

# SUBCOMMITTEE NO. 5

# Agenda

Senator Loni Hancock, Chair  
Senator Joel Anderson  
Senator Curren D. Price, Jr.



Thursday, April 4, 2013  
9:30 am or Upon Adjournment of Session  
Room 113

Consultant: Joe Stephenshaw

**Item Number and Title**

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**To be Heard**

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## Items to be Heard

### **Office of the Inspector General (0552)**

The Office of the Inspector General (OIG) protects public safety by safeguarding the integrity of California's correctional system. The OIG is responsible for contemporaneous oversight of the California Department of Corrections and Rehabilitation's (CDCR) internal affairs investigations, use of force, and the employee disciplinary process. When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Inspector General reviews the policies, practices, and procedures of the CDCR. The Inspector General reviews the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions and as superintendents for the state's juvenile facilities; conducts metric-oriented inspection programs to periodically review delivery of medical care at each state prison and the delivery of reforms identified in the department's document, released in April 2012, entitled "The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight, and improve the prison system." The OIG receives communications from individuals alleging improper governmental activity and maintains a toll-free public telephone number to receive allegations of wrongdoing by employees of the CDCR; conducts formal reviews of complaints of retaliation from CDCR employees against upper management where a legally cognizable cause of action is present; and reviews the mishandling of sexual abuse incidents within correctional institutions. The OIG provides critical public transparency for the state correctional system by publicly reporting its findings.

In addition, the Public Safety and Offender Rehabilitation Services Act of 2007, Chapter 7, Statutes of 2007, created the California Rehabilitation Oversight Board (Board) within the OIG. The Board's mandate is to examine the CDCR's various mental health, substance abuse, educational, and employment programs for inmates and parolees. The Board meets quarterly to recommend modifications, additions, and eliminations of offender rehabilitation and treatment programs. The Board also submits biannual reports to the Governor, the Legislature, and the public to convey its findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in offender rehabilitation services, and levels of offender participation and success.

Following is the total funding and positions for the OIG, as proposed in the Governor's Budget. The OIG is funded exclusively from the General Fund.

(dollars in thousands)

<b>Funding</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
General Fund	\$15,186	\$14,964	\$15,496
<b>Total</b>	\$15,186	\$14,964	\$15,496
<b>Positions</b>	90.9	91.4	91.4

## **California Department of Corrections and Rehabilitation (5225)**

Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor’s Reorganization Plan No. 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and included the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Corrections Standards Authority (CSA)), Board of Prison Terms, and the Commission on Correctional Peace Officers’ Standards and Training (CPOST). Effective July 1, 2012, Chapter 36, Statutes of 2011 (SB 92, Committee on Budget and Fiscal Review) created the Board of State and Community Corrections (“BSCC”), which superseded the CSA.

The mission of the California Department of Corrections and Rehabilitation (CDCR) is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

- Corrections and Rehabilitation Administration.
- Juvenile: Operations and Offender Programs; Academic and Vocational Education; Health Care Services.
- Adult Corrections and Rehabilitation Operations: Security; Inmate Support; Contracted Facilities; Institution Administration
- Parole Operations: Adult Supervision; Adult Community-Based Programs; Administration
- Board of Parole Hearings: Adult Hearings; Administration.
- Adult: Education, Vocation, and Offender Programs; Education; Substance Abuse Programs; Inmate Activities; Administration.
- Adult Health Care Services.

The Governor’s Budget proposes \$8.97 billion and 59,736.2 positions for the CDCR in 2013-14. The table on the following page shows CDCR’s total operational expenditures and positions for 2011-12 through 2013-14.

(dollars in thousands)

<b>Funding</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
General Fund	\$9,206,232	\$8,662,460	\$8,694,201
General Fund, Prop 98	19,492	18,204	18,778
Other Funds	87,731	71,973	72,501
Reimbursements	107,394	179,469	179,897
<b>Total</b>	<b>\$9,420,849</b>	<b>\$8,932,106</b>	<b>\$8,965,377</b>
<b>Positions</b>	<b>53,688.4</b>	<b>58,607.0</b>	<b>59,736.2</b>

## Issue 1 – OIG Trailer Bill Clean-Up

**Proposal.** The Office of the Inspector General (OIG) has proposed trailer bill language to address concerns that are the result of significant budget and statutory restructurings of the OIG's office and to codify co-location of staff with the California Department of Corrections and Rehabilitation's (CDCR) Office of Internal Affairs (OIA).

