

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk



Thursday, May 17, 2012
9:30 a.m. or Upon Adjournment of Session
Room 113

Consultant: Joe Stephenshaw

Item Number and Title

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Vote Only Items

Issue 1 – 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.

Recommendation. Approve on a two-year limited-term basis.

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 proposed \$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 – CDCR’s Blueprint

Governor’s Proposal. In order to achieve \$1 billion in savings in 2012-13 (growing to \$1.5 billion 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 prison system, the May Revision includes a comprehensive plan for CDCR, *The Future of California Corrections (Blueprint)*, which includes the following:

1. A net reduction of \$1.9 million.
2. The addition of a 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. Includes \$700 million in AB 900 (Solorio 2007) lease revenue authority for court-ordered medical upgrades.
5. Includes \$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. Reappropriates 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. Adds provisional language specifying \$2.8 million is available for expenditure on capital improvement projects at the Folsom Transitional Treatment Facility.
8. Eliminates duplicative provisional reporting language that will now be provided for in statute.
9. Amends provisional language to adjust contract dollars and average daily population figures for out-of-state facilities.
10. Adds the following TBL:
 - a. **Civil Addicts Program Sunset Date** – Ceases commitments of civil addicts to CDCR beginning January 1, 2013.
 - b. **Accountability Language** – Requires CDCR to establish appropriate oversight, evaluation, and accountability measures as part of the Blueprint.
 - c. **Reporting Language** – Requires CDCR to submit estimated expenditures, as specified, to the Department of Finance for inclusion in the annual Governor’s Budget and May Revision.
 - d. **AB 900** – Amends various code sections related to AB 900 as follows:
 - i. Eliminate approximately \$4.1 billion in lease revenue bond authority that is no longer needed for implementation of CDCR’s facilities plan.
 - ii. Delete various sections of the Penal Code related to construction of reentry facilities and the benchmarks associated with phase two of infill, reentry, and health care facilities.
 - iii. Allow for use of specific AB 900 funds for medication distribution facilities improvement projects.

- iv. Revise reporting requirements so that the remaining projects are subject to an approval process that is the same as other state capital outlay projects.
- v. Various clean-up amendments consistent with the changes outlined above.

Background. As noted in the Blueprint, for years, California's prison system has faced costly and seemingly endless challenges. Decades-old class-action lawsuits challenge the adequacy of critical parts of its operations, including its health care system, its parole-revocation process, and its ability to accommodate inmates with disabilities. In one case, a federal court seized control over the prison medical care system and appointed a Receiver to manage its operations. The Receiver remains in place today. The state's difficulty in addressing the prison system's multiple challenges was exacerbated by an inmate population that—until recently—had been growing at an unsustainable pace. Overcrowded prison conditions culminated in a ruling last year by the United States Supreme Court ordering the CDCR to reduce its prison population by tens of thousands of inmates by June 2013. At the same time that prison problems were growing, California's budget was becoming increasingly imbalanced. By 2011, California faced a \$26.6 billion General Fund budget deficit, in part because the department's budget had grown from \$5 billion to over \$9 billion in a decade.

To achieve budgetary savings and comply with federal court requirements, the Governor proposed, and the Legislature passed, landmark prison realignment legislation to ease prison crowding and reduce the department's budget by 18 percent. Realignment created and funded a community-based correctional program where lower-level offenders remain under the jurisdiction of county governments. In the six months that realignment has been in effect, the state prison population has dropped considerably—by approximately 22,000 inmates. This reduction in population is laying the groundwork for sustainable solutions. But realignment alone cannot fully satisfy the Supreme Court's order or meet the department's other multi-faceted challenges.

This Blueprint builds upon the changes brought by realignment, and delineates a comprehensive plan for the CDCR to save billions of dollars by achieving its targeted budget reductions, satisfying the Supreme Court's ruling, and getting the department out from under the burden of expensive federal court oversight.

In summary the Blueprint contains the following components:

Improve the Inmate Classification System. As a result of research produced by a panel of correctional experts and input from seasoned professionals, the department is modifying 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. These modifications will begin to be implemented within six months, and they will eliminate the need to build expensive, high-security prisons.

