

SUBCOMMITTEE NO. 5

Agenda

Senator Nancy Skinner, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, May 4, 2017
9:30 a.m. or upon adjournment of Session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY

0250 JUDICIAL BRANCH

1. **Language Access.** The Governor's 2017-18 budget provides \$352,000 from the Improvement and Modernization Fund (IMF) and two positions on an ongoing basis for the video remote interpreting (VRI) spoken language pilot. Specifically, these resources would be used to support various activities related to the implementation and evaluation of the pilot, such as project management and the development of training materials. Upon completion of the pilot, the judicial branch indicates that these resources will be used to expand VRI to interested trial courts, monitor the implementation of VRI, manage statewide agreements for purchasing VRI equipment, and provide subject matter expertise.

In addition, the Governor's 2017-18 budget provides a \$490,000 one-time appropriation from the Court Interpreters' Fund to support various activities to benefit the court interpreters program. This funding will support six activities including: expanding the interpreter testing program to include American Sign Language, providing training to help individuals become certified court interpreters, and conducting outreach to recruit individuals to become certified court interpreters. This issue was heard by the subcommittee on March 2nd.

Staff Recommendation. Adopt the LAO recommendation to reject funding for the VRI pilot, pending an evaluation of the current pilot, and approve \$490,000 in one-time funding from the Court Interpreters' Fund.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

2. **Video Surveillance Pilot.** The Governor's budget requests \$11.732 million General Fund (\$10.516 million one-time) beginning in 2017-18 to implement a comprehensive video surveillance pilot program at the Central California Women's Facility and High Desert State Prison. This request includes funding for four one-year limited-term positions. This issue was heard by the subcommittee on March 9th.

Staff Recommendation. Approve as budgeted and require that guidelines for the video surveillance pilot include a requirement that appeals coordinators in the pilot institutions review video of any incidents prior to determining the disposition of an inmate complaint or appeal, especially in the case of staff complaints. In addition, request that the Office of the Inspector General assess the impact of the cameras on the pilot institutions and report back during future budget hearings. In addition, require CDCR to retain video footage for 90 days.

3. **Information Security Office.** The Governor's budget requests \$2.6 million General Fund (\$635,000 one-time) and eight positions, beginning in 2017-18, to establish a new security operations center (SOC) to proactively address information security threats on a 24/7 basis. This proposal includes \$1.1 million for eight information technology (IT) positions and \$1.5 million for hardware and software, as well as security professional services, to aid in continuous security monitoring operations. This issue was heard by the subcommittee on April 20th.

Staff Recommendation. Approve as budgeted.

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

4. **Law Enforcement Driving Simulators Replacement Project.** 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. This issue was heard by the subcommittee on March 23rd.

Staff Recommendation. Reject the proposed funding augmentation.

0530 OFFICE OF LAW ENFORCEMENT SUPPORT

5. **Information Technology and Leased Vehicle Funding.** The proposed budget requests \$271,000 in 2016-17, and \$146,000 ongoing, General Fund for information technology and leased vehicles. Specifically, OLES requests funding to cover operating expenses for leased vehicles and contract costs for reengineering, implementation, licensing and support of their information technology systems.

Staff Recommendation. Approve as budgeted.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

6. **Juvenile Reentry Grant Trailer Bill Language.** The proposed trailer bill language deletes the requirement that the information regarding discharged wards includes their names, and would instead require that the information include a unique identifier for each ward. BSCC currently collects this information, and provides the information to the Department of Finance without the ward's name in order to protect the individual.
7. **Post Release Community Supervision Clarification.** The Governor's budget includes trailer bill language clarifying that the term "residence" for purposes of post release community supervision (PRCS) includes one or more location at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including but not limited to, a house, apartment building, motel, hotel, homeless shelter, recreational or other vehicle. In addition, the language requires that if a person has no residence, he or she must inform the county probation department that he or she is a transient.

Staff Recommendation. Approve all three as draft trailer bill language.

ITEMS TO BE HEARD

0820 DEPARTMENT OF JUSTICE

Issue 1: Update by Attorney General Xavier Becerra

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

Under the state Constitution, the Attorney General is elected to a four-year term in the same statewide election as the Governor, Lieutenant Governor, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, and Insurance Commissioner. In 1990, California voters imposed a two-term limit on these statewide offices.

