

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk



Thursday, May 10, 2012
9:30 a.m. or Upon Adjournment of Session
Room 113
Part A

Consultant: Joe Stephenshaw

Item Number and Title

Page

Vote Only

5225	California Department of Corrections and Rehabilitation	
	(1) Federated Data Center Support.....	3
	(2) Technical Adjustment.....	4
	(3) Workforce Cap Plan.....	4
	(4) CA Institute for Women, Intermediate Care Facility	5
	(5) Public Safety Realignment, HR Positions	5
	(6) Tech Adjustment, Transfer DJJ Parole to DAPO	6
	(7) Tech Adjustment, Transfer Between Programs	6
	(8) Expenditure Authority for Unpaid Leave Settlement	7
	(9) Estrella Cancellation	7
	(10) Statewide Budget and Advanced Planning	8
	(11) Tehachapi, Security Housing Unit, Small Management Yard	8
	(12) Capital Outlay Reappropriations and Extension	8
8885	Commission on State Mandates	
	(1) Public Safety Mandates	19

To be Heard

5225	California Department of Corrections and Rehabilitation	
	(2) Clark Compliance	12

5225 California Correctional Health Care Services – To be Heard

- (1) CA Health Care Facility..... 14
- (2) Pharmacy Augmentation..... 16
- (3) Medical Parole and Medi-Cal Reimbursements..... 18

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

Vote Only Items

Item Number	Department	Vote Only Calendar		Amount
		Issue	Action	
1	CDCR	Federated Data Center	Approve as Budgeted	\$0
2	CDCR	Technical Adjustment	Approve as Budgeted	\$0
3	CDCR	Workforce Cap Plan	Approve as Budgeted	\$0
4	CDCR	CIW, Intermediate Care Facility	Reject Proposal	\$1.3 million GF
5	CDCR	Public Safety HR Positions	Reject Proposal	\$1.98 million GF
6	CDCR	Transfer DJJ Parole to Adult Parole	Approve as Requested	\$0
7	CDCR	Tech Adjust – Transfer Program Funding	Approve as Proposed	\$0
8	CDCR	Expenditure Authority for Unpaid Leave Settlement Agreement	Approve as Proposed	\$0
9	CDCR	Estrella Cancellation	Approved as Budgeted	-\$1.9 million GF
10	CDCR	Statewide Budget Packages and Advance Planning	Approve as Proposed	\$750,000 GO Bond
11	CDCR	Tehachapi, SHU, Small Management Yards Cancellation	Approve as Proposed	-\$60,000 GO Bond
12	CDCR	Capital Outlay Reappropriations and Extension	Approve as Proposed	\$61 million GF, \$15.3 million lease revenue bond
1	Mandates	Public Safety Mandates (Page 19)	Suspend	NA

Issue 1: FEDERATED DATA CENTER SUPPORT

Governor’s Proposal. The California Department of Corrections and Rehabilitation (CDCR) and California Correctional Health Care Services (CCHCS - formerly California Prison Health Care Services) request the permanent transfer of ten (10.0) positions (authority only) from CDCR and CCHCS to the California Technology Agency (Technology Agency), Office of Technology Services (OTech). The ten (10.0) positions will be used to support the Federated Data Center (FDC), which is located on OTech’s raised floor. The FDC is a shared data center providing server hosting, network, and

data storage services to CDCR, CCHCS and other State departments. There is no net increase in cost to the State as a result of this proposed change.

Background. The FDC was originally proposed by a consortium of several State departments to facilitate and standardize California's Information Technology (IT) Infrastructure consolidation efforts and comply with Assembly Bill 2408. This legislation was enacted in 2010 in concert with Governor's Executive Order (EO) S-03-10 which requires that State departments (1) transition the hosting of all mission critical and public-facing applications to a Tier III data center as designated by the Technology Agency by no later than September 2010, and (2) all new mission critical and public-facing applications and major server refreshes be hosted in a Tier III data center as designated by the Technology Agency.

Recommendation. Approve as Budgeted.

Issue 2 – Technical Adjustment

Governor's Proposal. The CDCR requests to permanently realign resources for a number of programs and divisions in 2012-13 and ongoing. These realignments result in a net reduction of 2.0 positions (1.8 PYs) and will allow CDCR to properly align its budget authority with its existing expenditures by program.

Background. Each year, CDCR's programs and divisions are provided funding allotments that tie to the budget authority in the Budget Act. Due to changes in business practices over the years and/or errors in requesting budget authority by program, CDCR has identified various programs and divisions which require realignment to accurately align their authority with their expenditures.