Return Out-of-State Inmates. The department began sending inmates out-of-state when overcrowding was at its worst in 2007. Currently, there are more than 9,500 inmates outside of California. The department will be able to bring these inmates back as the prison population continues to drop, classification changes are made, and additional housing units are constructed at existing facilities. Returning these inmates to California will stop the flow of taxpayer dollars to other states, and is expected to save the state \$318 million annually.

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 reentry hubs at certain prisons to concentrate program resources and better prepare inmates as they get closer to being released. It will also designate enhanced programming yards, which will incentivize positive behavior. For parolees, the department will build a continuum of community-based programs to serve, within their first year of release, approximately 70 percent of parolees who need substance-abuse treatment, employment services, or education.

Standardize Staffing Levels. Realignment's downsizing has left the department with uneven, ratio-driven staffing levels throughout the system. Continued use of these increasingly outdated staffing ratios as the inmate population declines would be costly and prevent efficient operations. This plan establishes new and uniform staffing standards for each institution that will enable the department to operate more efficiently and safely.

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, the DeWitt Nelson Youth Correctional Facility, 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.

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Satisfy the Supreme Court's Order to Reduce Prison Crowding. As previously mentioned, the department's newly released spring population projections suggest that the department may fall a few percentage points short of meeting the final court-ordered crowding-reduction benchmark even with realignment. In June 2013, the department's prison population is projected to be at 141 percent of design capacity rather than the 137.5 percent goal identified by the Supreme Court. The additional measures proposed in this plan will allow the state to seek and obtain from the court a modification to raise the final benchmark to 145 percent of design capacity. Otherwise, alternatives such as continuing to house inmates out-of-state will have to be considered.

In its order, the Supreme Court contemplated that appropriate modifications to its order may be warranted. The Court explained that as the state implements the order, "time and experience" may reveal effective ways of ensuring adequate health care—other than through population reductions. The state "will be free to move" the Court for modification of the order on that basis, and "these motions would be entitled to serious consideration." This plan sets forth necessary reforms to satisfy this order as well as other court imposed requirements related to the provision of health care services.

The reduced prison population has already substantially aided the department's ability to provide the level of care required by the courts. As the population further declines, the department's ability to provide the required level of prison health care will continue to improve. New health care facilities and enhanced treatment and office space at existing prisons will enable the department to maintain a health care system capable of providing this level of care for a higher density prison population than the Court originally contemplated. This plan will provide critical support for the state's ability to satisfy the Supreme Court's order without having to maintain expensive out-of-state prison beds or release inmates early.

Realignment has provided California an historic opportunity to create not just a less-crowded prison system, but one that is safer, less expensive, and better equipped to rehabilitate inmates before they are released. This plan seizes on that opportunity. Each of the following sections describes key aspects of a prison system that combines the inmate reductions achieved in realignment with a facility-improvement plan that will

enable a more efficient inmate health care delivery system. This is the prison system that best serves California.

Following are Highlights of the Blueprint:

Reduce CDCR's Budget

- CDCR accounted for just three percent of General Fund spending 30 years ago, and increased to 11 percent in FY 2008-09. This plan will lower it to 7.5 percent in FY 2015-16. When realignment is fully implemented CDCR expenditures will drop by 18 percent overall.
- Without realignment, California would have had to build up to nine new prisons or release tens of thousands of inmates to comply with the Supreme Court's order.
- Thanks to realignment, California will spend much less on prisons. The annual prison budget will be reduced by \$1.5 billion upon full implementation.
- Annual savings of \$160 million will come from the closure of an old, costly prison (California Rehabilitation Center). California will also avoid some \$6 billion in construction and related costs for projects no longer needed.

Achieve Constitutional Level of Health Care to End Costly Lawsuits, Court Oversight

- Medical, mental health and dental care in California prisons is under federal court supervision, notably medical care run by a Receiver with full spending authority.
- A key goal of CDCR's comprehensive plan is to end this expensive federal court oversight and to finally resolve health-related class-action lawsuits that date back years and decades.
- Prison health care is now at or close to constitutional levels. The federal judge who appointed the Receiver now says it's time to prepare for the return of health care to California control.
- Slated for completion summer 2013, the California Health Care Facility in Stockton will provide 1,722 beds for inmates requiring long-term in-patient medical care and intensive in-patient mental health care.
- CDCR is also improving medical and dental clinical capacity throughout the prison system to ensure continued constitutional levels of health care.

