

SUBCOMMITTEE NO. 5

Agenda

Senator Nancy Skinner, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, March 23, 2017
9:30 a.m. or upon adjournment of Session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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ITEMS TO BE HEARD

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Issue 1: Law Enforcement Driving Simulators Replacement Project

Governor's Budget. The Commission on Peace Officer Standards and Training requests limited-term funding of \$1.9 million Motor Vehicle Account in 2017-18 and 2018-19 to replace 16 driving simulators (eight annually) and continue to maintain the remaining simulators that are out of warranty.

Background. Since January 1, 2002, POST Regulation 1005, mandated all peace officers (except reserve officers) below the rank of middle management and assigned to patrol, traffic or investigation who routinely effect physical arrest of criminal suspects are required to complete Perishable Skills training. Studies have shown that incidents involving Perishable Skills make up the majority of law enforcement deaths and serious injuries. Additionally, events associated with perishable skills are the primary impetus for a significant portion of civil litigation. These same studies show that after two years without refresher training, these skills begin to deteriorate. The skills for peace officers that have been identified as most perishable are driving, tactical firearms, force options, arrest and control, and verbal communication.

Perishable Skills training is mandated to consist of a minimum of 12 hours over the course of a two-year period. Of the total 12 hours required, a minimum of four hours of each of the following topical areas is required to be completed:

- Arrest and Control
- Driver Training/Awareness or Driving Simulator (LEDS)
- Tactical Firearms or Force Options Simulator (FOS)

With both the statutory mandate, and safety of officers and the community in mind, POST developed 24 Regional Skills Training Centers (RSTCs) (Attachment A) to provide a cost effective means of providing perishable skills training to the more than 80,000 sworn officers affected by this training requirement. Each RSTC is equipped with Law Enforcement Driving Simulators (LEDS) commensurate with the number of potential trainees requiring the training in their region.

As part of a 2009 contract, POST invested over \$11 million in LEDS, which included hardware, software and firmware (108 simulators, 26 instructor stations, six trailers, six generators, warranties and initial operations training). To meet these regulatory perishable skills training mandates, POST has trained approximately 57,796 Regular Basic Training recruits and peace officers for Perishable Skills training since the LEDS acquisition (2009-2015).

Staff Recommendation. No recommendation.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS**Issue 1: Proposed Elimination of the California Gang Reduction, Intervention and Prevention (CalGRIP) Program**

Governor's Budget. The Governor's budget proposes the elimination of the CalGRIP program.

Background. The CalGRIP program began in 2007 when Governor Schwarzenegger created the Governor's Office of Youth Violence Policy (OGYVP) initiated to help communities support strategies to reduce gang and youth violence. The program was first administered by the OGYVP, and later transferred to the California Emergency Management Agency (CalEMA), which is now the California Office of Emergency Services. At its onset, CalGRIP provided anti-gang funding to many state departments including: job training, education and intervention programs through the CalEMA, and the Employment Development Department; the Corrections Standards Authority (now the Board of State and Community Corrections (BSCC)), to spend \$1.1 million on anti-gang programs; and \$7 million for the California Highway Patrol to help local jurisdictions combat gang violence.

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

For five years, the budget has appropriated \$9.2 million from the Restitution Fund every year to fund CalGRIP, a grant program to cities that provide a dollar-for-dollar match to implement evidence-based programs to reduce youth and group-related crime and violence. The budget sets aside one million dollars annually for the City of Los Angeles, with the remainder distributed to other cities of all sizes through a competitive application process administered by the BSCC. The grant program also requires that grantees distribute at least 20 percent of CalGRIP funds toward community-based organizations. According to BSCC records, in recent years cities have chosen to direct a majority of CalGRIP funding to community-based organizations. CalGRIP is currently administered on a three-year grant cycle that will end at the close of this year.

Through local funding matches, CalGRIP will have leveraged over \$55 million dollars in investments in 19 cities across the state from 2015-2017.

