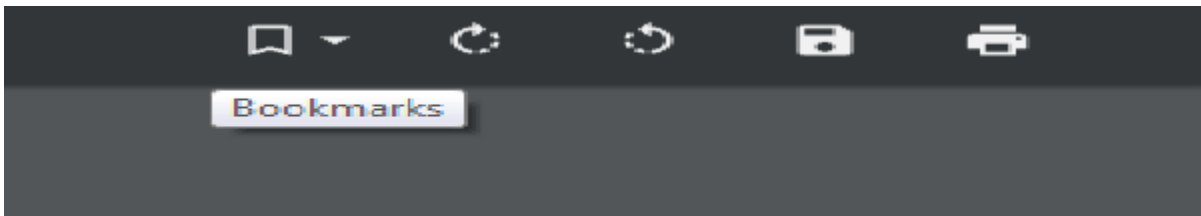


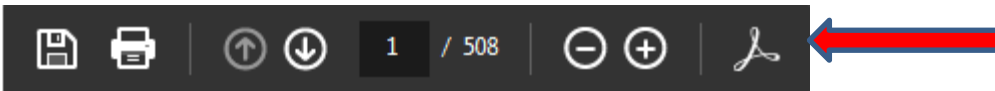
Senate Budget and Fiscal Review

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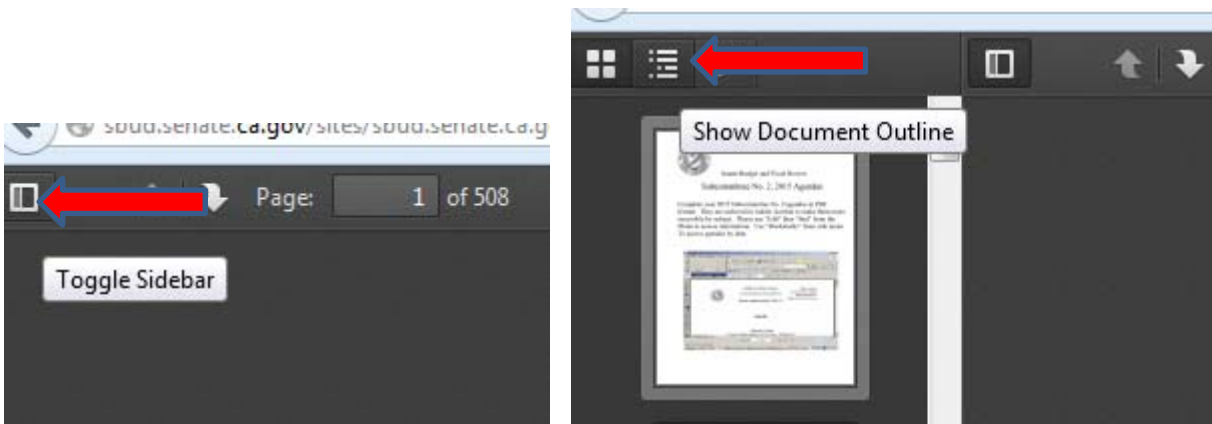
Chrome has access to Acrobat bookmark located in the upper right hand corner



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Mozilla Firefox on upper left, click toggle sidebar, and then document outline.



SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, March 3, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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ITEMS TO BE HEARD

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

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 SB 737 (Romero), Chapter 10, Statutes of 2005. 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 Board of State and Community Corrections (BSCC)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST).

The mission of CDCR is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities.

The CDCR is organized into the following programs:

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

The 2015 Budget Act projected an adult inmate average daily population of 127,990 in the current year. The current year adult inmate population is now projected to decrease by 0.2 percent, for a total population of 127,681. The budget year adult inmate population is projected to be 128,834, a 0.7 percent increase over the current year.

As of February 24, 2016, the total in-custody adult population was 127,304. The institution population was 112,927, which constitutes 135.2 percent of prison capacity. The most overcrowded prison is the Valley State Prison in Chowchilla, which is currently at 168.7 percent of its capacity. For female inmates, Central California Women's Facility in Chowchilla is currently the most overcrowded at 143 percent of its capacity.

The Governor's budget proposes total funding of \$10.5 billion (\$10.3 billion General Fund and \$300 million other funds) in 2016-17. This is an increase of approximately \$500 million (\$470 million General Fund) over 2014-15 expenditures. The following table shows CDCR's total operational expenditures and positions for 2014-15 through 2016-17.