**Background.** The 2011 Budget Act and associated trailer bill contained budget reductions and statutory changes to the OIG's mission, which resulted in a reorganization and downsizing of the office; removed the peace officer status of OIG employees; removed the mandate that the OIG conduct audits and investigations of the CDCR and replaced it with the requirement that the OIG instead conduct reviews of the CDCR (at the request of the Governor, the Senate Rules Committee, or the Speaker of the Assembly); removed the requirement that the OIG conduct quadrennial facility operation reviews and one-year warden follow-up audits; and codified the OIG's medical inspection plan.

To operationalize the budget reductions and statutory changes, the OIG abolished its bureaus and restructured its operations into regions to reduce travel and overtime costs. Deputy Inspector Generals are being cross-trained in the eight primary disciplines that are statutorily mandated; use of force monitoring, policy and performance reviews, warden and superintendent vetting, retaliation complaint investigations, Sexual Abuse in Detention Elimination Act reviews, independent intake complaint processing, medical inspections, and critical incident monitoring.

The proposed language makes the following changes that in effect clean-up issues that resulted from previous trailer bills:

- Deletes Penal Code (PC) Section 6131 because, for the most part, the section is no longer applicable since the OIG no longer initiates audits or investigations.
- Moves the only remaining relevant language, which requires the OIG to prepare a public report of its reviews, from PC 6131 to PC 6126.
- Makes a clarifying change to PC 6126.2 regarding a prohibition on hiring any person known to be involved in an open internal affairs investigation.
- Deletes a provision that refers to wardens who have been appointed but not yet confirmed as of July 1, 2005. There are no such wardens remaining at CDCR.
- Changes references to "review" in PC 6129 to "investigation." This section is the only section under which the OIG still conducts investigations (for retaliation complaints), and, therefore, should not have been changed to review.

Additionally, the proposed language codifies that the OIG shall have staff physically co-located with the CDCR's OIA. This practice was put in place as part of the *Madrid* lawsuit (pertaining to use of force remedy). According to the OIG, it is now necessary to codify the practice in order to ensure that co-location continues as offices are moved.

**Recommendation.** Approve the proposed OIG trailer bill language.

## Issue 2 – Oversight Issue: Blueprint Monitoring

**Background.** The Future of California Corrections (Blueprint) was developed as CDCR's plan to 1) allow the department to satisfy the Supreme Court's order, 2) end the class-action cases, 3) maintain an effective prison system, and 4) achieve significant savings, as assumed in public safety realignment. The key components of the Blueprint include:

- **Improve the Inmate Classification System.** As a result of research produced by a panel of correctional experts and input from seasoned professionals, the department has modified its classification system. The modified system will enable the department to safely shift about 17,000 inmates to less costly housing where they can benefit from more access to rehabilitative programs.
- **Return Out-of-State Inmates.** The department began sending inmates out-of-state when overcrowding was at its worst in 2007. The department plans to bring these inmates back as they complete their sentences, the prison population drops, classification changes are made, and additional housing units are constructed at existing facilities.
- **Improve Access to Rehabilitation.** This plan enables the department to improve access to rehabilitative programs and place at least 70 percent of the department's target population in programs consistent with their academic and rehabilitative needs. Increasing access to rehabilitative programs will reduce recidivism by better preparing inmates to be productive members of society. In doing so, it will help lower the long-term prison population and save the state money.

The department will establish re-entry hubs at certain prisons to concentrate program resources and better prepare inmates as they get closer to being released (within 48 months). It will also designate enhanced programming yards to incentivize positive behavior.

- **Standardize Staffing Levels.** The Blueprint establishes new and uniform staffing standards for each institution that will enable the department to operate more efficiently and safely.
- **Gang Management.** The Blueprint identified several measures, recommended as a result of a 2007 study, to commence new and targeted strategies to minimize the negative impacts of gangs in prisons. The department's policy for identifying prison-based gang members and associates and isolating them from the general population is being replaced with a new model that identifies, targets, and manages Security Threat Groups and utilizes a behavior-based Step Down Program for validated affiliates.