2014 CalGRIP Report to the Fiscal Committees of the Legislature. According to a 2014 report from BSCC, 21 percent of the funding was used on gang suppression activities, 36 percent on intervention, and 43 percent on prevention. Cities have used the funding to support Boys and Girls Clubs, Big Brother/Big Sister programs, functional family therapy, bullying prevention, Project CeaseFire, gun buy-back programs, and gang detective units.

Staff Recommendation. Hold open pending decisions regarding the state's fine and fee revenue.

VARIOUS DEPARTMENTS

Issue 2: Fines and Fees Proposals

Governor's Budget. Fine and revenue deposited into the State Penalty Fund (SPF) is distributed among nine other state funds, with each receiving a certain percentage under state law. The Governor proposes to eliminate the statutory formulas dictating how SPF revenues are distributed and, instead, appropriate revenues directly to certain programs based on his priorities. Under the plan, some programs would no longer receive SPF support entirely, while others would be reduced.

The Legislative Analyst's Office (LAO) included the following chart of the impact of the proposed cuts to programs receiving funding from the State Penalty Fund in their March 3, 2017, report on the *Governor's Criminal Fine and Fee Proposals*. In the Governor's budget, three programs are proposed for funding elimination: Internet Crimes Against Children; CalGRIP; and Local Public Prosecutors and Public Defenders Training. Of those three, the Internet Crimes Against Children program and the Local Public Prosecutors and Public Defenders Training both receive funding from either federal or local sources. Only CalGRIP would be eliminated entirely.

Figure 9

State Penalty Fund (SPF) Program Expenditures for 2016-17 and 2017-18—Governor's Proposal

(In Thousands)

Program	2016-17 ^a			2017-18 (Proposed)			Change From 2016-17
	SPF	Other Funds ^b	Total	SPF	Other Funds	Total	
Victim Compensation	\$15,114	\$105,120	\$120,234	\$9,082	\$111,228	\$120,310	\$76
Various OES Victim Programs ^c	12,494	63,403	75,897	12,053	57,929	69,982	-5,915
Peace Officers Standards and Training	32,132	30,734	62,866	46,496	3,787	50,283	-12,583
Standards and Training for Corrections	17,418	3,706	21,124	17,209	100	17,309	-3,815
CalGRIP	9,519	—	9,519	—	—	—	-9,519
CalWRAP	5,217	—	5,217	3,277	—	3,277	-1,940
Motorcyclist Safety	250	2,941	3,191	—	3,191	3,191	—
DFW employee education and training	450	2,477	2,927	450	2,194	2,644	-283
Bus Driver Training	1,364	219	1,583	1,038	100	1,138	-445
Traumatic Brain Injury	998	64	1,062	800	314	1,114	52
Internet Crimes Against Children	1,008	—	1,008	—	—	—	-1,008
Local Public Prosecutors and Public Defenders Training	850	31	881	—	—	—	-881
Totals	\$96,814	\$208,696	\$305,510	\$90,405	\$178,844	\$269,249	-\$36,261

a Estimated expenditures based on current law, historical budgeting practices, and best available data.

b Includes one-time funding to backfill reduction in SPF revenues—\$19.6 million from the General Fund and \$4.2 million from the Restitution Fund.

c Includes Victim-Witness Assistance Program, Victim Information and Notification Everyday Program, Rape Crisis Program, Homeless Youth and Exploitation Program, and Child Sex Abuse Treatment Program.

OES = Office of Emergency Services; CalGRIP = California Gang Reduction, Intervention, and Prevention; CalWRAP = California Witness Relocation and Protection Program; and DFW = Department of Fish and Wildlife.

Background. Trial courts are responsible for determining the total amount of fines and fees owed by individuals upon their conviction of a criminal offense. This calculation begins with a base fine that is set in state law for each criminal offense. For example, the base fine for the infraction of a stop sign violation is \$35, while the base fine for the misdemeanor of driving under the influence of alcohol or drugs is \$390. State law then requires the court to add certain charges to the base fine (such as other fines, fees, forfeitures, penalty surcharges, assessments, and restitution orders), which can significantly increase the total amount owed. State law also authorizes counties and courts to levy additional charges depending on the specific violation and other factors. After all of the different charges have been levied, the \$35 stop sign violation grows to \$280 and a driving under the influence violation result in fines as high as \$2,024. Finally, statute gives judges some discretion to reduce the total amount owed by waiving or reducing certain charges.