Recommendation. Approve as Budgeted.

Issue 3 – Workforce Cap Plan

Governor's Proposal. CDCR requests the elimination of 1,877.6 positions (1,847.2 PYs) in Fiscal Year 2012-13 and ongoing to remove the position authority associated with CDCR's Workforce Cap (WFC) reduction of \$195.2 million. In addition, this proposal schedules CDCR's WFC reduction, which was included in Control Section 3.93 of the 2011 Budget, to the correct programs.

Background. The WFC funding was reduced from CDCR's budget through Control Section 3.93 of the 2011-12 Budget Act. CDCR has previously accounted for these positions as salary savings. This request would schedule the position reductions to the correct programs and items.

Recommendation. Approve as Budgeted.

Issue 4 – CA Institute for Women, Intermediate Care Facility

Governor’s Proposal. The CDCR is requesting \$1.3 million from the General Fund in Fiscal Year 2012-13 and ongoing to establish 12.8 positions to provide the appropriate custodial and perimeter tower staffing required for the California Institution for Women (CIW) 45-bed inpatient facility. These positions are requested to rectify an error made in the 2011-12 pre-activation BCP that incorrectly calculated the amount of coverage that a Licensed Psychiatric Technician (LPT) classification could provide in lieu of a Medical Technical Assistant (MTA).

Background. This Budget Change Proposal (BCP) is in response to the Long-Range Mental Health Bed Plan proposal submitted to the Coleman Court regarding the shortage of Acute/Intermediate Care Facility (ICF) mental health inpatient beds which prohibits timely placement of inmate-patients who require this level of care. Currently, the CDCR does not provide this level of care to female inmate-patients in its existing institutions. The Acute/ICF level of care for female inmate-patients is only provided at the Department of Mental Health (DMH), Patton State Hospital (PSH). The April 2006 Statewide Mental Health Bed Plan proposed to change that relationship by having the CDCR provide the Acute/ICF level of care within its institutions. The facility will be accredited by The Joint Commission and licensed as a Correctional Treatment Center (CTC) with a mental health option, which is currently under construction at the CIW.

A BCP was submitted in 2011-2012 to activate the new 45 bed facility. The BCP was approved providing various positions to activate the facility following the DMH model. An error was made in calculations when it came to determining the number of custody positions required by the conversion of MTA still used by the DMH, which left the facility 6.3 positions short of its required security staffing level. Because CDCR no longer utilizes the MTA classification, the positions were converted to LPTs which are able to distribute medication and can provide some safety coverage. Although the position can provide some safety coverage it does not provide the custodial functions of the MTA. Custody functions must be covered by a Correctional Officer. The BCP approved 12.90 Correctional Officer positions as well as 4.80 Correctional Sergeants; in order to properly staff the building, the CDCR is requesting an additional 6.34 officers. Even with the additional staffing there would be no more than five Correctional Officers posted in the building per shift.

Recommendation. Reject proposal.

Issue 5 – Public Safety Realignment HR Positions

Governor’s Proposal. The CDCR is requesting \$1.98 million General Fund and 20 two-year limited-term positions in 2012-13 and \$1.92 million General Fund in 2013-14

for implementation of the layoff and transfer process pursuant to Assembly Bill (AB) 109.

Background. On March 17, 2011, the California legislature passed AB 109. AB 109 diverts many criminal offenders to county, rather than state, law enforcement agencies. AB 109 was designed to address both California's fiscal crisis and was also a response to a court order regarding overcrowding in California correctional institutions. As a consequence of AB 109, CDCR will be laying off or transferring a significant number of employees due to a reduced prison population.

In order to ensure compliance with AB 109, CDCR is requesting the following:
Office of Labor Relations (OLR) – AB 109 Realignment Impact to Labor Relations
The workload of OLR is increasing due to the implementation of AB 109, which encompasses the transfers and layoffs that are being deployed to date and will be implemented beyond 2012-13. In order for OLR to provide necessary business functions in support of AB 109, it is imperative the above requests for additional PY authorization and funding are provided. The requested positions are for a 24-month limited term timeframe.

As impacts of AB 109 begin, OLR will be required to negotiate the impact to employees with their authorized Bargaining Unit representatives. If the impact is not correctly implemented and negotiated, CDCR will be at risk for numerous grievances, arbitrations, and Unfair Labor Practice violations. If OLR is not authorized the requested additional PY authority and additional funding, the current staffing levels on OLR will be unable to perform the necessary functions to properly implement the labor related aspects of AB 109.

Approval of the request provides OLR with staff levels commiserate with the needs outlined by each division within CDCR for implementation of AB 109.

