated back to the state, and when federal receivership eventually concludes, the need for the OIG's oversight will become even more critical. The Legislature should ensure that the OIG has adequate resources for continued oversight.

Staff Recommendation. Hold Open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 3: Americans with Disabilities Act (ADA) Facilities Improvements and Staffing

Governor's Budget. The proposed budget includes the following resources to improve CDCR's ADA compliance:

- $22.2 million one-time General Fund for ADA accessibility improvements at the California Institution for Men, California Institution for Women, California State Prison – Los Angeles County, and Richard J. Donovan Correctional Facility.

- $2.6 million General Fund and 20 positions in 2022-23 and $2.7 million ongoing for staffing to support court mandated ADA remedial measures for disabled incarcerated persons at various institutions.

Panelists.

- Chris Lief, Deputy Director, Facilities, Planning, Construction and Management, CDCR
- Jared Lozano, Deputy Director, Facility Support, Division of Adult Institutions, CDCR
- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office

The Department of Finance is available for questions.

Background. In a series of Federal Court orders stemming back to the 1990s, the court found that CDCR's treatment of incarcerated persons violated basic rights related to developmentally disabled incarcerated persons (*Clark v. California*) and incarcerated persons covered by the ADA (*Armstrong v. Newsom*). CDCR, the court, and plaintiffs agreed upon remedial plans, the Clark Remedial Plan (CRP) and the Armstrong Remedial Plan (ARP). CDCR developed policy and procedures to achieve compliance, including the Disability Placement Program (DPP) and the Development Disability Program (DDP). Together, the DPP, DDP, ARP, and CRP ensure that incarcerated persons with disabilities have access to programs, services, and activities, consistent with the ADA.

Although the prison population is declining, the population is aging, leading to an increase in incarcerated persons in DPP and DDP. Throughout the 34 CDCR institutions currently operating, as of August 10, 2021, there were 11,314 incarcerated persons requiring disability accommodations at one of the DDP/DPP designated CDCR institutions.

The institutions with the highest numbers of Reasonable Accommodation requests are:

- California Health Care Facility (CHCF)
- California Institute for Women (CIW)
- California Medical Facility (CMF)
- California State Prison, Corcoran (COR)
- Kern Valley State Prison (KVSP)
- California State Prison, Los Angeles County (LAC)

- Mule Creek State Prison (MCSP)
- Richard J. Donovan Correctional Facility (RJD)
- Substance Abuse Treatment Facility (SATF)

Five institutions (CHCF, MCSP, RJD, SATF, and CMF) have a population of 700 or more with a designated DPP and DDP code that impacts placement. In September 2020, the court ordered additional remedial measures at RJD. In March 2021, the court issued another order for additional remedial measures at CIW, COR, KVSP, LAC, and SATF.

Facilities. CDCR has several programs to improve ADA compliance at its institutions. CDCR designates specific institutions as DPP to address accessibility issues and facilitate placements. CDCR used survey data to develop an ADA Transition Plan for each DPP institution, which identified accessibility deficiencies to be completed through Health Care Facility Improvement Projects (HCFIP), ADA Modification projects, or locally by institution staff. CDCR completed the Correctional Facility Program Accessibility Plan in January 2015 and identified 21 institutions most suitable for housing incarcerated persons with disabilities. Of these, 19 were selected to receive accessibility modifications.

Previous resources. Previously appropriated funding is supporting current and phased construction of improvements at 11 prisons, and includes:

- The 2008 Budget Act contained ongoing funding of $1.9 million General Fund intended for maintenance and repair of existing accessibility features.

- The 2014 Budget Act appropriated $17.5 million General Fund to begin making improvements identified by an ADA accessibility survey. Of this funding, $13.5 million was for construction improvements at four prisons that had completed design plans (including CIW), and $4 million was to complete design activities at 14 prisons identified by the survey.

- The 2015 Budget Act included $12.7 million General Fund in 2015-16 and $12.4 million in 2016-17 for the phased construction of accessibility improvements at 13 prisons.

- The 2019 Budget Act included $4.2 million General Fund in 2019-20 and 2020-21 for improvements related to ADA accessibility at CIW and Mule Creek State Prison.

Proposed improvements at four institutions. This proposal will allow construction of required accessibility improvements at four institutions (California Institute for Men or CIM, CIW, LAC and RJD).

Specifically, this funding will enable the following improvements: ADA modifications to electrical outlets, grab bars, water closets, and ramps in ADA housing and dorm units across all facilities at each institution; accessibility upgrades to doors, gates, holding modules, and pathways in program, health care, kitchen, dining, and visiting areas as well as the Prison Industry Authority and warehouse buildings and spaces site-wide at each institution. This proposal also includes resources to provide custody escorting for the duration of these projects.

The design phase for ADA improvements at CIM, CIW, LAC, and RJD commenced prior to the 2015 completion of the ADA Transition Plans and is anticipated to be completed in 2021-22; therefore, construction funding is requested for 2022-23. The estimated construction costs of the ADA improvements at are as follows:

Prison	Cost Estimate
California Institution for Men	$8,032,000
California Institution for Women	$4,227,000
California State Prison – Los Angeles County	$4,549,000
Richard J. Donovan Correctional Facility	$5,346,000
Total	**$22,154,000**

Staffing.

ADA Coordinators (5 positions). Per *Armstrong* court orders, each DPP-designated institution must have an ADA Coordinator to meet with stakeholders and monitor ADA, ARP, and CRP compliance. This request includes additional staff at SATF and California State Prison, Solano (which is slated to become DPP-designated in January 2023) for ADA compliance, as well as additional headquarters staff in the Class Action Management Unit.

Health Care Compliance (15 positions). Health Care Compliance Analysts (HCCA) and related staff manage and review accommodation requests, document health care related allegations of noncompliance, work with stakeholders, and ensure that people receive appropriate, functioning medical equipment. This proposal includes 15 staff to assist with this workload: six to provide each of the six institutions in the recent orders with a second HCCA, and nine to provide each ADA Office with an addition staffer to assist the Office of Grievances in tracking Reasonable Accommodation requests that come through the grievance process and conducting the required quarterly interviews of a random selection of disabled incarcerated persons at the six prisons to inquire about ADA and ARP compliance.

Staff Recommendation. Hold Open.