Expand Rehabilitation to Help Reduce Recidivism, Save Long-Term Costs

- CDCR's rehabilitation programs are currently below where they need to be to help reduce recidivism. For example, CDCR currently has only 1,528 substance-abuse treatment slots.
- The Blueprint sets a goal that rehabilitation programs will be available to at least 70% of the target inmate population, consistent with their academic and rehabilitative needs.
- Continuity of care for parolees also improves the likelihood of successful reintegration; community-based programs will serve 70% of parolees who need substance-abuse treatment, employment services, or education.

Improve Prison Operations

- **New Staffing Standards:** The downsizing caused by realignment has left CDCR with uneven staffing levels driven by now-outdated ratios. A new staffing formula will better manage staffing levels and cost.

- **Improve Inmate Classification:** Thanks to expert outside research, CDCR will safely shift more than 17,000 inmates to less expensive housing (by eliminating the need for high-security prison construction). The inmates will have greater access to rehabilitative programming while easing crowding in all security levels.
- **End of non-traditional beds:** Thanks to the smaller prison population, CDCR now no longer uses gyms and common rooms as temporary dormitories. The elimination of non-traditional beds makes California prisons safer
- **Gang management:** CDCR proposes to improve the way it manages prison gangs with a Step-Down program; giving offenders the chance to show they can refrain from criminal gang behavior and prepares them for less-restrictive housing.

Note on Prison Population/Benchmark

- CDCR met the first Three-Judge Court benchmark in December 2011 (167% of design capacity), will exceed the second benchmark in June 2012 (155% of design capacity), and expects to meet the third benchmark in December 2012 (147% of design capacity). The fourth and final benchmark (137.5% of design capacity) looks uncertain according to CDCR's latest population projections. CDCR's current estimates indicate that by June 2013, the prison population will be at 141% of design capacity.
- CDCR indicates that this plan puts the state in a strong position to request that the design capacity cap be raised.
- New health care facilities and enhanced treatment and office space at existing prisons will enable CDCR to maintain a quality healthcare system for a higher density prison population than originally contemplated by the court.

Legislative Analyst's Office (LAO). The LAO finds that while the administration's blueprint merits careful consideration by the Legislature, there are alternative packages that are available. Each alternative, including the CDCR blueprint, comes with significant trade-offs to consider. However, the LAO finds that the state could meet specified population cap targets at much lower ongoing General Fund costs in the future than proposed by the administration, potentially saving the state over a billion dollars over the next seven years.

If the federal court does not approve the increase in the population cap, the LAO would recommend that the state adopt a package that (1) closes CRC, (2) rejects the proposed DeWitt and three infill projects, and (3) modestly reduces the state's reliance on out-of-state contract beds. This would save the state an additional \$159 million annually relative to the modified administration plan. These savings are primarily derived from the elimination of the additional debt-service payments and operations costs associated with the construction proposed in the administration's plans. The LAO believes that this recommended approach would result in the greatest cost savings of the alternatives they identify and permit the closure of CRC while avoiding construction and still reducing the number of out-of-state contracts.

LAO Alternative 1. Instead, the state could (1) close CRC, (2) approve the DeWitt project, (3) reject the three infill projects, and (4) make a modest reduction in the use of out-of-state contracts. This would save the state an additional \$138 million annually relative to the administration's modified plan. These savings result primarily from the

elimination of the debt service and operating costs associated with the three proposed infill projects. While this approach would result in the closure of CRC and less reliance on contract beds, it would include construction that, in the LAO's view, the administration has not fully justified.

LAO Alternative 2. Under this approach, the state would (1) keep CRC in operation, (2) reject the DeWitt and three infill projects, and (3) make a fairly significant reduction in the use of out-of-state contracts. This would save the state an additional \$58 million annually relative to the modified administration plan. These savings are derived from the elimination of the additional debt-service payments associated with the DeWitt and infill projects. While this approach avoids costly construction, it results in an increase in operational costs relative to the administration's modified plan because of the continued operation of CRC.

Recommendation. Hold Open.