On January 24, 2017, Xavier Becerra was sworn in as the 33rd Attorney General of the State of California, and is the first Latino to hold the office in the history of the state. He was appointed by the Governor as a replacement for former Attorney General Kamala Harris, who was elected to the United States Senate.

Attorney General Becerra previously served 12 terms in Congress as a member of the U.S. House of Representatives. While in Congress, Attorney General Becerra was the first Latino to serve as a member of the Committee on Ways And Means, served as Chairman of the House Democratic Caucus, and was Ranking Member of the Ways and Means Subcommittee on Social Security.

Prior to serving in Congress, Attorney General Becerra served one term in the California Legislature as the representative of the 59th Assembly District in Los Angeles County. He is a former deputy attorney general with the California Department of Justice. The Attorney General began his legal career in 1984 working in a legal services office representing persons with mental illness.

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

Budget Overview. The Governor’s 2017-18 budget proposes \$858 million to support DOJ. This is an increase of \$33 million, or four percent, over the estimated current-year level of expenditures. Roughly half of DOJ’s budget supports its Division of Legal Services, while the remainder supports its Division of Law Enforcement and its California Justice Information Systems Division. Of the total budget proposed for DOJ in 2017-18, about one-fourth—\$215 million—is from the General Fund. The General Fund amount is \$6 million, or nearly three percent, below 2016-17 spending.

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

Issue 2: Changes to Firearm Laws**Governor's Budget**

Senate Bill 880 (Hall), Chapter 48, Statutes of 2016, and Assembly Bill 1135 (Levine), Chapter 40, Statutes of 2016 – Assault Weapon Registration/Bullet Buttons. The budget proposes an increase of \$2,588,000 and 27 positions in 2017-18 in the Dealer Record of Sale (DROS) Special Fund spending authority to implement the provisions of Senate Bill 880 and Assembly Bill 1135. The requested funding would be loaned from the Firearms Safety and Enforcement (FS&E) Special Fund, and would be repaid no later than June 30, 2021, by revenue in the DROS fund.

AB 857 (Cooper), Chapter 60, Statutes of 2016 – Ghost Guns. The budget proposes an increase of \$1,368,000 in 2017-18, \$1,022,000 in 2018-19, \$866,000 in FY 2019-20, and \$820,000 ongoing in DROS Special Fund spending authority to support eight positions to implement the provisions of AB 857. The requested funding would be loaned from the FS&E Special Fund, and would be repaid no later than June 30, 2021, by revenue in the DROS fund.

Proposition 63 Implementation. Proposition 63 included a \$25 million General Fund loan for the Department of Justice to begin implementing the changes included in the proposition. The Governor's proposed budget does not include any information on how the department intends to spend the funds or the costs associated with implementation.

Background

California has some of the most stringent gun control laws in the United States. Over the last 25 years, California has steadily increased gun control regulations, beginning in 1990 with Governor George Deukmejian supporting a ban on assault weapons after a 1989 mass shooting at a Stockton schoolyard killing five children and wounding 30 others. Gun deaths in California have fallen 20 percent since 2000, while nationally they have remained roughly the same.¹ This past fall, through the passage of Proposition 63, Background Checks for Ammunition Purchases and Large-Capacity Ammunition Magazine Ban (2016), and the enactment of a series of firearms bills, California has moved to further regulate the sale and ownership of guns.

Statistics on Gun Violence. The Centers for Disease Control reports that in 2015, 33,390 people died in firearms-related deaths in the United States. That equates to 10.2 people out of every 100,000. In California, 2,935 people died in firearms-related deaths, which equates to 7.4 people out of every 100,000. According to statistics gathered by the Brady Campaign to Prevent Gun Violence, over 100,000 people a year in the United States are shot.² According to the latest United States Department of Justice data, in 2011, about 70 percent of all homicides and eight percent of all nonfatal violent victimizations (rape, sexual assault, robbery and aggravated assault) were committed with a firearm, mainly a handgun. A handgun was used in about seven in ten firearm homicides and about nine in ten

¹ Skelton, George. "If California voters approve stronger gun control, the message sent at the ballot box will be heard across the U.S." *Los Angeles Times*, October 24, 2016.