Issue 4: Mental Health Data Analysis and Informatics

Governor's Budget. CDCR requests 22.0 positions and $3.1 million from the General Fund in fiscal year 2022-23 and ongoing to support additional mental health reporting tasks, a new data validation project related to the *Coleman* court, and to address increased reporting requests.

Panelists.

- Dr. Steven Cartwright, Deputy Director, Mental Health Services, Health Care Services, CDCR

The Department of Finance and the LAO are available for questions.

Background. The *Coleman* case is a class action lawsuit filed in 1990 on behalf of all California state prisoners with serious mental illness. The case alleges that CDCR provides inadequate mental health care that places prisoners at serious risk of death, injury, and prolonged suffering. In 1995, the federal court found that prison officials violated the cruel and unusual punishment clause of the Constitution by not providing adequate mental health care. The court issued an injunction requiring major changes in the prison mental health system, and approved CDCR's remedial plan for providing mental health care. The court also appointed a Special Master who, among other things, monitors and reports on CDCR's compliance with the plan.

In 2009, the *Coleman* court directed CDCR to institute new policies regarding mental health treatment and monitoring, in compliance with the Mental Health Program Guide (MHPG). CDCR began implementing new quality management tools, including the Continuous Quality Improvement Tool (CQIT). In December 2020, the *Coleman* court directed CDCR to identify key indicators for tracking compliance, to update policies to reflect the 2018 MHPG, and to use CQIT to measure performance[12]. The judge subsequently issued an order adopting a CQIT Key Indicator list proposed by the Special Master. Examples of key indicators include the percentage of health care staff with suicide prevention training, measures of timely access to care, mental health screenings, and the development and content of patient treatment plans. Discussions regarding how key indicators should be defined and what constitutes compliance are ongoing and will involve negotiations between CDCR, the *Coleman* plaintiffs, the Special Master, and the court.

CDCR is requesting resources to implement and validate the indicators required by the court. In addition, the *Coleman* court directed that these indicators need to be updated as the MHPG and other guiding documents are updated, leading to an ongoing verification and validation workload. Validation is a time-consuming process where staff ensure that accurate data is being collected and that the indicators are measuring performance as desired. The funding would primarily go towards 22 positions for the Statewide Mental Health Program Quality Management Team. These include 7 research track positions for the research and data analytics team, 4 IT positions to work on the mental health data base, and other analysts and support staff to track projects, participate in workgroups, and prepare documentation and reports, among other responsibilities.

Staff Recommendation. Hold Open.

[12] https://cases.justia.com/federal/district-courts/california/caedce/2:1990cv00520/83056/6996/0.pdf

Issue 5: Hepatitis C Virus Treatment Funding Augmentation

Governor's Budget. California Correctional Health Care Services (CCHCS) requests an augmentation of $47.1 million General Fund in 2022-23, $76.3 million in 2023-24, and $40.4 million in 2024-25 for the Hepatitis C Virus (HCV) treatment program. This supplemental funding will result in a total budget for treatment of HCV of $107.1 million in 2022-23, $136.3 million in 2023-2024, and $100.4 million in 2024-25. These funds will allow CDCR/CCHCS the ability to treat an estimated 8,580 patients in 2022-23 and 2023-24, and 6,300 patients in 2024-25.

Panelists.

- Duane Reeder, Deputy Director, Fiscal Management, California Correctional Health Care Services, CDCR

The Department of Finance and the LAO are available for questions.

Background.

Chronic HCV infection is a major causal factor in the development of end-stage liver cirrhosis, which is a leading cause of hospitalizations and death in the incarcerated patient population, including in CDCR's adult institution population. Prevalence of HCV among CDCR/CCHCS' patient population is estimated to be 16.4 percent, which is significantly higher than for the non-justice-involved population (1 percent). CCHCS recorded 32 deaths related to HCV in 2020, making it the fifth leading cause of death in the inmate population, following deaths from COVID-19 (141), cancer (83), cardiovascular disease (54), and non-COVID-19 infectious diseases such as pneumonia (46)[13]. HCV is a bloodborne virus, primarily spread through sharing personal equipment that with traces of blood, such as needles, razors, nail clippers, or toothbrushes. It can also be spread through sex (although this is uncommon), and it can be passed from mother to infant[14].

The 2018 budget included $105.8 million General Fund annually from 2018-19 through 2020-21 to CCHCS to expand the HCV treatment program, in response to newly available antiviral medications and in alignment with new guidelines from the American Association for Study of Liver Diseases (AASLD). In that request, CDCR/CCHCS estimated that it would treat roughly 1800 people per year through this program, and that the prevalence of HCV in the population would reach a steady state by 2021-22.

However, that has not been the case, and the number of individuals who need treatment is higher than CDCR/CCHCS anticipated, and includes:

- People with HCV entering CDCR (4,128 patients per year).
- Recurrent infections in roughly 10 to 15 percent of the patient population (roughly 1,000 patients treated per year).
- Spread within the population (roughly 1,000 new infections per year).

[13] https://cchcs.ca.gov/wp-content/uploads/sites/60/MS/2020-CCHCS-Mortality-Review.pdf
[14] https://www.cdc.gov/hepatitis/hcv/cfaq.htm

The large number of incarcerated people entering with HCV infections reflects conditions outside the prisons, and drives continued spread within the incarcerated population. In addition, COVID-19 has disrupted the ability of CDCR/CCHCS to deliver HCV treatment, leading to a delay in providing treatment to the current population of HCV infected incarcerated people.

CDCR/CCHCS treated 8,102 patients in 2019-20 and was on track to treat 9,750 patients in 2020-21 pre-pandemic but was only able to treat 3,674 patients. CDCR/CCHCS expects to treat 7,280 patients in 2021-22 and 8,580 patients in 2022-23 and 2023-24. CDCR/CCHCS expects the untreated HCV patient population to be close to zero and an estimated 6,300 patients will need to be treated in 2024-25. CDCR/CCHCS anticipate that the number of patients needing treatment annually will decrease over time as recurrent viremia and new infections should decline.

Staff Recommendation. Hold Open.

Issue 6: Integrated Substance Use Disorder Treatment Program Expansion

Governor's Budget. The Governor proposes $126.6 million General Fund and 310 positions in 2022-23 (increasing to $163 million and 418 positions annually in 2023-24) to expand and modify the Integrated Substance Use Disorder Treatment Program (ISUDTP) in four key ways:

- First, the proposal extends assessment to all inmates, and—when necessary—treatment and release planning services, as originally intended by CDCR when the program was established.