**CDCR – Total Operational Expenditures and Positions
(Dollars in thousands)**

Funding	2014-15	2015-16	2016-17
General Fund	\$9,803,883	\$10,096,700	\$10,273,008
General Fund, Prop 98	15,018	18,843	19,185
Other Funds	63,144	63,205	63,775
Reimbursements	181,302	189,050	185,152
Recidivism Reduction Fund	14,679	28,609	-
SCC Performance Incentive Fund	-1,000	-1,000	-1,000
Total	\$10,077,026	\$10,395,407	\$10,540,120
Positions	52,647	53,344	54,071

Issue 1: Population Trends and Budget Overview

Governor's Budget. The budget proposes total funding of \$10.5 billion (\$10.3 billion General Fund and \$248 million other funds) in 2016-17. This is an increase of approximately \$500 million General Fund over 2014-15 expenditures.

CDCR Adult Institution Population – The adult inmate average daily population is projected to increase from 127,681 in 2015-16 to 128,834 in 2016-17, an increase of 1,153 inmates. This constitutes a slight decrease from the 2015-16 projection and a slight increase from the 2015 Budget Act's 2016-17 projection.

CDCR Parolee Population – The average daily parolee population is projected to decrease from 43,960 in 2015-16 to 42,571 in 2016-17, a decrease of 1,389 parolees. This is a decrease from the 2015 Budget Act projections.

CDCR, Division of Juvenile Justice (DJJ) Population – The DJJ's average daily ward population is increasing, when compared to 2015 Budget Act projections. Specifically, the ward population is projected to increase by 37 in 2015-16, for a total population of 714; and 42 in 2016-17, for a total population of 719.

Mental Health Program Caseload – The population of inmates requiring mental health treatment is projected to be 35,743 in 2015-16 and 36,825 in 2016-17. This is an increase of 571 and 1,653, respectively, over the 2015 Budget Act projections. The budget includes \$14.7 million General Fund for the staffing increases related to the population increase.

Background. Over the last several years, significant policy changes have affected people convicted of crimes and the number of individuals serving their sentences in the state's prison system. The following are among the most significant changes:

Public Safety Realignment. In 2011, the Legislature approved a broad realignment of public safety, health, and human services programs from state to local responsibility. Included in this realignment were sentencing law changes requiring that certain lower-level felons be managed by counties in jails and under community supervision rather than sent to state prison. Generally, only felony offenders who have a current or prior offense for a violent, serious, or sex offense are sentenced to serve time in a state prison. Conversely, under realignment, lower-level felons convicted of non-violent, non-serious, and non-sex-related crimes (colloquially referred to as "non-non-nons") serve time in local jails. In addition, of those felons released from state prison, generally only those with a current violent or serious offense are supervised in the community by state parole agents, with other offenders supervised by county probation departments. Responsibility for housing state parole violators was also shifted from state prisons to county jails.

In adopting this realignment, the Legislature had multiple goals, including reducing the prison population to meet the federal court-ordered cap, reducing state correctional costs, and reserving state prison for the most violent and serious offenders. Another goal of realignment was to improve public safety outcomes by keeping lower-level offenders in local communities where treatment services exist and where local criminal justice agencies can coordinate efforts to ensure that offenders get the appropriate combination of incarceration, community supervision, and treatment. For many,

realignment was based on the confidence that coordinated local efforts are better suited for assembling resources and implementing effective strategies for managing these offenders and reducing recidivism. This was rooted partly in California's successful realignment reform of its juvenile justice over the last 15 years and the success of SB 678 (Leno), Chapter 608, Statutes of 2009, which incentivized evidence-based practices for felony probationers through a formula that split state prison savings resulting from improved outcomes among this offender population.

Passage of Proposition 36. The passage of Proposition 36 in 2012, resulted in reduced prison sentences served under the Three Strikes law for certain third strikers whose current offenses were non-serious, non-violent felonies. The measure also allowed resentencing of certain third strikers who were serving life sentences for specified non-serious, non-violent felonies. The measure, however, provides for some exceptions to these shorter sentences. Specifically, the measure required that if the offender has committed certain new or prior offenses, including some drug, sex, or gun-related felonies, he or she would still be subject to a life sentence under the three strikes law.

According to the January 2016 status report to the three-judge panel, as of December 23, 2015, 2,168 inmates had been released due to Proposition 36.

Passage of Proposition 47. In November 2014, the voters approved Proposition 47, which requires misdemeanor, rather than felony, sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing. The Administration estimates that Proposition 47 will reduce the average number of state prison inmates in 2015–16 by about 4,700.

Proposition 47 requires that state savings resulting from the proposition be transferred into a new fund, the Safe Neighborhoods and Schools Fund. The new fund will be used to reduce truancy and support drop-out prevention programs in K-12 schools (25 percent of fund revenue), increase funding for trauma recovery centers (10 percent of fund revenue), and support mental health and substance use disorder treatment services and diversion programs for people in the criminal justice system (65 percent of fund revenue). The Director of Finance is required, on or before July 31, 2016, and on or before July 31 of each fiscal year thereafter, to calculate the state savings for the previous fiscal year compared to 2013-14. Actual data or best estimates are to be used and the calculation is final and must be certified by the State Controller's Office no later than August 1 of each fiscal year. The first transfer of state savings to the Safe Neighborhoods and Schools Fund will occur in 2016-17, after the Department of Finance (DOF) calculates savings pursuant to the proposition. Consequently, the budget does not reflect estimated 2015-16 savings related to Proposition 47.