² Brady Campaign to Prevent Gun Violence. *Key Gun Violence Statistics*. www.bradycampaign.org.

nonfatal firearm violent crimes in 2011. In the same year, about 26 percent of robberies and 31 percent of aggravated assaults involved a firearm, such as a handgun, shotgun or rifle.³

Firearms in California. Under California law, in order to purchase a firearm, an individual must provide a licensed gun dealer with proof of age (21 years for handguns and 18 years for long guns), pass a background check, pay a \$25 fee, and wait for 10 days. In addition, a person purchasing a gun must provide proof that he or she passed the gun safety exam. All firearms must be sold with a locking device. Under certain circumstances, individuals are prohibited from owning or possessing firearms. Generally, a person is prohibited from owning guns if any of the following apply:

- The individual is on probation or parole.
- The individual has been convicted of a felony or of certain misdemeanors.
- The individual has been proven to be a danger to himself or herself or to others due to a mental illness.
- The individual has been restrained under a protective order or restraining order.
- The individual has been convicted of certain crimes as a juvenile and adjudged a ward of the state.

In recent years, there has been a continued and substantial increase in gun purchases, extending through 2016. In fact, for the first time in the state's history, in 2016, over one million guns were sold. This represents an increase of almost 50 percent over sales in 2015. The number of long guns nearly doubled in sales and handgun sales increased by 18 percent. The table that follows illustrates the annual number of overall purchases of firearms in the state.

**Firearms in California
Purchases and Denials**

Year	Hand Guns Purchased	Hand Gun Denials	Long Guns Purchased	Long Gun Denials	Total Guns Purchased	Total Denials
2004	145,335	1,497	169,730	1,828	315,065	3,325
2005	160,990	1,592	183,857	1,878	344,847	3,470
2006	169,629	2,045	205,944	1,689	375,573	3,734
2007	180,190	2,373	190,438	1,926	370,628	4,299
2008	208,312	2,737	216,932	2,201	425,244	4,938
2009	228,368	2,916	255,504	2,221	483,872	5,137
2010	236,086	2,740	262,859	2,286	498,945	5,026
2011	293,429	3,094	307,814	2,764	601,243	5,805
2012	388,006	3,842	429,732	3,682	817,738	7,524
2013	422,030	3,813	538,419	3,680	960,179	7,493
2014	512,174	4,272	418,863	4,297	931,037	8,569
2015	483,372	5,417	397,231	4,252	880,603	9,669
2016	572,644	6,172	758,678	6,149	1,331,322	12,321

³ Firearm Violence, 1993-2011. www.bjs.gov

Firearms Regulation Funding. Every individual purchasing a firearm in California is required to pay a \$25 assessment. The funds primarily go toward supporting firearm safety and regulation within the Department of Justice (DOJ). The \$25 total is the sum of three separate state fees:

- \$19 background check fee payable to the Dealer Record of Sale (DROS) Special Account.
- \$5 payable to the Firearms Safety and Enforcement Special Fund (FS&E).
- \$1 firearm safety device fee payable to the Firearms Safety Account (FSA).

Beginning in 1999, the DOJ Bureau of Firearms began to study some of California's high-profile shootings in an effort to determine if there were remedial measures that could be enacted to curtail instances of gang violence and other similar violent events. The study found that many of the offending individuals were law-abiding citizens when they purchased the firearms, and were subsequently prohibited from gun ownership. At the time of the study, DOJ lacked the capacity to determine whether or not an individual who had legally purchased a firearm, and subsequently became prohibited from such ownership, was still in possession of a firearm. In addition, even if such a determination could have been made, the DOJ lacked the authority to retrieve that weapon from the prohibited person.

In 2001, the Legislature created the Prohibited Armed Persons File to ensure otherwise prohibited persons do not continue to possess firearms SB 950 (Brulte), Chapter 944, Statutes of 2001. SB 950 provided DOJ with the authority to cross-reference their database of individuals who own handguns with their database listing of prohibited individuals. The 2002 Budget Act included General Fund support of \$1 million for DOJ to develop the Armed Prohibited Persons System (APPS). The database was complete in November 2006, with continued funding to support the program provided from the General Fund. Further legislation, SB 819 (Leno), Chapter 743, Statutes of 2011, allowed the department to utilize funds within the DROS Account for firearm enforcement and regulatory activities related to APPS.