- Second, the proposal adds to the types of treatment available through ISUDTP. Specifically, it would provide a new aftercare program to inmates who have completed treatment but remain incarcerated and additional programs for inmates who are not improving or are worsening following treatment.

- Third, the proposal makes various modifications to existing ISUDTP services. For example, it would shorten from 12 months to 9 months the duration of certain cognitive behavioral therapy (CBT) programs to allow the department to serve more inmates.

- Finally, the department plans to modify the way it assesses inmates for SUD treatment. For example, to assess inmates more rapidly, the department plans to use the American Society of Addiction Medicine (ASAM) Co-Triage—a condensed version of the full ASAM diagnostic tool currently used.

According to the administration, it plans to adjust the level of resources for ISUDTP annually based on changes in the inmate population beginning in 2023-24.

Panelists.

- Lisa Heintz, Director, Legislation and Special Projects, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

A report from the National Drug Intelligence Center estimated that the cost to society for drug use was $193 billion in 2007, a substantial portion of which—$113 billion—was associated with drug related crime, including criminal justice system costs and costs borne by victims of crime[15]. The same report showed that the cost of treating drug use (including health costs, hospitalizations, and government specialty treatment) was estimated to be $14.6 billion, a fraction of these overall societal costs. It is estimated that the cost to society has increased significantly since the 2007 report, given the growing costs of prescription drug misuse.

[15] https://www.hsdl.org/?abstract&did=4814

The National Institute on Drug Abuse (NIDA) at the National Institutes for Health (NIH) emphasizes the use of comprehensive substance use disorder (SUD) treatment programs for incarcerated individuals. Comprehensive programs include medication-assisted treatment (MAT), behavioral therapies, and other supportive services during and after incarceration[16]. Numerous studies have demonstrated the effectiveness of such programs at reducing SUD and related health issues and at reducing recidivism rates[17].

Before 2016, California prisons did not use any MAT for inmates with opioid use disorder. Senate Bill 843 (Committee on Budget and Fiscal Review), Chapter 33, Statutes of 2016, required CDCR, under the direction of the Undersecretary of Health Care Services, to create a three-year MAT pilot program at one or more institutions. CDCR worked with CCHCS to develop a MAT pilot program within the California Institution for Men (CIM) that started on January 1, 2017. On September 5, 2017, an MAT program opened at the California Institution for Women (CIW).

Upon analysis of U.S. and California overdose death rates in prisons, the three court experts in the *Plata* litigation recommended the expansion of a statewide MAT program to treat SUD. In October 2018, the federal receiver for California's Correctional Health Care Services (CCHCS), Clark Kelso announced a plan for comprehensive substance use disorder treatment (SUDT), including MAT, to reduce the substantial number of patients within CDCR who have SUD.

The 2019-20 Budget Act provided $71 million from the General Fund and 280 positions (increasing to $165 million and 431 position in 2021-22 and ongoing) for CDCR to implement an Integrated Substance Use Disorder Treatment Program (ISUDTP). When fully implemented, the program is intended to provide a continuum of care to inmates to address their SUD treatment and other rehabilitative needs. To accomplish this, ISUDTP changed the way CDCR assesses inmates' need for SUD treatment, provides SUD treatment and rehabilitation programs, and conducts the inmate release planning process. An overview of ISUDT and MAT was included as part of the Committee's Overview of the 2019-20 Budget[18].

At the time ISUDTP was established, CDCR indicated that its goal was to make the program available to all inmates in need of treatment upon full implementation. In its current phase of implementation, ISUDTP targets inmates who (1) are entering prison having already started MAT, (2) have a history of SUD-related hospitalizations or overdoses, or (3) are within 15 to 18 months of release from prison. The level of resources initially provided in the 2019-20 budget for this phase of the implementation was based on the estimated number inmates in this target population. However, the overall level of resources has generally not been adjusted each year since then to account for changes in the target population.

[16] https://nida.nih.gov/publications/drugfacts/criminal-justice; https://nida.nih.gov/publications/principles-drug-abuse-treatment-criminal-justice-populations-research-based-guide/principles; https://www.cdc.gov/drugoverdose/pdf/pubs/2018-evidence-based-strategies.pdf; https://drugpolicy.org/issues/MAT

[17] https://pubmed.ncbi.nlm.nih.gov/24513717/; https://pubmed.ncbi.nlm.nih.gov/30878228/; https://www.samhsa.gov/medication-assisted-treatment; https://www.nap.edu/catalog/25310/medications-for-opioid-use-disorder-save-lives; https://store.samhsa.gov/sites/default/files/d7/priv/pep19-matusecjs.pdf

[18] https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/Final_Overview_of_the_2019-20_Budget_Bill_Report.pdf

ISUDTP Changed Process for Assessing Need for SUD Treatment. Prior to ISUDTP, CDCR generally assigned inmates to SUD treatment based on whether they had a "criminogenic" need for the program—meaning the inmate's SUD could increase their likelihood of recidivating (committing a future crime) if unaddressed through rehabilitation programs. In contrast, ISUDTP is designed to transform SUD treatment from being structured as a rehabilitation program intended to reduce recidivism into a medical program intended to reduce SUD-related deaths, emergencies, and hospitalizations. Accordingly, inmates who are part of ISUDTP are assigned to SUD treatment based on whether they are assessed to have a medical need for such treatment. To identify a medical need for SUD treatment, health care staff screen inmates for SUD with the NIDA Quick Screen. The NIDA Quick Screen consists of a series of scored questions about prior substance use. The total points accrued indicate whether a treatment plan needs to be developed to address an inmate's need.

Treatment plans are developed utilizing the American Society of Addiction Medicine (ASAM) Criteria. The ASAM Criteria is a diagnostic tool that allows clinicians to assess various dimensions—such as the presence of other related medical and behavioral health conditions—that research has found can impact the effectiveness of SUD treatment types. By using the ASAM Criteria, medical staff can assess what treatment options are most appropriate for each patient.