- **Comply with Court Imposed Health Care Requirements.** In recent years, numerous measures have been implemented that have significantly improved the quality of the department's health care system. The Inspector General regularly reviews and scores the department's medical care system, and these scores have been steadily rising. In addition, the capacity of the health care system will soon increase. Slated for completion during the summer of 2013, the California Health Care Facility in Stockton is designed to house inmates requiring long-term medical care and intensive mental health treatment. Its annex will open in the summer of 2014 to create a unified Stockton complex, allowing both facilities to efficiently transition inmate-patients between the two, while avoiding transportation and security costs as well as the need for expensive services in community hospitals and clinics. These projects, in addition to ongoing mental health and dental projects and new plans to increase medical clinical capacity at existing prisons, will satisfy court-imposed requirements.

**Prior Subcommittee Action.** As part of the current year's budget, the subcommittee approved the Governor's plan for the Blueprint in order to achieve \$1.5 billion in annual savings by 2015-16 related to the reduction in CDCR's population driven by realignment, advance efforts to end various class-action lawsuits, and maintain an effective and efficient prison system. The Blueprint, included the following components that were approved by the subcommittee:

1. A net reduction of \$1.9 million GF.
2. Added a new budget item (5225-007-0001) in the amount of \$13.8 million to reflect continuation of the Community Correctional Program.
3. \$810 million in lease-revenue bond authority to construct three level II dorm facilities.
4. \$700 million in AB 900 (Solorio 2007) lease-revenue authority for court-ordered medical upgrades.
5. \$167 million in AB 900 lease-revenue authority for the conversion of the Dewitt juvenile facility (1,133 beds, including 953 health care beds).
6. Reappropriated funding necessary to ensure completion of health care projects required to comply with court orders, as well as maintain the safe and efficient operation of existing prison facilities.
7. Added provisional language specifying \$2.8 million is available for expenditure on capital improvement projects at the Folsom Transitional Treatment Facility.
8. Eliminated duplicative provisional reporting language that will now be provided for in statute.
9. Amended provisional language to adjust contract dollars and average daily population figures for out-of-state facilities.

Blueprint Trailer Bill Language

1. **Civil Addicts Program Sunset Date** – Ceased commitments of civil addicts to CDCR beginning January 1, 2013.

2. **Accountability Language** – Required CDCR to establish appropriate oversight, evaluation, and accountability measures as part of the Blueprint.
3. **Reporting Language** – Required CDCR to submit estimated expenditures, as specified, to the Department of Finance for inclusion in the annual Governor’s Budget and May Revision.
4. **AB 900** – Amends various code sections related to AB 900 as follows:
  - a. Eliminated approximately \$4.1 billion in lease-revenue bond authority that was no longer needed for implementation of CDCR’s facilities plan.
  - b. Deleted various sections of the Penal Code related to construction of re-entry facilities and the benchmarks associated with phase two of infill, re-entry, and health care facilities.
  - c. Allowed for use of specific AB 900 funds for medication distribution facilities improvement projects.
  - d. Revised reporting requirements so that the remaining projects are subject to an approval process that is the same as other state capital outlay projects.
  - e. Various clean-up amendments consistent with the changes outlined above.

In addition to the above components that were proposed by the Administration, the Legislature adopted the following revisions to the Blueprint:

1. Transferred \$645,000 to the Office of the Inspector General (OIG) to support 5 positions and adopted trailer bill language specifying the OIG’s responsibility for oversight and review of various staffing and program aspects of the Blueprint.
2. Removed funding for inmate rehabilitative programs from CDCR’s main item of appropriation and created a separate item of appropriation for inmate rehabilitative programs, including a provision specifying that any funds not spent for the appropriated purpose shall revert to the General Fund.
3. Revised the proposed trailer bill language for the Medical Upgrade Program, Dewitt conversion, and the Infill Projects to specify that authorized funding shall only be expended on these projects and that detail scope and cost information for the Medical Upgrade Program and the Infill Projects shall be provided to the Joint Legislative Budget Committee in conjunction with submittal to the Public Works Board.
4. Added trailer bill language that specified the intent of the infill projects to provide a flexible design to satisfy the needs of housing subpopulations of inmates, such as those with disabilities or mental health needs, that the department has not had sufficient capacity for, as various court orders have identified.
5. Adopted trailer bill language that mandates that the California Rehabilitation Center (Norco) shall close upon completion of the infill projects.