Federal Definition of *Fugitive from Justice*. California and other states have generally used the federal Brady Act definition of "fugitive from justice" as a prohibition against people with outstanding arrest warrants from owning and purchasing firearms. In February of this year, the federal government determined that the Brady Act definition does not authorize a prohibition against the sale of firearms to an individual merely because they have an outstanding arrest warrant. Under the revised federal definition, a fugitive from justice is someone who has: (1) fled the state; (2) has done so to avoid prosecution for a crime or to avoid giving testimony in a criminal proceeding; and (3) is subject to a current or imminent prosecution or testimonial obligation. The DOJ estimates that based on their 2016 data, this change in definition would result in approximately 2,500 denials to purchase firearms that would now be allowed under current law.

PROPOSITION 63: Background Checks for Ammunition Purchases and Large-Capacity Ammunition Magazine Ban (2016). On November 8, 2016, Proposition 63, the Background Checks for Ammunition Purchases and Large-Capacity Ammunition Magazine Ban, was approved by a wide margin, with over 63 percent of voters voting "yes." The proposition establishes a regulatory process for ammunition sales, creates a new court process to ensure the removal of firearms from prohibited persons after they are convicted of a felony or certain misdemeanors, and tightens the restrictions

around the ownership and use of large capacity magazines. Additionally, Proposition 63 states that the Legislature can change its provisions if such changes are “consistent with and further the intent” of the measure. Such changes can only be made if approved by 55 percent of the members of each house of the Legislature and the bill is enacted into law.

Regulation of Ammunition Sales. Proposition 63 includes various regulations related to the sale of ammunition. Some of the regulations would replace existing law with similar provisions. However, other regulations proposed by Proposition 63 are different, as discussed below.

Requirements to Buy Ammunition. Proposition 63 includes various requirements for individuals seeking to buy ammunition and for DOJ to regulate such purchases. Specifically, the measure:

- Requires individuals to obtain a four-year permit from DOJ to buy ammunition and for ammunition dealers to check with DOJ that individuals buying ammunition have such permits.
- Requires DOJ to revoke permits from individuals who become prohibited.
- Allows DOJ to charge each person applying for a four-year permit a fee of up to \$50 to support its various administrative and enforcement costs related to ammunition sales.

The state, however, enacted legislation in July 2016, to replace the above provisions with alternative ones. Specifically, under the legislation, (discussed in more detail below):

- Ammunition dealers would be required to check with DOJ that individuals seeking to buy ammunition are not prohibited persons at the time of purchase.
- DOJ could charge individuals up to \$1 per transaction.

Licenses to Sell Ammunition. Proposition 63 requires individuals and businesses to obtain a one-year license from DOJ to sell ammunition.

Other Ammunition Requirements. The proposition prohibits most California residents from bringing ammunition into the state without first having the ammunition delivered to a licensed ammunition dealer, beginning in January 2018.

New Court Process for Removal of Firearms. Proposition 63 created a new court process to ensure that individuals convicted of offenses that prohibit them from owning firearms, do not continue to have them. Beginning in 2018, the measure requires courts to inform offenders upon conviction that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. The measure also requires courts to assign probation officers to report on what offenders have done with their firearms. If the court finds that there is probable cause that an offender still has firearms, it must order that the firearms be removed. Finally, local governments or state agencies could charge a fee to reimburse them for certain costs in implementing the measure (such as those related to the removal or storage of firearms).

Currently, local law enforcement agencies are provided monthly information regarding the armed and prohibited persons in the agency’s jurisdiction. Given this access, once the armed and prohibited

person is identified, DOJ and local agencies could coordinate to confiscate the weapons. However, at the present time, many agencies are relying on assistance from DOJ's criminal intelligence specialists and special agents to work APPS cases. This proposition shifts the burden from DOJ to local law enforcement and the courts by requiring probation officers to report to the court on the disposition of the firearms owned by prohibited persons.

Large Capacity Magazines. Since 2000, state law has generally banned individuals from obtaining large capacity magazines (defined as those holding more than ten rounds of ammunition). The law, however, allowed individuals who had large capacity magazines before 2000 to keep them for their own use. Beginning July 2017, recently enacted law will prohibit most of these individuals from possessing these magazines. Individuals who do not comply are guilty of an infraction. However, there are various individuals who will be exempt from this requirement—such as an individual who owns a firearm (obtained before 2000) that can only be used with a large capacity magazine. Proposition 63 eliminates several of these exemptions, as well as increases the maximum penalty for possessing large capacity magazines. Specifically, individuals who possess such magazines after July 2017, would be guilty of an infraction or a misdemeanor.