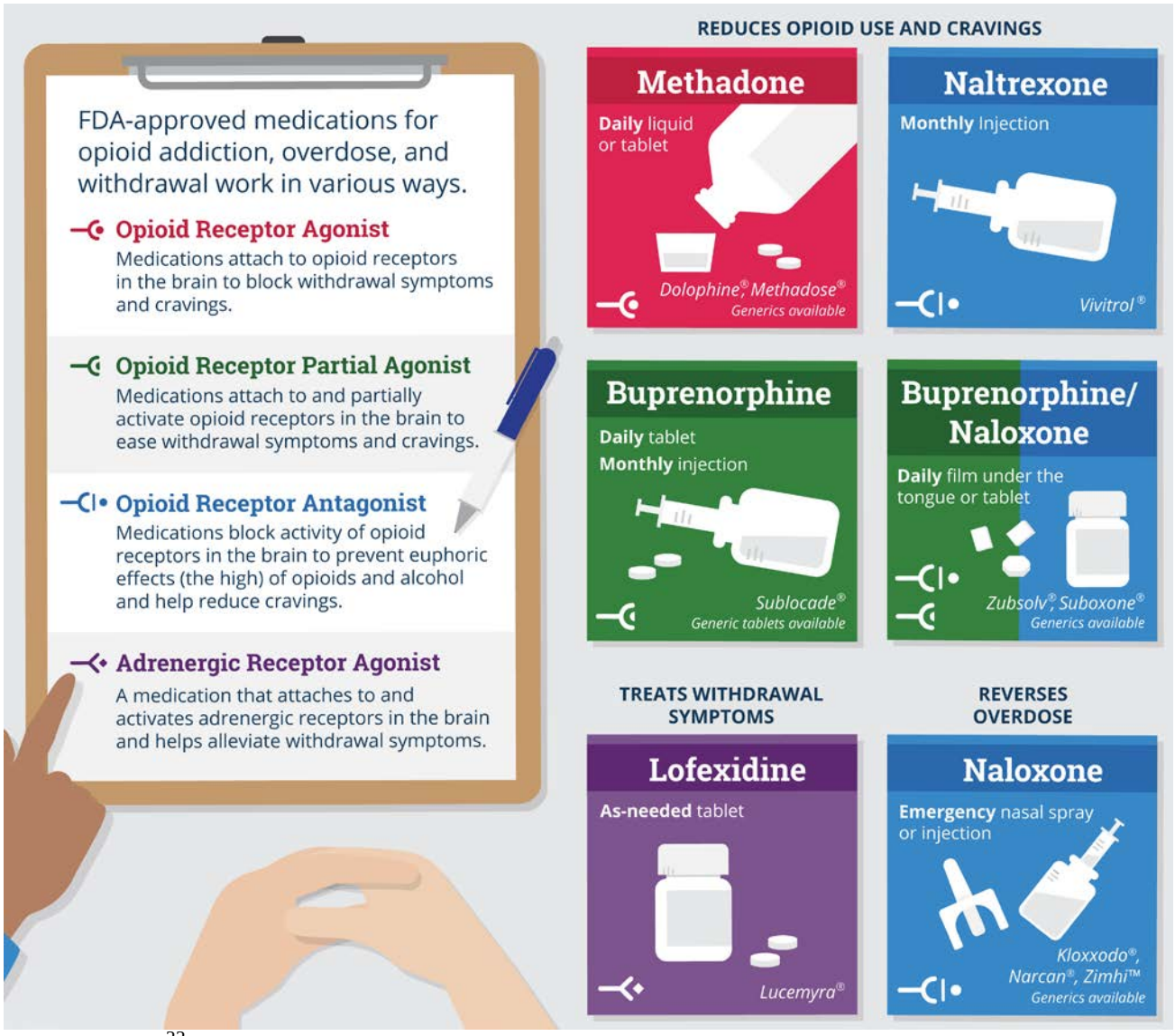
ISUDTP Modified Existing Cognitive Behavioral Treatment (CBT) Programs. CBT programs are designed to help individuals change negative patterns of behavior. For example, the CBT programs CDCR offers as part of SUD treatment are intended to help individuals identify and adjust their thought processes regarding substance use to avoid future use. In addition to CBT programs designed for SUD treatment, the department offers CBT programs designed to address rehabilitative needs such as criminal thinking and anger management. As part of ISUDTP, CDCR revised and modified CBT programs in ways intended to better address inmates' SUD treatment and rehabilitative needs. For example, the amount of SUD treatment inmates in ISUDTP receive through CBT programs is based on their level of medical need. In addition, the department began requiring the contractors who deliver CBT programs to use uniform, evidence-based curricula. CDCR also began requiring that counselors delivering CBT programs be certified Alcohol and Other Drug counselors, a requirement that was often waived before ISUDTP was implemented.

ISUDTP Expanded Availability of MAT. People who are addicted to certain substances (such as opioids or alcohol) can develop a chemical dependency. This can result in strong physical cravings, withdrawal that interferes with treatment, and/or medical complications. MAT is intended to combine SUD treatment services (such as CBT) with medications designed to reduce the likelihood of inmates relapsing while undergoing SUD treatment. Prior to 2019-20, CDCR had operated MAT pilot programs at three prisons. Under ISUDTP, MAT was made available at all prisons for inmates involved in the program. CDCR estimates that 25,000 individuals will be served with MAT annually.

Some doctors have raised concerns about the MAT component of the ISUDT program, arguing that CDCR was not taking steps to prevent the medications provided from being abused or redistributed[19]. However, while the types of medications provided typically prevent withdrawal

[19] https://www.sacbee.com/article251600583.html

symptoms, they typically do not provide a narcotic effect[20]. For example, a commonly used medication combines the opioid buprenorphine, which prevents withdrawal symptoms and reduce cravings, with naloxone, which rapidly reverses the effects of opioids. Naloxone (known under the brand name Narcan) is well-known for its effectiveness at quickly reversing opioid overdoses. CDCR is also exploring the use of injectable buprenorphine[21]. A summary of the medications commonly used for MAT is included below.



Source: NIDA[22]

[20] https://nida.nih.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition/frequently-asked-questions/use-medications-methadone-buprenorphine-simply-replacing
[21] https://cchcs.ca.gov/wp-content/uploads/sites/60/TR/T49_20220201_TriAnnualReport.pdf
[22] https://nida.nih.gov/sites/default/files/images/NIDA_MOUD-Infographic_1.jpg

The use of MAT is growing nationwide, including in incarcerated settings[23]. A recent study comparing two jails in Massachusetts found that offering buprenorphine reduced recidivism rates by 32 percent[24]. However, the most successful programs also include wraparound support services, as well as training and support for both medical and custody staff as the program is implemented[25].