Recommendation. Reject proposal.

Issue 6 – Tech Adjustment – Transfer DJJ Parole to DAPO

Governor's Proposal. A Spring Finance Letter proposes to transfer the Division of Juvenile Justice Parole Operations (DJJO) to the Division of Adult Parole Operations (DAPO). This proposal has a net zero fiscal effect.

Background. On October 1, 2011, DJJO and DAPO were consolidated to achieve efficiencies consistent with CDCR's Workforce Cap Reduction Plan. This adjustment will allow CDCR to properly align its budget authority with its existing program structure.

Recommendation. Approve as budgeted.

Issue 7 – Tech Adjustment – Transfer Funding Between Programs

Governor’s Proposal. A Spring Finance Letter proposes to realign resources for a number of programs and divisions in 2012-13 and ongoing. This proposal has a net zero fiscal effect.

Background. These adjustments will allow CDCR to properly align its budget authority with its existing expenditures by program.

Recommendation. Approve as budgeted.

Issue 8 – Expenditure Authority for Unpaid Leave Settlement Agreement

Governor’s Proposal. A Spring Finance Letter proposes trailer bill language to authorize the expenditure of any funding received from the settlement of the unpaid leave lawsuit.

Background. Authorizes the CDCR to credit money recovered from employee leave settlement to year in which the expenditure was drawn and expend the amount recovered in the year received, upon approval of the Department of Finance.

Recommendation. Approve as budgeted.

Issue 9 – Estrella Cancelation

Governor’s Proposal. The Governor’s Budget proposes a reduction of \$1.9 million General Fund, \$6,000 Inmate Welfare Fund and 16.4 positions (16.4 PYs) in fiscal year 2011-12 and \$44.5 million General Fund, \$120,000 Inmate Welfare Fund , and 405.5 positions (401.4 PYs) in 2012-13 and ongoing to reflect the cancellation of the activation of the Estrella Correctional Facility. Due to the impacts of realignment, there is no longer a need for this project. Additionally, the CDCR requests \$775,000 and 4 positions (3.8 PYs) remain in 2011-12 and ongoing to place the facility in a warm shutdown until a new plan is developed.

Background. Originally, the Estrella Correctional Facility project was for the re-purposing of the Division of Juvenile Justice facility previously known as El Paso de Robles Youth Correctional Facility. The project was included in the CDCR long-range plan for medical and mental health beds provided to the *Coleman* Court in November 2009. The facility was intended to house Specialized General Population (SGP) inmate-patients as well as Enhanced Outpatient Program (EOP) Inmate-patients, with a total population of 1,000 inmate-patients. Construction for the facility was to begin in October 2011, and projected to be complete by December 2012. A BCP was submitted

in 2011-2012 to provide resources to activate the renovated facility. The BCP was approved providing various positions to activate the facility along with ongoing Operating Expenses & Equipment.

Recommendation. Approve as Budgeted.

Issue 10 – Statewide Budget Packages and Advanced Planning

Governor’s Proposal. A Spring Finance Letter proposes \$503,000 from the cash balance of the 1988 Prison Construction Fund for advance planning and preparation of budget packages for capital outlay projects. This request also eliminates \$503,000 in authority from the 1986 Prison Construction Fund that was contained in the Governor’s Budget.

Background. The Governor’s Budget included \$750,000 in General Obligation Bond Funds from two sources (the 1986 Prison Construction Fund and the 1988 Prison Construction Fund). Subsequent to the Governor’s Budget, a review of the 1986 Prison Construction Fund identified that the fund did not have the available cash balance. The entire amount is now being requested to be funded from the 1988 Prison Construction Fund.

Recommendation. Approve as Proposed.

Issue 11 – Tehachapi, Security Housing Unit, Small Management Yards

Governor’s Proposal. A Spring Finance Letter proposes a reduction of \$60,000 to reflect the cancelation of the Tehachapi, Security Housing Unit (SHU), Small Management Yard (SMY) project.

Background. The Tehachapi, SHU, SMY project was included in the Governor’s Budget. However, the project is being withdrawn at this time due to recent guideline changes that may impact the number of inmates housed in SHUs and reduce the total number of SMYs needed.

Recommendation. Approve as Proposed.

Issue 12 – Capital Outlay Reappropriations and Extension

Governor’s Proposal. A Spring Finance Letter proposes the following capital outlay reappropriations and extension:

California Men's Colony, Central Kitchen Replacement (working drawings and construction), \$258,000 General Fund and \$15.3 million lease revenue bond reappropriation. Although a design firm was selected to complete the working drawings activities for this project, working drawings are only 3 percent complete because the project was suspended pending evaluation of future plans for the facility. This reappropriation is necessary to re-commence the project.