Reporting Requirements. The measure includes a number of reporting requirements related to firearms and ammunition. For example, the measure requires that ammunition dealers report the loss or theft of ammunition within 48 hours. It also requires that most individuals report the loss or theft of firearms within five days to local law enforcement. An individual who does not make such a report within five days would be guilty of an infraction for the first two violations. Additional violations would be a misdemeanor. This measure also reduces the penalty for an individual who knowingly submits a false report to local law enforcement from a misdemeanor to an infraction and eliminates the prohibition from owning firearms for ten years for such an individual.

Penalty for Theft of Firearms. Under current state law, the penalty for theft of firearms worth \$950 or less is generally a misdemeanor punishable by up to one year in county jail. Under this measure, such a crime would be a felony and could be punishable by up to three years in state prison. Additionally, individuals previously convicted of a misdemeanor for the theft of a firearm would be prohibited from owning firearms for ten years. Currently, there is no such prohibition for a misdemeanor conviction for theft of firearms.⁴

2016 LEGISLATIVE GUN PACKAGE

In 2016, the Legislature passed a series of firearm safety laws designed to strengthen the states gun control laws. Among those laws were the following statutory changes:

Bullet Buttons – Senate Bill 880 (Hall and Glazer), Chapter 48, Statutes of 2016, and Assembly Bill 1135 (Levine), Chapter 40, Statutes of 2016. California law bans as assault weapons semiautomatic rifles and handguns with the capacity to accept a detachable ammunition magazine and which also have any one of the enumerated weapon characteristics (e.g., folding stock, flash suppressor, pistol grip, or other military-style features). Under state regulation, if a tool is required to release the magazine, it is not considered “detachable.” In response to this definition, firearm manufacturers have developed the bullet button to make military-style weapons compliant in

⁴ Legislative Analyst's Office, *Proposition 63: Firearms. Ammunition Sales. Initiative Statute*. November 8, 2016.

California. The bullet button is a device that allows gun owners to detach their magazines quickly by inserting the tip of a bullet or some other small tool into a button on the side of their weapons, undermining the intent and effect of the state's assault weapon ban.

These bills closed the loophole in existing law by redefining assault weapon in statute to include a semiautomatic, centerfire rifle or pistol that does not have a fixed magazine but does have one of the other enumerated military-style features. They further defined a fixed magazine to mean an ammunition feeding device contained in, or permanently attached to, a firearm such that it cannot be removed without disassembling the firearm action.

The legislation exempts those firearms that are assault weapons that do not have a fixed magazine if they were lawfully purchased and possessed before January 1, 2017, so long as the firearm is registered with DOJ.

Ghost Guns – Assembly Bill 857 (Cooper), Chapter 60, Statutes of 2016. Under federal law, it is illegal for an unlicensed person to make a firearm for sale or distribution. A loophole in the law, however, allows for the construction of firearms by unlicensed individuals so long as the firearms are made for personal use and not sold or transferred. These homemade guns are assembled through the purchase of unfinished receivers, or 80 percent completed lower receivers. Unfinished receivers, in many ways the engine of a firearm, are not technically considered firearms because of their incomplete stage and thus do not require a serial number or background check for purchase. With an unfinished receiver, a firearm parts kit, and basic drilling machinery, an individual can assemble a fully-functional firearm without being subject to the requirements placed on all other firearms transactions. Moreover, when homemade guns are seized from prohibited people, law enforcement agencies are put in the impossible situation of identifying and cataloging the firearm, as required for administrative purposes, because of a lack of any unique serial number or identifying mark. This is particularly burdensome when law enforcement seizes a large quantity of homemade guns, an occurrence that is becoming more commonplace.

AB 857 requires a person, commencing July 1, 2018, to apply to and obtain from DOJ a unique serial number or other mark of identification prior to manufacturing or assembling a firearm; and requires by January 1, 2019, any person who, as of July 1, 2018, owns a firearm that does not bear a serial number assigned to it to obtain a unique serial number or other mark of identification.

Regulation of Ammunition – Senate Bill 1235 (de León), Chapter 55, Statutes of 2016. California had enacted legislation designed to keep guns out of the hands of criminals, but until 2016, it had done little to prevent criminals, gang members, and other prohibited people from procuring the ammunition that fuels gun violence. Several cities require vendors to keep records of ammunition sales, leading to the arrest of thousands of armed and dangerous criminals. Similarly, California enacted statewide legislation requiring vendors to record handgun ammunition sales, but this law has been tied up in litigation involving the statutory definition of handgun ammunition. Consequently, as the result of a court injunction preventing enforcement of the law, any criminal can purchase ammunition, no questions asked.