ISUDTP Changed Release Planning Process. As part of ISUDTP, CDCR has taken steps to modify the release planning process to better connect inmates to programs in the community based on their assessed need. For example, for inmates in MAT near their release date, a multidisciplinary team—including nursing staff and social workers—help ensure treatment continues after their release, such as by scheduling and arranging transportation to initial health appointments, securing records, and coordinating with service providers in the community. The Administration indicated that the use of MAT has increased at the county level, and they are working on the post-release transition to county services. They are also coordinating with the implementation of the CalAIM Justice-Involved Initiative (discussed in the next item).

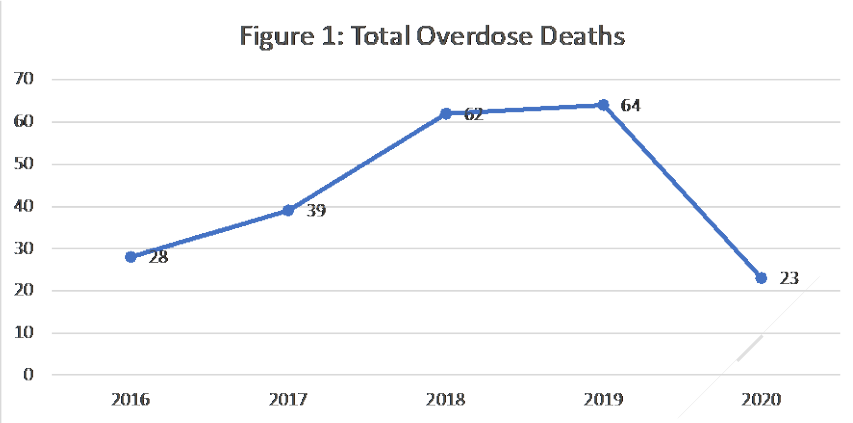
Initial ISUDTP Data. The number of participants in MAT and CBI are listed below, illustrating the expansion of the ISUDTP.

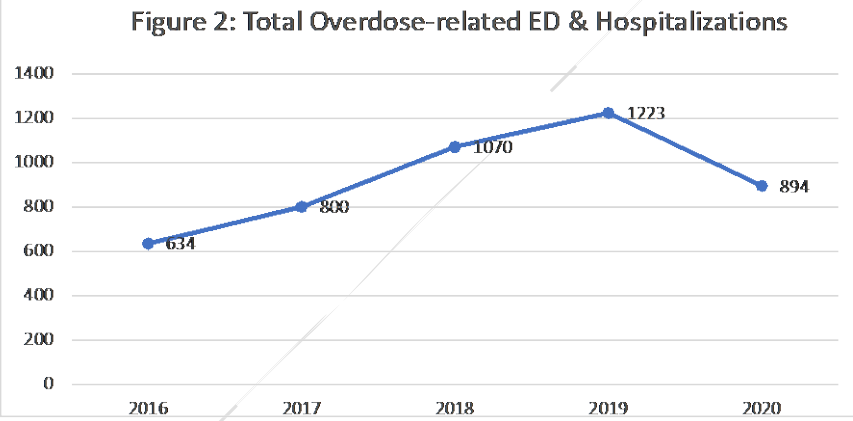
Workload Measure	Q1 2020	Q2 2020	Q3 2020	Q4 2020	Q1 2021	Q2 2021
Number of MAT participants at end of Quarter	1,152	3,564	5,137	7,275	9,386	11,250
Number of participants enrolled in CBI at end of Quarter*	997	895**	938**	3,393	4,839	6,141

**All assigned to one of the CBI Programs who have attended at least one class or completed at least one Program Packet in the past 30 days. CBI Programs include: Intensive Outpatient (ISI), Outpatient (ISO), and Life Skills (CB2).*
*** CBIs were paused due to COVID movement restrictions.*

[23] https://drugpolicy.org/press-release/2021/04/statement-hhs-new-guidelines-removing-barriers-medical-practitioners; https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/02/26/this-state-has-figured-out-how-to-treat-drug-addicted-inmates
[24] https://www.nih.gov/news-events/news-releases/offering-buprenorphine-medication-people-opioid-use-disorder-jail-may-reduce-rearrest-reconviction; E.A. Evans, *et al*. Recidivism and mortality after in-jail buprenorphine treatment for opioid use disorder. *Drug and Alcohol Independence*. DOI: https://doi.org/10.1016/j.drugalcdep.2021.109254(link is external) (2022).
[25] https://store.samhsa.gov/sites/default/files/d7/priv/pep19-matusecjs.pdf

According to CDCR/CCHCS, current data shows that overdose deaths have decreased by approximately 64 percent between 2019 and 2020, correlating with the expansion of ISUDTP. In addition, the department has experienced nearly a 27 percent decrease in overdose-related emergency department (ED) send-outs and hospitalizations during the same time period.





*ED = Emergency Department Send-Outs. Source: DOF and CDCR

It is impossible to attribute this decline directly or solely to the implementation of ISUDTP. However, historically, the rate of overdose deaths within CDCR/CCHCS was higher than rates of other prisons in the U.S., and was much higher than in the community. Recently, those rates have risen, while CDCR's have fallen.

ISUDTP Facility Needs. Concerns have been brought up about adequate programming and other spaces for this program. According to the CDCR Master Plan Annual Report[26], space surveys were conducted at all institutions to determine whether existing spaces can be converted and used for treatment, or if new space is needed. CDCR is working to identify if capital improvements are needed at any institutions.

[26] https://www.cdcr.ca.gov/fpcm/wp-content/uploads/sites/184/2022/02/MasterPlanAnnualReportforCalendarYear2021.pdf

Requested Resources. CCHCS is requesting $162.5 million ongoing for ISUDTP. Of this amount, the major expenses include medications and materials ($131.8 million, some of which will be funded with existing ongoing resources) and staffing ($61.3 million). The staffing request consists largely of nurses, counselors, licensed clinical social workers, doctors, lab and pharmacy technicians, analysts, data researchers, and other support positions in various units at CDCR and CCHCS. These resources will be used to:

- Expand ISUDTP to serve the entire incarcerated population and assess all inmates upon intake to CDCR.

- Add to the types of treatment available through ISUDTP, including:
    - A new aftercare program to inmates who have completed treatment but remain incarcerated, currently estimated at 13,260 people. This includes expanding supportive housing, which was impacted by COVID-19.
    - Additional programs for inmates who are not improving or are worsening.
    - Expanding trauma screening and CBT.
    - Offering programming for individuals with between 7 and 14 months to serve, which was previously too short to participate in ISUDTP.