**OIG Oversight.** As previously mentioned, to monitor implementation of the Blueprint, the Legislature passed and the Governor signed legislation adding language to the California Penal Code section 6126 mandating the OIG to periodically review delivery of the reforms identified in the Blueprint, including, but not limited to, the following specific goals and reforms:

- Whether the department has increased the percentage of inmates served in rehabilitative programs to 70 percent of the department's target population prior to their release;
- The establishment of, and adherence to, the standardized staffing model at each institution;
- The establishment of, and adherence to, the new inmate classification score system;
- The establishment of, and adherence to, the new prison gang management system, including changes to the department's current policies for identifying prison-based gang members and associates and the use and conditions associated with the department's secured housing units; and
- The implementation of, and adherence to, the comprehensive housing plan described in the Blueprint.

The OIG released its initial report at the beginning of this week. In summary, the OIG found that the department has demonstrated much progress in implementing its Blueprint goals in most categories reviewed. Specifically:

- Various rehabilitation measures have been established or are in development.
- The department has established, and for the most part is adhering to, the standardized staffing model at each institution.
- The department has established, and for the most part is adhering to, the new inmate classification scoring system.
- The department has established the new prison gang management system and is undergoing a 24-month pilot to implement and assess the new procedures.
- The department has implemented, and for the most part is adhering to, the comprehensive housing plan described in the Blueprint.

Overall, the OIG reports that the department has demonstrated good initial progress implementing its Blueprint goals. The initial report will serve as a baseline review of the department's initial efforts, and subsequent reports will assess its progress meeting specified future benchmarks and goals of the Blueprint.

**Staff Comment.** As the OIG notes, many of the reforms contained in the Blueprint have implementation dates well into 2015 (and beyond). Because of this, and a lack of interim benchmarks, it may be difficult to effectively assess the department's progress in implementing the Blueprint at this point. However, it is encouraging that the OIG has initially found that the department is, for the most part, making significant progress in implementing its Blueprint goals and the OIG is establishing a baseline review. Further, in addition to the scope of the OIG's review of the Blueprint, the CDCR reports that it is

operating within its budget for the current fiscal year, which is a significant factor in determining successful implementation of the Blueprint (the Department of Finance's Office of Statewide Audits and Investigations has performed a review of the fiscal aspects of the Blueprint, which has also been released this week).

Notwithstanding the progress that the CDCR is making in implementing the Blueprint, some components of the Blueprint are still years away from targeted goals and appear to lack a comprehensive roadmap with interim benchmarks. In particular, an area that this subcommittee has focused on in recent years, inmate rehabilitative programming, has an identified date of June 30, 2015 (per CDCR's Strategic Plan) for meeting the department's goal of serving 70 percent of the target population. While the CDCR has identified enhancements to programs and establishment of new programs and re-entry hubs, the Legislature has not been provided with a plan that details a timeline or benchmarks that will ultimately lead to the target.

This subcommittee has held hearings specifically regarding inmate rehabilitative programs in the past (most recently in May of 2010 and December of 2011). It is unclear how some of the key issues that were raised at these hearings are currently being addressed. In particular, how the department sets and measures program outcome goals is not clear.

Another component of the Blueprint that appears to lack a comprehensive implementation plan is the new gang management pilot program. In particular, the new step-down program that provides for a graduated process of moving out of security housing units relies on enhanced programs. However, it is unclear exactly what programs will be required and how and when they will be implemented.

Notwithstanding these issues, the OIG's overall findings in its initial review of Blueprint implementation are encouraging. If the department maintains its commitment to implementing the Blueprint, our state's ability to manage our prisons and provide inmate services will continue to improve.