Deuel Vocational Institution, Groundwater Treatment and Non-Portable Water Distribution System, \$27.1 million General Fund reappropriation. A component of the reverse osmosis (RO) plant constructed as part of this project failed in April 2010 and has been under repair. Also, leaks in the project's retention pond system have recently been repaired. The RO repairs are being performed as disputed work under the construction contract. The resolution of the contract dispute will not occur during 2011-12. A reappropriation is necessary to ensure construction funding is available to pay any costs associated with settling the contract dispute and potential liquidated damages.

California Men's Colony, Portable Water Distribution System Upgrade, \$33.6 million General Fund. Construction of this project is complete. However, extended environmental monitoring is required per the California Environmental Quality Act and the Department of Fish and Game. Currently, the Department of General Services has an environmental firm under contract to do this work. An extension of the liquidation period is required to maintain payments for the required environmental oversight.

Recommendation. Approve as Proposed.

Items to be Heard

CA Department of Corrections and Rehabilitation (5225)

Departmental Overview. 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 include 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) creates the Board of State and Community Corrections ("BSCC"). At that time, the BSCC will supersede the CSA.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees (juvenile parole is in the process of being realigned to counties). Until June 30, 2012, the department is responsible for setting minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 8 reception centers (7 male and 1 female), a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates three juvenile correctional facilities. In addition, CDCR operates dozens of adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 parole offices, as well as contracts to house inmates in several in-state and out-of-state correctional facilities. However, due to the 2011 Public Safety Realignment, the department is altering its contract bed mix.

Budget Overview. The Governor's Budget proposes \$8.9 billion and 58,528.2 positions for the CDCR in 2012-13. The table on the following page shows CDCR's total operational expenditures and positions for 2010-11 through 2012-13.

(dollars in thousands)

Funding	2010-11	2011-12	2012-13
General Fund	\$9,481,820	\$8,980,824	\$8,664,771
General Fund, Prop 98	24,510	23,623	21,229
Other Funds	108,767	117,317	71,755
Reimbursements	106,196	130,287	130,077
Total	\$9,721,293	\$9,252,051	\$8,887,832
Positions	57,620.6	61,150.1	58,528.2

2011 Public Safety Realignment. Last year, Governor Brown signed AB 109 and AB 117 (known as public safety realignment), historic legislation that will enable California to close the revolving door of low-level inmates cycling in and out of state prisons. It is the cornerstone of California’s solution for reducing the number of inmates in the state’s 33 prisons to 137.5 percent of design capacity by June 27, 2013, as ordered by a Three-Judge Court and affirmed by the United States Supreme Court. In a May 23, 2011 decision, the United States Supreme Court affirmed the judgment of a three-judge panel convened pursuant to the Prison Litigation Reform Act of 1995 (18 U. S. C. §3626) ordering California to reduce its prison population to no more than 137.5 percent of its design capacity within two years.

Key Features of Public Safety Realignment

Felon Incarceration	Post-Release Supervision	Parole and PRCS Revocations
Restructured felon penalty by making specified non-violent, non-serious, non-sex offenses subject to local punishment	Created Post Release Community Supervision (PRCS) for certain offenders to be supervised locally upon release from prison	Parole revocation terms are served locally and, by July 1, 2013, both parole and PRCS revocations will be adjudicated by the courts

Under AB 109 and AB 117, all felons convicted of current or prior serious or violent offenses, sex offenses, and sex offenses against children will go to state prison. Additionally, there are nearly 60 additional crimes that are not defined in the Penal Code as serious or violent offenses but remain offenses that would be served in state prison rather than in local custody.

Issue 1 – Clark Compliance

Governor’s Proposal. The Governor’s Budget proposes \$3 million General Fund and 12 permanent positions. The purpose of the funding request is to comply with a recent federal court order related to the 1996 class-action lawsuit *Clark v. California (Clark)* and to remedy current and ongoing violations of the *Clark* Remedial Plan (CRP). This BCP requests funding and positions to move the CDCR towards successful Clark case termination.

Background. In 1996, a class-action lawsuit known as *Clark v. California* was filed in federal court contending that the state violated the Americans with Disabilities Act by discriminating against prison inmates with developmental disabilities and denying them adequate accommodations, protection, and services because of their developmental disabilities. The state agreed in 2001 to take a series of actions to settle the case including complying with a set of revised policies and procedures as set forth in a court-approved remedial plan.