- Make various modifications to existing ISUDTP screening and services, including:
    - Shorten from 12 months to 9 months the duration of certain CBT programs to allow the department to serve more inmates.
    - Modify the screening tools used to assess SUD. For example, to assess inmates more rapidly, the department plans to use the ASAM Co-Triage—a condensed version of the full ASAM diagnostic tool currently used.

- Serve more program participants with MAT (estimated 25,445 per year at full implementation) and integrate MAT into primary care.

- Coordinate with the CalAIM initiative (discussed in the next item) to improve pre- and post-release transition services and continue the provision of Naloxone at release.

- Adjust some of the population-dependent program funding (such as the budget for medications for MAT) through the annual population adjustment.

LAO Comment.

Proposed Expansion and Modifications Merit Consideration. We find that the Governor's proposal to expand ISUDTP to the entire inmate population has merit. While the effectiveness of the program is not clear, initial data show that SUD-related deaths, emergencies, and hospitalizations have decreased since the program began. Specifically, the department reports that overdose-related deaths declined by 64 percent and overdose-related emergencies and hospitalizations declined by 27 percent. We note that it is possible that other factors (such as fewer drugs entering the prisons due to pandemic-related restrictions on prison visiting) could have contributed to the reduction in overdose-related deaths, emergencies, and hospitalizations.

The department intends to contract with the University of California to evaluate various aspects of ISUDTP in the future.

In addition, we find that the proposed modifications to the program merit consideration. For example, the new services the department plans to offer will be evidence-based and therefore likely to be effective if implemented as designed. Also, by shortening the duration of certain CBT programs and employing less time intensive ASAM assessment tools, the department would be able to serve more inmates at a lower cost than otherwise.

Level of Resources Requested Likely Too High. The projection of the inmate population for 2022-23 as assumed in the Governor's budget is likely to be revised downward at the May Revision. This is notable because the overall level of funding being requested for ISUDTP is closely connected to the size of the inmate population. For example, the department estimates it needs $114 million for medication and other materials based on its estimate that 25,445 inmates will require MAT. Similarly, estimates for the amount of resources necessary to assess inmates' SUD treatment needs assume that 3,000 inmates will be admitted each month. Accordingly, to the extent the inmate population or admissions are lower than projected, it would reduce the level resources necessary for the program under the Governor's proposal. While the administration indicates it plans to adjust the resources for ISUDTP based on changes in the inmate population beginning in 2023-24, no adjustment is currently planned for 2022-23.

Various Factors Could Limit Ability to Expand ISUDTP. There are various factors that could limit the department's ability to expand ISUDTP as proposed by the Governor. For example, it could take CDCR longer than anticipated to fill the requested 310 positions. We note that in 2020-21—one year after ISUDTP was implemented—169 of the 431 positions approved for the program in that year were vacant. (The department reports only 43 of the 431 positions are currently vacant.) To the extent there are similar difficulties in initially filling the requested positions, it would correspondingly reduce the level of funding needed for ISUDTP in the budget year.

In addition, to expand ISUDTP beyond those it is currently serving, it will be necessary for CDCR to identify adequate space within its facilities, such as classroom space for CBT programs, to accommodate all inmates in need of treatment. However, in recent years, CDCR has increasingly had difficulty having adequate classroom space. For example, last year, as part of its justification to provide inmates with laptops to facilitate remote participation in academic programs, the department noted the challenge of physical space limitations at the prisons due to a lack of sufficient classrooms. We note that the department has initiated an analysis of its space needs, which is currently in the process of being revised to account for the impacts of COVID-19-related restrictions (such as limits on the number of people who can occupy the same room). However, it is unclear when this analysis will be completed. Accordingly, it is questionable whether CDCR can accommodate the level of space necessary for the proposed expansion. To the extent that the department is unable to expand ISUDTP as envisioned by the Governor, the department would not utilize all of the proposed $126.6 million in 2022-23 for the program. Under the proposed budget, CDCR would have discretion on how to reallocate any unused ISUDTP funds, which could include funding programs and services outside of ISUDTP.

LAO Recommendation.

Direct CDCR to Revise the Proposal at the May Revision to Reflect Updated Population Projections. Given the possibility that the inmate population—and corresponding need for ISUDTP funding—may be lower than currently projected, we recommend the Legislature direct CDCR to provide a revised ISUDTP proposal at the May Revision that is adjusted to reflect updated projections of the inmate population.

Approve Provisional Budget Language Requiring Unspent ISUDTP Funds to Revert to the General Fund. To the extent the Legislature chooses to approve additional funding for ISUDTP, we recommend the approval of provisional budget language requiring that any budgeted funds not spent on the program revert to the General Fund. This would help facilitate legislative oversight of the planned ISUDTP expansion and allow the Legislature to reallocate any unused funds towards its General Fund priorities.

Require CDCR to Provide Planned Assessment of ISUDTP. As previously mentioned, CDCR intends to contract with the University of California to evaluate various aspects of ISUDTP. We recommend that the Legislature require CDCR to provide the final evaluation report resulting from this effort. This would allow the Legislature to determine whether ISUDTP is effectively achieving its goals of reducing SUD-related deaths, emergencies, and hospitalizations.

Staff Recommendation. Hold Open.

Issue 7: CalAIM Justice-Involved Initiative

Governor's Budget. CDCR/CCHCS request $10.4 million ($5.2 million General Fund and $5.2 million in reimbursement authority) in fiscal year 2022-23 and ongoing for 81.2 positions to support the implementation of the California Advancing and Innovating Medi-Cal (CalAIM) initiative. Additionally, CDCR/CCHCS request to shift $5.5 million in 2022-23, growing to $25.6 million in fiscal year 2026-27 and ongoing, from the General Fund to reimbursements to reflect increased federal funding that is anticipated to become available to the state for covered services under CalAIM.

Panelists.

- Lisa Heintz, Director, Legislation and Special Projects, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, Legislative Analyst's Office

The Department of Finance and additional subject matter experts from CDCR are available for questions.

Background.

Medi-Cal—the state's Medicaid program—provides funding to cover the costs of health care services—including mental health and substance use disorder (SUD) treatment—for low-income families and individuals. The federal government provides reimbursement of up to 90 percent of the cost for services provided to Medi-Cal beneficiaries.