Distribution Among Numerous State and Local Funds. State law (and county board of supervisor resolutions for certain local charges) dictates a very complex process for the distribution of fine and fee revenue to numerous state and local funds. State law requires that a portion of fines and fees be allocated to specific purposes prior to distributing revenue to various state and local funds, such as to support most collection program operational costs related to collecting delinquent debt. Additionally, state law includes some distributions that vary by criminal offense and authorizes local governments to determine how certain fines or fees are to be distributed among various local funds. Finally, state law includes formulas for distributions of certain fines and fees.

State Receives Majority of Fine and Fee Revenue. According to available data compiled by the State Controller's Office and the judicial branch, a total of \$1.7 billion in fine and fee revenue was distributed to state and local governments in 2015-16. The state received \$881 million (or roughly half) of all revenue distributed that year. Of this amount, roughly 60 percent went to support trial court operations and construction. The LAO estimates that local governments received \$707 million (or 42 percent) of the total amount of fine and fee revenue distributed in 2015-16. The remaining \$114 million (or seven percent) went to collection programs to cover their operational costs related to the collection of delinquent debt.

State Penalty Fund (SPF). One of the major state funds that receives criminal fine and fee revenue is the SPF. Specifically, state law requires that a \$10 penalty assessment be added for every \$10 of the base fine, with 70 percent of the revenue deposited into the SPF. (The remaining 30 percent is deposited into county general funds.) The amount deposited into the SPF is then split among nine other state funds with each receiving a certain percentage under state law. These funds, which can also receive funds from other sources, then support various state and local programs—including the state's victim compensation program (Restitution Fund) and programs for state and local law enforcement (Peace Officers' Training Fund and Corrections Training Fund). Each of these funds primarily supports one specific program.

The amount of revenue deposited into the SPF peaked in 2008-09 at about \$170 million and has steadily declined since. (In adopting the 2016-17 budget, the Legislature appropriated, on a one-time basis, General Fund money to specific programs supported by SPF revenue to backfill the projected decline in fine and fee revenue.) Total revenue deposited into the SPF in 2017-18 is expected to be about \$94 million—a decline of about 45 percent since 2008-09.

Legislative Analyst's Office (LAO)

Deposit Most Criminal Fine and Fee Revenue in State General Fund. While the Governor's proposal to change the allocation of SPF revenues would be a step in the right direction in improving the state's fine and fee system, the LAO continues to believe that taking a much broader approach to changing the overall distribution of fine and fee revenue would be preferable. As discussed in their January 2016 report, they find that eliminating all statutory formulas related to fines and fees would give the state maximum control over fine and fee revenue. Accordingly, the LAO recommends the Legislature require that nearly all fine and fee revenue, excluding those subject to certain legal restrictions (such as money collected for violations of state law protecting fish and game), be deposited into the General Fund for subsequent appropriation by the Legislature in the annual state budget. Depositing all fine and fee revenue in the General Fund would allow the Legislature to maximize its control over the use of this money and to ensure that annual funding for state and local programs is based on workload and legislative priorities. Moreover, an annual review of programmatic funding levels would facilitate periodic reviews of programs to help ensure that they are operating effectively and efficiently. In addition, any fluctuations in the collection of fine and fee revenue would no longer disproportionately impact programs supported by fines and fees. Instead, fluctuations in revenue would be addressed at a statewide level across other state programs—ensuring that adjustments in funding levels were based on statewide legislative priorities.

Depositing all fine and fee revenue into the General Fund would eliminate the need for the Legislature to continuously identify and implement short-term solutions to address problems with various special funds currently facing or nearing structural shortfalls or insolvency. These funds include the Trial Court Trust Fund, the Improvement and Modernization Fund, the State Court Facilities Construction Account, the Restitution Fund, and the DNA Identification Fund. In addition, other funds could be in a similar situation in the future if collections of criminal fine and fee revenue continue to decline. Instead, the Legislature could focus on ensuring that programs provide legislatively desired service levels. However, because these programs would now be supported by the General Fund, decisions about General Fund expenditures would be more difficult as the Legislature would need to weigh funding for these programs against all other programs currently supported by the General Fund.