On July 24, 2009, the CDCR filed a motion to terminate the 2001 Clark Settlement Agreement and Order. However, on September 16, 2010, the Honorable Charles R. Breyer, United States District Judge, denied the CDCR’s move to dismiss the 2001 Clark Settlement Agreement and Order. The Court ordered that the entire CRP remain in effect as drafted to ensure that California prisoners with developmental disabilities are protected from serious injury and discrimination based on their disability. In addition, the Court ordered that the CDCR prepare a plan to address deficiencies in staff training, identification and classification of class members (specifically a validation study), and self-monitoring, including specific amendments to the current Remedial Plan that will remedy legal deficiencies.

The Governor’s proposed budget includes \$3 million for compliance monitoring and training activities related to the *Clark* case. According to the department, these resources are needed to ensure that the state is fulfilling the court-approved remedial plan. Of this proposed funding, \$1.8 million would be used to hire 12 additional headquarters staff to conduct reviews of each of the state’s prisons and assess whether inmates with developmental disabilities are being provided appropriate accommodations in accordance with the remedial plan. The remaining \$1.3 million would be used to provide overtime coverage to backfill behind staff who leave their posts in order to provide annual training to other CDCR staff on how to accommodate the needs of developmentally disabled inmates.

Legislative Analyst’s Office (LAO). The LAO found that CDCR currently has unutilized headquarters resources and has vacancies in all of the classifications included in the request. For example, the department is requesting three analyst positions despite having 130 vacant analyst positions within headquarters. Overall, as of April 2012, the department had a total of 265 vacancies (26 percent) within the five classifications for which they are requesting additional position authority.

In view of the above, the LAO recommends that the Legislature reduce the Governor's proposed augmentation by \$1.8 million and 12 positions and direct the department to fill existing positions that are currently vacant to conduct the Clark compliance reviews.

Recommendation. Approve the LAO's recommendation to reduce the Governor's proposed augmentation by \$1.8 million and twelve positions.

California Correctional Health Care Services

Issue 1 – California Health Care Facility

Governor’s Proposal. The CDCR and California Correctional Health Care Services (CCHCS) are requesting 75.4 positions and \$10.9 million in 2012-13 to support the pre-activation activities and a total of 1,139.4 positions and \$108.7 million in 2013-14 and ongoing to support the new California Health Care Facility (CHCF) in Stockton. The funding will provide pre-activation and activation resources that will be distributed on a phased schedule beginning in 2012-13 with a completion date of December 31, 2013.

Background. Assembly Bill 900 (AB 900), which is also known as the Public Safety and Offender Rehabilitation Services Act of 2007, authorized construction of infill beds, support, and program space at existing prison facilities under the jurisdiction of the CDCR. The CDCR, working collaboratively with the Federal Receiver, filed the CDCR Revised AB 900 Integrated Strategy Plan, commonly referred to as Long Range Plan, to reduce crowding and provide for increased medical and mental health treatment beds. In order to meet the Long Range Plan, the CDCR and the Federal Receiver have set in motion the construction of new beds throughout the state.

The CHCF will be built on the site of the Northern California Youth Correctional Center and will include 1,722 beds of all security levels and provide all necessary support and rehabilitation program spaces. This project is included in the CDCR’s Long Range Plan for medical and mental health beds provided to the Coleman Court in November 2009.

This facility establishes specialized housing with necessary health care treatment for a population of seriously and chronically medically and mentally ill inmates consistent with state and federal requirements, and will permit the replacement of temporary beds currently in use. The facility’s mission is to house patient-inmates of all security levels efficiently, safely, and cost effectively, as well as to provide the necessary medical and mental health treatment while continuing to provide opportunities for rehabilitative programming through participation in vocational and academic programs, substance abuse treatment, and other offender programs.

In 2011/2012, 10.0 positions were approved effective January 1, 2012. The positions consist of the CHCF Leadership Pre-activation Team and will have overall responsibility for the programs designed for the facility.

The CHCF will provide a total of 1,722 long term medical care beds, helping the CDCR and the CCHCS to meet the 2013 projected need of inmates with major medical need. The bed breakdown is as follows:

Program	Number of Beds	Health Care Standard Required
Inmate Work Crew	100	N/A
Low Acuity	673	Licensable
High Acuity	337	Licensed Inpatient
Mental Health Crisis Beds	137	Licensed Inpatient
Intermediate Care Facility	443	Licensed Inpatient, Accreditation
Acute Psychiatric	32	Licensed Inpatient, Accreditation

The CDCR staffing patterns developed for the CHCF are similar to staffing patterns in use at CDCR institutions as well as Department of Mental Health (DMH) facilities with similar medical/mental health missions, but adjusted for mission difference and sized appropriately for the acuity level of the patient-inmates and the size of the patient-inmate housing units. Overall the staffing is lower due to the integrated care model adopted at the CHCF, which includes many shared services. The shared services provided at the CHCF are Personnel, Training, Business Services, Procurement, Information Technology, Janitorial, and Plant Operations. Shared clinical services, which will cover Nursing, Health Records, Diagnostic Imaging, Pharmacy, Dialysis, Procedure Center, Dental Clinic, Patient-inmate Management Unit, and Treatment and Triage Center, will also be provided.