In 2021-22, the state approved California Advancing and Innovating Medi-Cal (CalAIM). CalAIM is a large package of reforms intended to achieve various goals including:

- reducing health disparities by focusing attention and resources on Medi-Cal's high risk, high-need populations.
- rethinking mental health and SUD treatment service delivery and financing.
- extending federal funding opportunities.

CDCR is requesting a net increase $10.4 million in 2022-23 ($10.7 million increase in reimbursement authority partially offset by a reduction of $300,000 General Fund) to implement the CalAIM Justice-Involved Initiative, which is one aspect of the Governor's overall package of CalAIM-related initiatives. (Under the proposal, the proposed net increase would remain at $10.4 through 2026-27, however, resulting from a $30.8 million increase in reimbursement authority partially offset by a reduction of $20.4 million General Fund.)

These funds would be used to enhance CDCR's pre-release planning process to better connect inmates with providers of medical, mental health and SUD services upon their release from prison. Under the proposal, inmates would be provided pre-release planning services, such as medical and mental health consultations and linkages to community service providers. They could also receive medications and durable medical equipment for use post-release. In addition, California is seeking to implement Medi-Cal coverage 90 days pre-release.

CCHCS is requesting the following positions:

- 39.6 nurse positions to review patient treatment plans, provide pre-release services, and assist patients in Medi-Cal enrollment, among other duties.
- 2 Research Data Manager positions to enable data sharing across multiple state departments, program areas, and stakeholders.
- 39.6 correctional officer positions to escort patients to medial screenings or pre-release appointments.

The proposal assumes that the cost of these pre-release planning services—some of which are already performed by CDCR—would be eligible for federal reimbursement through Medi-Cal. Thus, the proposal reflects reduced General Fund support and increased reimbursement authority.

LAO Comment.

The Governor's proposal is promising as it could potentially reduce the state cost of CDCR pre-release planning services and better connect individuals released from prison to community providers of medical, mental health, and SUD treatment services. In turn, this could result in improved outcomes for these individuals. However, many of the details of the proposal have not been determined. Accordingly, we recommend that the Legislature, direct CDCR to provide answers to following questions as it considers the proposal:

- What will the average federal reimbursement rate be for the pre-release planning services?
- What specific new pre-release planning activities will take place?
- What specific pre-release planning activities that CDCR already engages in will become federally reimbursable? Are the potential savings from this fully reflected in the proposal?
- Under the new pre-release planning process, will inmates released to state parole continue to be referred to CDCR-funded mental health and SUD treatment service providers in the community?
- To the extent that such inmates will not be referred to CDCR-funded providers (or will be referred to CDCR-funded providers less frequently) will the budget for CDCR-funded services be adjusted accordingly? Alternatively, to what extent would a reduction in the number of inmates referred to CDCR-funded services allow CDCR to meet the needs of currently unserved parolees?
- To the extent that such inmates will continue to be referred to CDCR-funded providers, what steps will the administration take to maximize the amount of federal reimbursement the state receives for providing such services? (We note our office has recommended in the past that the state take steps to increase the amount of federal reimbursement it receives for mental health and SUD treatment provided to parolees.)
- How will CDCR coordinate with the appropriate state and local stakeholders to ensure the success of the proposal and a smooth transition for inmates being released from prison?

Staff Recommendation. Hold Open.

Issue 8: Returning Home Well

Governor's Budget. CDCR requests $10.6 million General Fund annually on a three-year limited term basis (total of $31.8 million) to continue the Returning Home Well Program.

Panelists.

- Amy Casias, Deputy Director, Division of Rehabilitative Programs, CDCR
  The Department of Finance and LAO are available for questions.

Background.

In 2020-21 and 2021-22, CDCR used $21.9 million in federal COVID-19 relief funds, as well as private philanthropic funds, to implement Returning Home Well (RHW), which provides emergency housing to individuals being released from prison without housing, and potentially into homelessness.

To quickly implement RHW, CDCR utilized existing contracts with Specialized Treatment for Optimized Programming (STOP) providers. STOP providers have historically served parolees within one year of release who need SUD treatment. In addition to that treatment, STOP services include recovery and reentry housing; assistance with enrollment in health care services; general health education; anger management and criminal thinking awareness counseling; life skills; community and family reunification; employment and educational services; and individual, family, and group counseling. Prior to RHW, CDCR did not have funding dedicated to housing for people being released, regardless of SUD needs.

In RHW, participants are initially offered 90 days of housing, but that can be extended up to 180 days if there are openings available. Parolees would also be eligible, although priority will go to people being released. RHW does not directly provide wraparound services; however, the goal is that connecting them to STOP providers and having them in stable housing will help people access those services as well, and lead to more successful transitions back into the community and reduced recidivism and homelessness.

The pandemic exacerbated the need to ensure the availability of housing for the parolee population. However, the need existed prior to the pandemic and will continue to exist in the future. Accordingly, to continue the RHW Program, CDCR is requesting $10.6 million on a three-year limited term basis (2022-23 through 2024-25) to continue RHW and provide housing to 1,065 participants. The estimated housing need comes from the average number of incarcerated individuals reporting that they needed housing at the time of release from 2016-17 through 2018-19. Older data were used as more recent data may be skewed by the pandemic.

The Administration is requesting limited-term funding to more firmly establish the program, monitor outcomes, and gather better data on ongoing housing needs in order to better estimate the ongoing resources needed. Over the next three years, CDCR will analyze participation levels to determine average usage and length of stay, which will be used to inform a potential future budget request.

Staff Comments. The Legislature may wish to consider including specific reporting requirements on the program, based on its priorities and the information it will need to assess future budget requests. For example, the Legislature may wish to know what happens after participants leave the program, and how RHW compares to other types of transitional housing programs.

In addition, the Legislature should ensure that RHW is well-integrated with other transitional programs, including STOP and the two healthcare programs discussed earlier (ISUDTP and CalAIM).

Staff Recommendation. Hold Open.

Issue 9: California Prison Industry Authority Janitorial Expansion

Governor's Budget. CCHCS requests $8.6 million General Fund in 2022-23, and $10.5 million General Fund in 2023-24 and ongoing for expanded contractual services with the California Prison Industry Authority (CalPIA), increasing the ongoing resources for this program from $59 million to $67.6 million. The additional funding will allow CalPIA to clean newly constructed health care spaces and dental areas and increase institution supervisory staffing levels. The proposal includes 54 additional custodian supervisor positions in 2022-23, increasing to 72 in 2023-24 and ongoing.