Staff Comments. The LAO recommends depositing most criminal fine and fee revenue into the state General Fund for subsequent appropriation by the Legislature in order to achieve multiple benefits, including maximizing the state's ability to allocate funding to programs based on program workload and legislative priorities. However, the LAO acknowledges that because these programs would now be supported by the General Fund, decisions about General Fund expenditures would be more difficult as the Legislature would need to weigh funding for these programs against all other programs currently supported by the General Fund. To the extent this is a concern for the Legislature, the Legislature could consider alternatives to Governor's proposal and the LAO recommendation. For example, the Legislature could establish one special fund that would receive nearly all criminal fine and fee revenue for subsequent appropriation to programs. This approach would achieve many of the benefits identified by the LAO in their recommended approach. However, the Legislature's ability to allocate funding to programs would be limited to the purposes of the new special fund and programs supported by the fund would still be disproportionately affected by fluctuations in fine and fee revenue. Another option is to split the deposit of fine and fee revenue between the state General Fund and a special fund and

shift high priority programs to the General Fund to insulate them from fluctuations in fine and fee revenue. This would increase the exposure of programs supported by the special fund to fluctuations in fines and fees, however.

Staff Recommendation. Hold open.

0250 JUDICIAL BRANCH**Issue 3: Driver's License Suspensions Trailer Bill**

Governor's Budget. Under existing law, courts can suspend or place a hold on an individual's driver's license for failing to pay court-ordered fines and fees or failing to appear in court. The Governor proposes to eliminate the ability to use driver's license holds and suspensions as a sanction for an individual's failure to pay their court-ordered fines and fees.

Background. If an individual does not pay a court-ordered fine or fee on time, the debt becomes delinquent. Under state law, after a minimum of a 20-day notification of delinquency, collection programs can utilize sanctions against an individual who either fails to pay their fines and fees (FTP) or fails to appear in court without good cause (FTA). Typically, collection programs progressively add sanctions to gradually increase pressure on debtors to make payment. While the same sanctions are available to all collection programs, each program can vary in how it uses these sanctions and when it leverages these sanctions.

Driver's License Holds. Under current law, courts can notify the Department of Motor Vehicles (DMV) to place a hold on a driver's license for an FTA or FTP. A driver's license hold generally only prevents an individual from obtaining or renewing a license until the individual appears in court or pays the owed debt. A hold placed for FTA may be added and removed at the court's discretion. Thus, courts use a hold for FTA as a tool to encourage individuals to contact the court. In contrast, a hold for FTP for a specific debt may only be placed once for that debt—thereby resulting in most courts leaving the hold in place until an individual pays off the debt in full. Additional holds for FTA or FTP for other criminal offenses can then result in the suspension of the license. Holds will be removed by the court once an individual appears in court or makes payment to address his or her debt.

Driver's License Suspensions. As required under current law, DMV will suspend an individual's license (1) if there are two or more holds or (2) if notification is received to suspend the license immediately. Individuals whose driver's license will be subject to suspension receive notice from the DMV that their license will be suspended by a specified date if they do not address all specified holds. Individuals whose driver's licenses are suspended are no longer legally allowed to drive. Once all holds are removed, the suspension is lifted. Individuals must then pay a fee to have their license reissued or returned.

LAO Recommendation. In considering the Governor's proposal, the Legislature will want to weigh the relative trade-offs in repealing the driver's license hold and suspension sanction for failure to pay court-ordered fines and fees. While this repeal would provide relief to such individuals, it would also negatively impact the ability of collection programs to enforce court-ordered fines and fees. The Legislature could also consider alternatives to the Governor's proposal in balancing these trade-offs. In addition, the LAO continues to recommend the Legislature require a comprehensive evaluation of collection practices and sanctions, as well as reevaluate the overall structure of the criminal fine and fee system.

Staff Recommendation. Approve the proposed trailer bill language as placeholder, draft language.