The Administration estimates that initial savings for the first year of Proposition 47 will be \$29.3 million and on-going savings are currently estimated to be \$57 million per year.

Three-Judge Panel Population Cap. In recent years, the state has been under a federal court order to reduce overcrowding in the 34 state prisons operated by CDCR. Specifically, the court found that prison overcrowding was the primary reason the state was unable to provide inmates with constitutionally adequate health care and ordered the state to reduce its prison population to 137.5 percent of design capacity by February 28, 2016. (Design capacity generally refers to the number of beds CDCR would operate if it housed only one inmate per cell and did not use temporary beds, such as housing inmates in gyms. Inmates housed in contract facilities or fire camps are not counted toward the overcrowding limit.)

The changes discussed above, along with increased investment in rehabilitation funding and other sentencing changes allowed the state to meet its court-ordered population cap a year before the deadline. As of February 16, the state's prisons were at 135.2 percent of their design capacity, creating a buffer of approximately 1,900 beds.

CDCR's Updated Plan for the Future of Corrections: CDCR's *Updated Plan for the Future of Corrections* notes that the original blueprint significantly underestimated the inmate population. The original blueprint assumed an inmate population of approximately 124,000 as of June 30, 2017. The revised estimates suggest that the population will bottom out at 128,000 in June 2016, and will begin to rise, reaching 131,000 inmates by June 30, 2020. The report notes that it is this increased population that drives their request to maintain a higher capacity than assumed in the original blueprint. The new plan will be discussed in detail in the next agenda item.

Issue 2: CDCR's Updated Plan for the Future of Corrections

Governor's Budget. The budget proposes total funding of \$10.5 billion (\$10.3 billion General Fund and \$200 million other funds) in 2016-17. This represents a \$470 million increase over the 2015 Budget Act and a \$1.1 billion increase over 2012 Budget Act, when the original blueprint was approved. Specifically related to the original blueprint, the budget requests:

- Legislative authority to continue the use of in-state and out-of-state contract beds beyond the December 31, 2016 sunset date established by SB 105 (Steinberg) Chapter 310, Statutes of 2013.
- Continued operation of the California Rehabilitation Center, which was slated to be closed in The Future of California Corrections Blueprint and whose closure was assumed under the 2012 Budget Act.
- \$6 million General Fund to address critical repairs and deferred maintenance projects at the facility in Norco, California.

The specific details on many of the Administration's proposals related to the updated plan will be heard in future subcommittee hearings.

Background. In April 2012, CDCR released its blueprint detailing the Administration's plan to reorganize various aspects of CDCR operations, facilities, and budgets in response to the effects of the 2011 realignment of adult offenders, as well as to meet federal court requirements. The blueprint was intended to build upon realignment, create a comprehensive plan for CDCR to significantly reduce the state's investment in prisons, satisfy the Supreme Court's ruling to reduce overcrowding in the prisons, and get the department out from under federal court oversight. In the blueprint's introduction, the Administration stated:

Given the ongoing budget problems facing California it has become increasingly important to reexamine the mission and priorities of the corrections system. With dedicated funding directed to county governments to manage lower level offenders, realignment allows the state to focus on managing the most serious and violent offenders. And it allows counties to focus on community-based programs that better promote rehabilitation. Not only is this good corrections policy, but it also allows the state to achieve significant budgetary savings from a department whose share of General Fund expenditures had grown from 3 to 11 percent over the last 30 years.

As a result of the declining populations, the state will be able to save nearly half a billion dollars by closing the California Rehabilitation Center—one of its oldest, most costly, and inefficient prisons to operate—and ending contracts for out-of-state prison facilities. The savings contemplated in this plan will be attained by safely reclassifying inmates, housing inmates in facilities that are commensurate with their custody level, and working to reduce recidivism. Capitalizing on the opportunities created by realignment will create a safer, more effective correctional system, and allow the state to regain control of its prison system by satisfying federal court requirements.

Combining the actual budget savings with the avoided expenditures that would have been required without realignment, over a ten year span the state will have saved and avoided over \$30 billion in General Fund costs that may now be used to help balance the state budget or for other critical areas such as education and health care.

The Budget Act of 2012 and related trailer bills approved both funding augmentations and reductions associated with the blueprint and adopted necessary statutory changes. In addition, the Legislature made several changes to the blueprint to increase transparency and accountability, including creating a separate budget item for CDCR's rehabilitative programs and giving the Office of the Inspector General (OIG) oversight over the implementation of certain aspects of the blueprint.