Panelists.

- Dave Lewis, Deputy Director, Facilities Planning and Activations Management, Health Care Services, CDCR
- Orlando Sanchez Zavala, Fiscal and Policy Analyst, LAO

Department of Finance is available to answer questions.

Background.

CalPIA Provides Goods and Services to State Departments. CalPIA is a semiautonomous state agency that provides work assignments and vocational training in a range of career fields to inmate workers and is funded primarily through the sale of the goods and services produced by these inmate workers. It is managed by the Prison Industry Board, which is composed of 11 members including the Secretary of CDCR, as well as several legislative and gubernatorial appointees. State law requires state agencies to purchase products and services offered by CalPIA whenever possible. Accordingly, most goods and services produced by CalPIA are sold to state departments. CDCR is CalPIA's largest customer, accounting for over two-thirds of all sales in 2020-21. In 2021-22, CalPIA expects to generate $248 million in revenue from the sale of its goods and services and spend $245 million to operate its programs.

CDCR Contracts With CalPIA to Clean Health Care Facilities. The Healthcare Facility Maintenance (HFM) program within CalPIA was initiated in 2013 on a pilot basis to clean selected inmate health care facilities. As part of the 2014-15 budget, $15 million in ongoing General Fund support was provided to CDCR to expand the program to health care facilities at all prisons statewide. Through the HFM program, CalPIA provides cleaning supplies, trains inmate custodians to clean health care facilities, and provides oversight and auditing services. The scope and funding of the HFM program has expanded since 2014-15 (such as due to the construction of new health care facilities). The 2021-22 budget includes $59 million to support CDCR's contract with CalPIA for the HFM program.

CalPIA Trains and Pays Inmate Workers to Clean Facilities. Cleaning health care facilities requires special care; a high standard of cleanliness; and continued sanitation of medical equipment, furniture, and spaces to eliminate the possibility of transmitting illnesses between patients. Accordingly, inmate custodians participating in the program receive the training necessary to properly clean health care facilities and obtain a health care facility cleaning certification. Inmate custodians are currently paid between $.35 and $1.00 per hour for their work.

(We note that inmate workers employed by CDCR to carry out other work assignments were paid an average of $.36 per hour between February 2019 and February 2020, the most recent data readily available.)

CalPIA Also Employs Civil Service Custodians. In addition to inmate custodians, CalPIA employs state civil service staff in the custodian classification as part of the HFM program. These civil service custodians work alongside the inmate custodians. CalPIA also employs state civil service custodian supervisors to oversee both the civil service and inmate custodians. Based on recent data provided by CalPIA, the HFM program maintains an average of 1 custodian supervisor per 40 civil service and inmate custodians.

Civil service custodians and custodian supervisors in the HFM program are hired through the same process as other state-employed custodian staff. Although not required to, CalPIA generally adheres to various guidelines issued by the California Department of Human Resources (CalHR) related to custodian classifications. CalHR has initiated a project to provide new guidelines related to custodian classifications. For example, CalHR is currently in the process of developing new guidelines on the ratio of custodian supervisors to custodian staff. According to CalHR, the previous guidelines, which recommended 1 custodian supervisor to oversee between 8 and 23 custodians, have expired and are no longer in effect.

Inmate Health Care Facilities Have Been Well Maintained. According to CalPIA, internal and external audits have found that the HFM program has maintained an appropriate level of sanitation and cleanliness of CDCR's health care facilities. According to CalPIA, neither the federal Receiver (who oversees the delivery of medical care in prisons) or the Office of the Inspector General (the agency responsible evaluating medical care in prisons) have raised concerns with the services provided by the HFM program.

Increases Number of Custodian Supervisor Positions. The Governor's budget proposes 54 additional custodian supervisor positions in 2022-23 (increasing to 72 in 2023-24). The additional custodian supervisors would allow the HFM program to transition from an average ratio of 1 custodian supervisor per 40 civil service and inmate custodians to an average ratio of 1 custodian supervisor per 20 civil service and inmate custodians by 2023-24. According to CalPIA, additional custodian supervisors are necessary to (1) oversee the services in the additional health care facilities that the HFM program would service under the Governor's proposal and (2) adhere with the guidelines previously issued by CalHR—and now expired—on the ratios of supervisors to custodians. In addition, CalPIA indicates that an insufficient number of custodian supervisors has led to custodian supervisors not properly keeping inventory, not providing timely evaluations to custodians, not ensuring that the frequency of sanitation is reviewed daily, and allowing over-fraternization between civil service and inmate custodians. The Administration also indicated that additional supervisory support could help address existing staff retention issues.

LAO Comment.

Expansion Reasonable, but Additional Supervisors Appear Unnecessary. Given the quality of the services provided by HFM to date, we find the proposal to expand the contract to include additional health care facilities reasonable. However, the proposal to change the ratio of custodian supervisors

to civil service and inmate custodians appears unnecessary. While CalPIA indicates that the custodian supervisors are necessary to address various problems they have identified (such as providing timely evaluations), the HFM program has been able to provide quality service without these additional positions. Accordingly, it appears that these problems are not significant enough to impact the quality of service provided by HFM. While we acknowledge that these problems could impact the program in other ways, CalPIA has not provided evidence that this is the case, including the extent to which the additional custodian supervisors proposed would in fact alleviate such impacts. For example, it possible that other actions—such as additional training—would address the identified problems in a more effective and efficient manner.

Lack of Detail on Break Out of Proposed Resources. We note that, at the time this analysis was being prepared, CalPIA was unable to provide information on how much of the requested resources would support the expansion of the HFM program into additional health care facilities versus changing the ratio of custodian supervisors to civil service and inmate custodians. (Based on the limited data available, we estimate that several million dollars of the requested funding is related to changing the supervisor to staff ratio.)

LAO Recommendation.

Approve Funding Associated With Expansion, Reject Funding to Change Supervisor to Staff Ratio. In view of the above, we recommend that the Legislature only approve the funding necessary for the HFM program to expand into new health care facilities and reject the funding necessary to change the ratio of custodian supervisors to civil service and inmate custodians. Additionally, we recommend that the Legislature direct CalPIA to report the amount of the requested funding associated with changing the custodian supervisor ratio separately. This would help the Legislature determine how much to reduce CDCR's budget in accordance with our recommendation.

Staff Recommendation. Hold Open.