This legislation replaced the language in Proposition 63 and required vendors to obtain a state license to sell ammunition, log information about ammunition transactions, and screen the ammunition

purchaser for any prohibitions at the point of sale. There are three main components to the legislation: vendor licensing, purchase authorization, and purchase information collection.

Gun Violence Research – Assembly Bill 1602 (Committee on Budget), Chapter 24, Statutes of 2016. Research related to firearms violence and its prevention is limited, due in part, to congressional limits placed on the Centers for Disease Control and Prevention that, in effect, curtail federal funding for firearm violence research. However, many argue there is a need for more—and more sophisticated—research so that California, and the nation, can mount effective, evidence-based responses to combat gun violence.

The Budget Act of 2016 included \$5 million one-time General Fund over five years to establish a firearm violence research center at the University of California. Budget trailer bill language specified the research include, but not be limited to, the effectiveness of existing policies and laws, and efforts to promote the responsible ownership and use of firearms.

Under the legislation, the center will be housed in the University of California system and operate under the following principles:

- Interdisciplinary work of this center should address the nature of firearm violence; individual and societal determinants of risk for involvement in firearm violence, whether as a victim or a perpetrator; the individual, community, and societal consequences of firearm violence; and the prevention and treatment of firearm violence.
- The center should conduct basic, translational, and transformative research with a mission to provide the scientific evidence on which sound firearm violence prevention policies and programs can be based. Its research should extend to firearm violence as a form of terrorism.
- The center should work on a continuing basis with policy makers in the California Legislature and state agencies to identify, implement, and evaluate innovative firearm violence prevention policies and programs.

Gun Lending – Assembly Bill 1511 (Santiago and Chiu), Chapter 41, Statutes of 2016. Prior to passage of this legislation, gun owners were allowed to loan firearms to a person, personally known to them for up to 30 days. This category of individuals was extremely broad. AB 1511 limited a gun owner’s ability to loan firearm to only his or her family members.

Legislative Analyst’s Office. The LAO did not raise any concerns with budget proposals related to SB 880 and AB 857.

Staff Comments

Require a Detailed Accounting of \$25 million General Fund Appropriated through the Proposition. As noted previously, Proposition 63 included a \$25 million appropriation as a General Fund loan for the Department of Justice to begin implementation of the requirements of the proposition. The Governor’s proposed budget, however, does not include any details on how those funds will be spent. The Legislature may wish to require DOJ to submit a report on the implementation of Proposition 63 and the related expenditures.

Require an Annual Report to the Legislature on the Removal of Guns from Armed Prohibited Persons. Over the last several years, the Legislature has expressed concerns related to the backlog of individuals in the Armed Prohibited Persons System who had not surrendered their firearms. During those discussions, the Legislature considered creating a partnership between DOJ and other state and local law enforcement to assist in the retrieval of prohibited firearms. Proposition 63 creates just such a partnership by establishing a new court process related to prohibited persons. The Legislature may wish to require annual updates from DOJ and the Judicial Council related to the removal of guns from prohibited persons.

Federal Definition of *Fugitive from Justice*. Given the impact of the new federal interpretation of a “fugitive from justice,” the subcommittee may wish to consider placing state prohibitions against the ownership of firearms for people with felony or prohibiting misdemeanor arrest warrants into statute.

Staff Recommendation. Approve both proposals and adopt draft, placeholder trailer bill language establishing a state prohibition against owning, purchasing, receiving, possessing, or having under his or her custody or control a firearm or ammunition if that person has a current felony warrant or a prohibiting misdemeanor warrant, consistent with current law; and extending the deadline for the registration of a semiautomatic firearm that does not have a fixed magazine by six months. In addition, add provisional language allowing for the expenditure of the appropriation for SB 880 over a two-year period.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)**Issue 3: Jail and Juvenile Facility Construction Update**

Background. Since 2011 Public Safety Realignment, county jails have been housing some felony offenders. Older jails do not lend themselves to the kinds of treatment and programming space needed to run effective in-custody programs that lead to success once an offender is released. The state has provided \$2.5 billion in lease-revenue bond authority for local jail construction over the last several years, with the most recent rounds of funding focused on treatment and programming space and better beds, rather than increased capacity.