The CHCF will be licensed under the California Code of Regulations, Title 22, Social Security, Division 5, Chapter 12, Article 4. Title 22 licensure must be obtained prior to housing patient-inmates in a licensed bed. Along with Title 22 licensure, the Intermediate Care Facility and Acute level of care provided by DMH is court ordered to have The Joint Commission, Behavioral Health Care Accreditation. Both processes require detailed policy and procedures along with established staffing requirements.

By consolidating higher acuity patients from elsewhere within the correctional system, which includes institutional medical beds and outside hospital beds, there is an anticipated cost offset in the areas of overcrowding and hospital costs reductions. The CDCR calculates an inmate overcrowding rate annually which includes the staffing and operational expenses and equipment costs estimated to operate an overcrowding bed. Building new capacity at the CHCF enables the CDCR to reduce overcrowding beds elsewhere, which results in an offset. The anticipated offset for personnel costs at the CHCF is \$43 million, based on the 2010/11 Fall Population overcrowding rate. It is important to note that the staffing requested for both the pre-activation phase and for activation also support the needs of the DMH. These resources will ensure licensure, accreditation, and all other activities necessary to successfully meet the court mandate of full occupancy by December 31, 2013.

Recommendation. Approve as Budgeted.

Issue 2 – Pharmacy Augmentation

Governor’s Proposal. The California Correctional Health Care Services (CCHCS) requests an augmentation of \$59.9 million in fiscal year 2012/13 and \$51.2 million in 2013/14 and ongoing for pharmaceutical funding. This augmentation is necessary to restore and set the baseline for the pharmaceutical budget.

The CCHCS reports that this augmentation will bring pharmaceutical funding in line with actual expenditures and prevent the CCHCS from either realizing a deficiency in its pharmaceutical budget or failing to comply with the Federal Court’s mandates to provide patient-inmates a level of care that does not violate their constitutional rights.

Background. The CCHCS Receivership was established as a result of a class action lawsuit (*Plata v. Brown*) brought against the State of California over the quality of medical care in the state’s 33 adult prisons. In its ruling, the Federal Court found that the care was in violation of the Eighth Amendment of the U.S. Constitution which forbids cruel and unusual punishment. The State settled the lawsuit and entered into a stipulated settlement in 2002, agreeing to a range of remedies that would bring prison medical care in line with constitutional standards. The State failed to comply with the stipulated settlement and on February 14, 2006, the Federal Court appointed a Receiver to manage medical care operations in the prison system. The resulting Receivership is unprecedented in size and scope nationwide.

When considering access to quality health care, one must keep in mind that health care environments in correctional settings are very different from those in the community. Patient-inmates tend to engage in riskier behavior and have more health issues than members of the community. The court found that failure to properly treat patient-inmates resulted in one patient-inmate per week dying as a consequence of misdiagnosis, delayed treatment, or no treatment at all. Pharmaceuticals are an important element in providing constitutional levels of health care to patient-inmates. For instance, uncontrolled high blood pressure can lead to stroke, heart attack, and heart or kidney failure. High cholesterol is a major risk factor for coronary disease and stroke. Untreated diabetes could result in swelling, weight gain, dysfunctional thinking, memory loss, and even death. Treating each medical condition with the appropriate medication is an important element in meeting the requirements of the stipulated settlement.

In addressing the issues that necessitated the creation of the Receivership, the Receiver increased health care staffing and improved patient-inmates’ access to medical care. These two actions led to more patient-inmates being seen by more medical professionals, which in turn, contributed to the growth of pharmaceutical expenditures. In addition, two other factors - the increase in the price of pharmaceuticals due to inflation and proprietary pricing, and the development of new treatments, including treatments for diseases like Human Immunodeficiency Virus (HIV) that become resistant to older protocols – continue to drive pharmaceutical pricing upward. To counter these influences, the Receiver is implementing a variety of cost-containment efforts.