Issue 4: Trial Court Capital Outlay**Governor's Budget**

Various Capital Outlay Reappropriations. The Governor's budget proposes a reappropriation from the Public Buildings Construction Fund to extend the liquidation period of the construction phase until June 30, 2018, for each of the following four projects:

- Riverside County: New Riverside Mid-County Courthouse
- San Bernardino County: New San Bernardino Courthouse
- Tulare County: New Porterville Courthouse
- Calaveras County: New San Andreas Courthouse

This extension will allow for the Judicial Branch to make the final payments (totaling approximately \$7.9 million) and close out these four projects. Unforeseen construction delays resulted in outstanding payments being due past the expiration of the liquidation period on June 30, 2016.

Santa Clara Capital Outlay Project Funding Plan. The Governor's budget proposes a transfer of \$5,237,000 in 2017-18, which includes a catchup payment for 2016-17, and \$3,200,000 annually beginning in 2018-19 from the Court Facilities Trust Fund (CFTF) to the Immediate and Critical Needs Account (ICNA) to support the financial plan for the construction of the Santa Clara County - New Santa Clara Family Justice Center. The funds being transferred consist of the county facility payments (CFPs) for the six facilities being replaced by the new courthouse, less the amount required to offset ongoing facility operations of the new courthouse. The transfer would not begin until the termination of the existing leases for the six replaced facilities after project completion as the CFP is currently being used to fund these leases. It will be in place annually until the debt service from the bonds sold to finance the new courthouse is retired in 2037- 38.

Background. The Santa Clara County - New Santa Clara Family Justice Center project in the City of San Jose was originally authorized in the 2009-10 budget act. This project is on the list of projects to be funded by Senate Bill 1407 (Perata), Chapter 311, Statutes of 2008, as adopted by the Judicial Council in October 2008. Construction of the project began in August 2013, and estimated to be completed by August 2016.

This project creates operational efficiencies through consolidation of six facilities into one consolidated courthouse that will serve the families of Santa Clara County. The six leased facilities that will be replaced are the probate investigators facility, two different superior court administration facilities, Terrains Courthouse/Juvenile Dependency and Drug Court, Family Courthouse/Park Center and Notre Dame Courthouse.

Staff Comment. Given that in recent years local trial court construction has resulted in increasing General Fund expenditures for trial court security (see Issue 6), the Legislature may wish to require certification from the local counties that proceeding with the construction of any additional courthouses will not impact trial court security and will not require a General Fund augmentation.

Staff Recommendation. Approve the reappropriation. Hold open the Santa Clara request pending an assessment of the impact of the courthouse on trial court security costs.

Issue 5: Transfer of Judgeships

Governor's Budget. The proposed budget includes statutory language shifting four vacant superior court judgeship positions in the state. Specifically, the Governor proposes shifting two vacancies from Alameda County, and two from Santa Clara County to Riverside and San Bernardino counties.

Background. Each year, the Judicial Council is required to conduct a judicial needs assessment to determine whether or not the state has enough judges. For the last decade, California has had a shortage of judges. The most recent report, released in October of 2016, found a shortage of 189 judgeships statewide. The greatest need is in Riverside and San Bernardino counties, which have a shortage of 47 and 48 judgeships, respectively.

Staff Comment. There is no funding associated with this proposal other than for trial court security, which is discussed in the next item. Funding for the judge will be transferred internally by the Judicial Council and the local courts will be expected to provide the remainder of the staffing and costs from their existing trial court allocation.

Staff Recommendation. Approve the proposed trailer bill language as placeholder, draft language.

9285 & 9286 TRIAL COURT SECURITY FUNDING**Issue 6: Trial Court Security**

Governor’s Budget. The Governor’s proposed budget includes \$7 million General Fund to offset the costs of trial court security in counties that have built new courthouses.

In addition, the budget proposes providing Riverside and San Bernardino counties with \$280,000 in on-going General Fund to offset the security costs of those four judgeships.