In the previous lease-revenue bond programs, counties were designated as large (population greater than 700,000), medium (population 200,001-700,000) or small (population 200,000 or less). Funding was earmarked for each of these categories and counties were able to request a maximum amount of funding based on their size.

- AB 900 (Solorio and Aghazarian), Chapter 7, Statutes of 2007, authorized \$1.2 billion in lease-revenue bond funding for local jail construction projects. Under the two phases of the program, 21 counties received awards, of which six were large counties, eight were medium counties, and eight were small counties. Funding went primarily to those counties operating under a court-ordered population cap. When all construction is completed, over 9,000 jail beds will be added.
- SB 1022 (Committee on Budget and Fiscal Review), Chapter 42, Statutes of 2012, authorized \$500 million in lease-revenue bond funding and funded 14 county awards, of which three were large counties, five were medium counties, and six were small counties. This funding was primarily available to build better beds and treatment and programming space rather than increasing capacity. The program specified that counties seeking to replace or upgrade outdated facilities and provide alternatives to incarceration, including mental health and substance use disorder treatment, would be considered. The funding provided space for education and substance use disorder classes, day reporting centers and transitional housing.
- SB 863 (Committee on Budget and Fiscal Review), Chapter 37, Statutes of 2014, authorized an additional \$500 million in lease-revenue bond financing and funded 15 county awards, of which four were large counties, five were medium counties, and six were small counties. Similar to SB 1022, funding was primarily available for improving existing capacity and treatment and programming space. The awarded projects included reentry programming space, education and vocational classroom space, medical and mental health housing, and dental clinical space.
- SB 844 (Committee on Budget and Fiscal Review), Chapter 34, Statutes of 2016, authorized \$250 million in lease-revenue bond financing to assist counties with jail construction. In order to receive a construction grant, counties must submit their plans for reducing sexual abuse in county jails and must provide in-person visitation for their inmates. In addition, the bill included \$20 million in lease-revenue bond financing to assist Napa County with repairs and upgrades to the Napa County jail that are necessary as a result of damage sustained during the 2014 earthquake.

Juvenile Detention Facility Construction. SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, also known the "Juvenile Justice Realignment" bill, signed by Governor Schwarzenegger in 2007, limited the types of offenders who could be committed to state youth correctional institutions and providing funding to county probation systems to improve their capacity to handle higher-end offenders. In addition, the bill authorized the sale of up to \$300 million in revenue bonds for the construction of county juvenile detention facilities.

Contracting Out Jail and Detention Space. A number of counties have contracts with state and local entities to lease jail space. In some counties, such as San Bernardino, space has been leased to Los Angeles County for a jail-based competency program to help restore people with mental illnesses to competency so that they can stand trial. In other cases, a county might have an agreement with a neighboring county to provide overflow space if there is a shortage of beds in a particular county.

Approximately 20 counties have contracts with the federal government to house federal inmates or detainees. With the exception of Yolo County, all of those contracts are to lease county jail space for adults. There are primarily two types of contracts with the federal government. One is with the United States Marshal's Office for the purposes of housing inmates who are either awaiting trial in a federal court, currently being tried, or have been convicted and are awaiting sentencing. The other type of contract is with the Immigration Customs and Enforcement (ICE), which uses the space to hold immigrants who are in the country without the proper documentation.

The BSCC does not routinely collect data on contracts that counties have to lease out their excess bed capacity. However, they did recently conduct a survey of the counties that determined that there were almost 3,000 federal inmates and detainees in California's county jails. The Senate asked BSCC to collect additional information on counties that reported having 100 or more federal contract beds. The following table provides information on whether the people are being held for the US Marshals Office or are detainees being held for ICE. In addition, the table provides information on whether those counties have received jail construction funding from the state.