Recognizing the dynamics involved in the continuously rising cost of pharmaceuticals, in 2007/08, the Legislature approved a Finance Letter which provided a temporary \$45.8 million augmentation to the base funding for pharmaceuticals. This augmentation continued for three consecutive fiscal years: 2007, 2008, and 2009. For 2010/11, a BCP was approved to continue the \$45.8 million augmentation for one more year, after which a new assessment would be conducted to determine the permanent funding amount necessary to cover the expenditures. The funds requested in this proposal are a result of that assessment.

The table below provides a 10-year history of pharmaceutical base funding, augmentations and adjustments.

BASE FUNDING CALCULATIONS

FY	Base Funding*	FL Augmentation	Price Adjustment	Budget Reductions	Adjusted Base Funding
2002/03	\$123,793,003	\$0		\$0	\$123,793,003
2003/04	\$116,573,052	\$0		\$0	\$116,573,052
2004/05	\$127,733,555	\$0		\$0	\$127,733,555
2005/06	\$156,714,272	\$0		\$0	\$156,714,272
2006/07	\$156,714,272	\$0		\$0	\$156,714,272
2007/08	\$161,120,000	\$45,838,000	(\$1,809,000)	\$0	\$205,149,000
2008/09	\$159,311,000	\$45,838,000	\$2,069,000	\$0	\$207,218,000
2009/10	\$161,380,232	\$45,838,000	-	(\$21,746,000)*	\$185,472,232
2010/11	\$141,199,232	\$45,800,000	-	(\$9,600,000)***	\$177,399,232
2011/12	\$141,199,232	\$0		(\$14,000,000)* ***	\$127,199,000

Legislative Analysts Office (LAO). The LAO recommends that the Legislature reduce the proposed augmentation by \$20 million to \$39.9 million in 2012-13 and \$31.2 million in 2013-14. This reduction accounts for additional efficiencies the LAO believes could be achieved from better inventory management and reduced use of non-formulary drugs. The LAO further recommends that the Legislature approve this augmentation for two years only, so that it can reevaluate the need for ongoing funding in future years. The LAO notes that even with the reduction to the proposed augmentation, the inmate pharmaceutical budget would be over \$1,300 per inmate in 2012-13, or about 60 percent higher than the average of the other states they surveyed.

Recommendation. Hold open.

Issue 3 – Medical Parole and Medi-Cal Reimbursements

Governor’s Proposal. A Spring Finance Letter proposes trailer bill language to codify the existing Medi-Cal reimbursement process related to the medical parole program.

Background. SB 1399 (Leno) provided that, as specified, any prisoner who the head physician for the institution where the prisoner is located determines, as provided, is permanently medically incapacitated with a medical condition that renders the prisoner permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour care, and that incapacitation did not exist at the time of sentencing, shall be granted medical parole, if the Board of Parole Hearings determines that the conditions under which the prisoner would be released would not reasonably pose a threat to public safety. Those provisions do not apply to any prisoner sentenced to death or life in prison without possibility of parole or to any inmate who is serving a sentence for which parole pursuant to this bill is prohibited by any initiative statute. The bill provided that the Board of Parole Hearings or the Division of Adult Parole Operations shall have the authority to impose any reasonable conditions on prisoners subject to parole pursuant to this bill, including, but not limited to, the requirement that parolees submit to electronic monitoring.

Recommendation. Approve as Budgeted.