Background

2011 Realignment of Trial Court Security. As part of the 2011-12 budget plan, the Legislature enacted a major shift, or “realignment,” of state criminal justice, mental health, and social services program responsibilities and revenues to local government. This realignment shifted responsibility for funding most trial court security costs (provided by county sheriffs) from the state General Fund to counties. Specifically, the state shifted \$496 million in tax revenues to counties to finance these new responsibilities. State law also requires that any revenue from the growth in these tax revenues is to be distributed annually to counties based on percentages specified in statute. Due to this additional revenue, the amount of funding provided to counties to support trial court security has grown since 2011-12 and is expected to reach nearly \$558 million in 2017-18, an increase of \$61 million (or 12 percent). This additional revenue is distributed among counties based on percentages specified in statute.

Additional General Fund Recently Appropriated for Greater Levels of Trial Court Security. The California Constitution requires that the state bear responsibility for any costs related to legislation, regulations, executive orders, or administrative directors that increase the overall costs borne by a local agency for realigned programs or service levels mandated by the 2011 realignment. As part of the annual budget act, the state provided \$1 million in additional General Fund support in 2014-15, \$2 million in 2015-16, and \$7 million in 2016-17, above the tax revenue provided through the 2011 realignment, to provide counties with funding to address increased trial court security costs. Eligibility for these funds was limited to counties experiencing increased trial court security costs resulting from the construction of new courthouses occupied after October 9, 2011 (around the time of implementation of the 2011 realignment). Counties are required to apply to the Department of Finance (DOF) for these funds and only receive funding after meeting certain conditions—including that the county prove that a greater level of service is now required from the county sheriff than was provided at the time of realignment. Of the additional funds provided, DOF allocated \$713,000 in 2014-15, \$1.9 million in 2015-16, and currently estimates the allocation of about \$2.7 million to qualifying counties in 2016-17. The Governor’s budget proposes continuing to provide \$7 million in General Fund to augment trial court security funding.

Legislative Concerns. The state’s trial courts have faced significant cuts in recent years which have resulted in the closing of courtrooms throughout the state and a reduction in court-related services. As courtrooms are closed, the need for trial court security is reduced. However, despite a reduction in workload, the revenue provided to counties for trial court security has continued to grow under the realignment formula. In addition, according to the Judicial Council and the Administration, one of the

benefits of the new court construction is that they generally require less security than the older courthouses that have multiple entrances.

The Legislature expressed concern with providing the \$1 million in 2014, because of the potential that the General Fund commitment for realigned trial court security would continue to increase year after year; similar concerns were expressed when the funding was doubled in 2015. Increasing the funding to \$7 million in 2016, with the potential for an additional \$10 million increase in this year's May Revise, suggests that those concerns had merit.

Legislative Analyst's Office (LAO). The LAO recommended rejecting the initial proposal during the May Revision process in 2014. They acknowledged that some courts may be experiencing an increased trial court security need; they were unable to determine whether there was a statewide net increase in the cost of court security. For example, they noted that a number of trial courts closed courtrooms and/or courthouses to address their ongoing budget reductions—thereby reducing the trial court security need and generating cost savings that could be redirected to courts with increased costs. In addition, the 2011 realignment legislation did not envision the state providing each county funding based on its actual court security costs. As such, they argued, the proposal is not consistent with the original intent of the legislation.

Security for Transfer of Judgeships. According to the LAO's findings, the Administration has not shown that additional trial court security funding resources are needed. Accordingly, they recommend that the Legislature reject the Governor's proposal for a \$280,000 General Fund augmentation for increased trial court security costs.

Staff Comments. Since the inception of the use of General Fund to augment the realigned revenue to support trial court security, the Legislature has expressed concerns with the Administration's lack of justification for the augmentation. Over the last few years, the General Fund augmentation has grown from just over \$550,000 to \$7 million. The committee may wish to consider revisiting the larger funding with the intention of setting aside a portion of the funding to pay any future successful local mandate claims and eliminating the remainder of the augmentation.

Informal discussions between staff and legislative counsel suggest that it is not certain that this would be a higher level of service. Members may wish to ask for a legislative counsel opinion before acting on any assumptions in this regard. In addition, the Legislature may wish to direct the Administration to use the Trial Court Security growth funding in realignment each year to cover any increased demands on trial court security related to courthouse construction.

Staff Recommendation. Hold open pending updates in May Revise.