County	2017 Federal Contract ADP*	US Marshal	ICE	Construction Grant Funding	Grant Source	Notes
Alameda	Apr 2017: 312	312	0	\$ 54,340,000	SB 863	US Marshal inmates are primarily pre-trial or pre-sentenced.
Contra Costa	Feb 2017: 194	0	194	\$ 70,000,000	SB 844**	Inmates are primarily pre-trial under the jurisdiction of ICE. The county does not keep track of the breakdown of type of federal inmate.
Fresno	Feb 2017: 99	99	0	\$ 79,194,000	SB 1022	In 2010, Fresno County entered into an Intergovernmental Agreement with the U.S. Marshals Service for up to 400 beds adult male beds. This standard IGA template allows for other federal entities, including the Bureau of Prisons and Immigrations Customs Enforcement, to use the services contracted by USMS.
Kern	Apr 2017: 116	116	0	\$ 100,000,000	AB 900	US Marshal inmates (112 to date) are pre-trial or pre-sentenced. Once sentenced, the inmates are transferred to a designated facility within a couple weeks. BOP inmates (4 to date) are serving their sentences or program violations in the facility.
Orange	Feb 2017: 771	0	771	\$ 180,000,000	AB 900/SB 1022	The majority of federal inmates are ICE detainees; the facility does not typically hold inmates for the US Marshal.
Sacramento	Feb 2017: 374	217	110	\$ 80,000,000	SB 1022	ICE detainees are held at Rio Cosumnes Correctional Facility (2017 ADP: 110). Federal inmates held for court proceedings are held at the Sacramento Main Jail (2017 ADP: 217)
Yuba	Mar 2017: 155	0	155	\$ 20,000,000	SB 863	Federal population is all ICE detainees; the population of federal inmates has decreased recently due to flooding.

* Average daily population (ADP).

** SB 844 funding has not been awarded yet. Contra Costa County has requested \$70 million.

Recent ICE Audit of Orange County Jail. A March 6, 2017, report released by the Office of the Inspector General, Department of Homeland Security raised significant concerns about the treatment of immigration detainees being held in Orange County's Theo Lacy Detention Center. Among the issues raised in the report was the fact the detainees were served spoiled lunch meats, forced to use dirty showers, and subjected to harsh solitary confinement.⁵ According to the press coverage, "During a surprise visit to the jail in November, federal officials found unsafe food handling and unsanitary living conditions in the jail's immigration units, including moldy bathroom stalls and trash-strewn cells."⁶

Staff Comments. The state does not currently have a mechanism for overseeing either the detention of immigrants within the state or the care being provided in county jails. While the BSCC does conduct audits of jails and juvenile facilities, their focus is on ensuring that county policies are being followed, not in reviewing the adequacy of those policies. Their role is one of providing assistance and support to local law enforcement, not oversight. Therefore, there is currently no mechanism for the Legislature or the Governor to request that BSCC investigate or audit specific areas of concern. In addition, it may be useful for the Legislature to establish a single state agency that is responsible for oversight over the treatment of people who are detained in facilities in the state on behalf of the federal government because they do not have the proper documentation to remain in the United States.

⁵ Office of Inspector General. Management Alert on Issues Requiring Immediate Action at the Theo Lacy Facility in Orange, California. U.S. Department of Homeland Security. March 6, 2017.

⁶ Wyler, Grace. "Immigrant inmates given rotten meat, 24-hour solitary at Orange County jail, watchdog finds." *Orange County Register*, March 10, 2017.

Specifically, the subcommittee may wish to consider the following:

- Expand BSCC's authority to allow them to conduct special investigations or audits at the request of the Legislature or the Governor.
- Establish an Office of Immigrant Oversight within the Attorney General's office and give the Attorney General the authority to monitor and review the care of immigrants being detained in facilities in California.

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

Issue 4: Chief Probation Officer Trailer Bill

Governor's Budget. Proposed trailer bill language specifies the duties of county chief probation officers. The language would also require that the chief probation officer not be placed under the authority of a separate county agency to perform these duties.

Background. Currently, the laws governing the probation department in each county are in various different parts of the state codes, making it unnecessarily complicated and confusing. According to the Administration, the intent of this proposal is to consolidate those various duties in one section, not to give probation or counties more or different duties, but rather to clarify how the probation department is organized within the county.

Legislative Analyst's Office. The LAO did not raise any concerns with this proposed language.

Staff Comments. The members of the juvenile justice community have concerns about the current language designating probation as the exclusive agency for juvenile justice supervision and placement—something that probation cannot always do alone, and something that the courts should have some say in as well. They would like a modification to the language that acknowledges situations in which supervision is ordered or monitored by the court or shared with a community agency. In addition, they have raised questions related to how juvenile justice probation operations would be managed under the revisions relating to adult and chief probation officer positions.

Staff Recommendation. Approve as draft, placeholder language and direct DOF, the LAO and staff to modify the language to address the concerns of juvenile justice advocates.