Title of Mandate	Description	Recommendation	Year First Suspend ed (Approx)
Adult Felony Restitution	The mandate requires local probation officers to include a determination as to probation fines and restitution to the victim in a report to the court. This mandate will be repealed because the inclusion of this data to the courts has been in place for many years and is likely now a best practice. Additionally, what is provided to the courts in probation reports regarding restitution should be a local decision rather than a statutory requirement.	Repeal	1990
AIDS/Search Warrant	The mandate requires crime victims be notified of various rights associated with requesting, preparation of, and service of a search warrant for HIV testing of the victim and the assailant, as well as the administration of the test, confidentiality of test results, and receipt of professional counseling. This mandate will be repealed because the activities should now be standard operating procedures for District Attorneys and local health officers. Additionally, other statutes require similar information.	Repeal	2009
Crime Victims' Domestic Violence Incident Reports II	The mandate requires local law enforcement agencies to take a weapon discovered at a domestic violence scene. This mandate will be made permissive because this should be standard operating procedure for local law enforcement.	Permissive	2010
Domestic Violence Information	The mandate requires local law enforcement agencies to develop and implement written policies, standards, and incident report forms for officers' response to domestic violence calls as well as maintaining records of all protection orders associated with those incidents. This mandate will be repealed because the activities should now be standard operating procedure for local law enforcement.	Repeal	1990
Elder Abuse, Law Enforcement Training	The mandate requires local law enforcement officers to complete training on elder and dependent adult abuse that is certified by the Commission on Peace Officers Standards and Training (POST). This mandate will be repealed because this should now be best practices for local law enforcement.	Repeal	2003
Extended Commitment, Youth Authority	The mandate requires prosecuting attorneys to extend the commitment of specified youths. This mandate will be repealed because sentencing laws already allow flexibility for district attorneys to seek varying durations of commitment, on a case-by-case basis, and this should be a local decision.	Repeal	2003
Firearm Hearings for Discharged Inpatients	The mandate requires the district attorney to represent the people of the state of California in civil proceedings. This mandate will be repealed because the Department of Justice should be able to represent the people in these infrequent circumstances.	Repeal	2009
Grand Jury Proceedings	The mandate requires local agencies to perform certain activities for grand jury proceedings such as developing a training program for grand jurors, and providing meeting rooms and reports. This mandate will be repealed. Guidelines and best practices could be provided to assist in the operation of grand jury proceedings as opposed to mandating specific methods.	Repeal	2005
Law Enforcement Sexual Harassment Training	The mandate requires local law enforcement agencies to follow sexual harassment complaint guidelines developed by the Commission on Peace Officer Standards and Training (POST) and for peace officers to receive sexual harassment training. This mandate will be repealed because it should be local law enforcement discretion to avail itself of the POST-certified course.	Repeal	2003
Missing Persons Report	The mandate requires local law enforcement agencies to take a report of a missing person, and, depending upon certain criteria, to submit the report to the Department of Justice. This mandate will be repealed because this should be standard operating procedure by local law enforcement. Guidelines could be provided.	Repeal	2005
Photographic Record of Evidence	The mandate requires local agencies to provide exhibits, such as photographs, in criminal trials in lieu of actual items that are of a toxic nature and pose a health hazard to humans. This mandate will be repealed as this should be standard operating procedure for local agencies for health and safety reasons. In addition, there should be cost savings as a result of keeping a copy of evidence as opposed to paying for storage.	Repeal	2009
Pocket Masks	The mandate requires every law enforcement agency employing peace officers to provide them with a portable manual mask and airway assembly designed to prevent the spread of communicable diseases when applying CPR. This mandate will be repealed as this should now be standard operating procedure.	Repeal	1990
Prisoner Parental Rights	The mandate requires local governments to transport prisoners to and from the court and house them as necessary, so they can attend proceedings to terminate their parental rights or establish legal guardianship over their children. Locals are responsible for ensuring prisoner access to court proceedings affecting their parental rights. Most of these offenders now serve their sentences locally, making the cost of transportation and housing minimal.	Repeal	2005
Stolen Vehicle Notification	The mandate requires local law enforcement agencies that recover stolen vehicles to notify the individual who reported the vehicle stolen within 48 hours. This mandate will be repealed as this is a responsibility of local law enforcement and timing should be locally-determined.	Repeal	2009
Victims' Statements-Minors	The mandate requires a probation officer to obtain a statement from a victim of a crime committed by a minor, that would be a felony if committed by an adult, and to include that statement in the social study submitted to the court. This mandate will be repealed because this is a basic responsibility of law enforcement.	Repeal	1990
Crime Statistics Reports for the Department of Justice Amended	The mandate requires local law enforcement agencies to report specified demographic data on victims and suspects of specified crimes to the Department of Justice. This mandate will be made permissive. This information is used in part for the receipt and provision of federal funds to local entities.	Permissive	2012
False Reports of Police Misconduct	The mandate requires law enforcement agencies that receive an allegation of misconduct against a peace officer to have the complainant read and sign an advisory. This mandate will be repealed because this should be standard operating procedure.	Repeal	2009
Deaf Teletype Equipment	The mandate requires counties to provide 911 deaf teletype equipment at central locations throughout the state. This mandate will be repealed because this should be standard operating procedure.	Repeal	1990
Inmate AIDS Testing	The mandate requires local agencies to test specified inmates and report the incidents where the individuals came into contact with the Human Immunodeficiency Virus (HIV). This mandate will be made permissive and provided at local discretion.	Permissive	2003
Judiciary Proceedings	The mandate requires the county to investigate, prepare for, and conduct a proceeding for commitment, placement, or release of a mentally retarded person who is a danger to himself or others and resides in a state hospital's treatment program. This mandate will be repealed because the courts have the authority to commit mentally retarded individuals that are a danger to themselves or others to a state developmental center.	Repeal	2009