In addition to an expectation of General Fund savings, the Legislature, in approving the blueprint and public safety realignment one year earlier, expressed concerns during budget hearings that the Administration had not provided a comprehensive plan designed to reduce the number of people either coming to prison for the first time or returning to prison. The Legislature and the federal court both signaled clearly to the Administration that the state could not grow its way out of this problem by simply increasing prison capacity. Furthermore, through budget hearings and discussions with the Administration the Legislature was reassured that if it approved the construction of infill facilities and allowed for in-state contracted prisons, once the new facilities were open, the state would not have added any new capacity, CDCR would close California Rehabilitation Center (CRC), and out-of-state inmates would return to in-state prisons.

SB 105 (Steinberg and Huff), Chapter 310, Statutes of 2013. Subsequent to the passage of the 2012 Budget Act, in September 2013, the Legislature passed, and the Governor signed, SB 105 to address the federal three-judge panel order, which required the state to reduce the prison population to no more than 137.5 percent of design capacity by December 31, 2013. SB 105 provided the CDCR with an additional \$315 million in General Fund support in 2013-14 and authorized the department to enter into contracts to secure a sufficient amount of inmate housing to meet the court order and avoid the early release of inmates, which might otherwise be necessary for compliance. The measure included sunset provisions allowing for contracted facilities until January 1, 2017. The measure also required that, should the federal court modify its order capping the prison population, a share of the \$315 million appropriation in Chapter 310 would be deposited into a newly-established Recidivism Reduction Fund.

Four years later, despite (1) the commitment made in the original blueprint, (2) an understanding between the Legislature and the Administration based on the original blueprint proposal and the discussions and hearings surrounding the approval of SB 105 that the approval of funding for more contract prison beds and the construction of three infill projects would not result in additional prison beds in the long-term, and (3) the state assumption in the blueprint that adopting the proposals through the 2012-13 budget would result in \$3 billion in savings per year, the 2016-17 budget proposes to spend over \$1 billion more than the state spent in 2011-12 (growing to over \$2.3 billion if the revenue shifted to counties for realigned felons is included). In addition, with the activation of new infill facilities this spring, the state will maintain 5,211 more beds than at the time of the blueprint.

CDCR's Original Blueprint and the Updated Blueprint

On January 20, 2016, the Administration released *An Update to the Future of California Corrections* to document why certain commitments made in the original blueprint did not materialize, and to establish new long-term priorities for CDCR. Below are key provisions that differ between the original and revised blueprint:

Original Blueprint: Higher Prison Population Estimates Than Projected in 2012. The original blueprint assumed that the prison population would continue on a downward trend. The blueprint projected a total population of 133,746 inmates as of June 2012. By the end of 2014-15 that population was projected to be 123,149. Of the 123,149 inmates, 117,565 were projected to be housed in adult institutions, with the remainder housed in fire camps or contract facilities; this would result in the state being at 142.3 percent of prison capacity.

- **Updated Blueprint.** One of the most significant revisions to the original blueprint is the population estimate. The updated plan notes that the original blueprint significantly underestimated the inmate population. The original blueprint assumed an inmate population of approximately 124,000 as of June 30, 2017. The revised estimates suggest that the population will bottom out at 128,000 in June 2016, and will begin to rise, reaching 131,000 inmates by June 30, 2020. The report notes that it is this increased population that drives their request to maintain a higher capacity than assumed in the original blueprint as discussed in more detail below.

Original Blueprint: \$3 billion in Savings Did Not Materialize. The Administration asserted that the blueprint would reduce state spending on adult prison and parole operations by \$1 billion in 2012-13, as a result of 2011 realignment. The plan estimated that these savings would grow to over \$1.5 billion by 2015-16, and assumed an ongoing annual savings of over \$3 billion. Over ten years, the blueprint projected a state General Fund savings of approximately \$30 billion.

- **Updated Blueprint.** Rather than achieving the ongoing annual savings of over \$3 billion per year over CDCR's pre-realignment budget envisioned in the original blueprint, the CDCR budget has consistently grown since the time of its adoption. The proposed 2016-17 budget for CDCR is approximately \$10.3 billion. In addition, the estimated realignment revenue for local community corrections (which would otherwise come to the state General Fund) is \$1.3 billion. This totals \$11.6 billion in spending on California's incarcerated felons. Prior to realignment, in 2010-11, the state spent approximately \$9.7 billion on incarcerated felons housed in state institutions and camps.

The revised plan details several areas where costs have risen in excess the assumptions made in the original blueprint. Specifically, increased employee compensation and retirement costs are estimated to consume about \$835 million in 2016-17. In addition, costs for the Correctional Health Care Facility (CHCF) have increased by approximately \$289 million. Along with those increases, the CDCR budget now contains \$430 million in lease-revenue bond payments per year (an increase of \$170 million over the 2012 Budget Act) related to the cost of constructing CHCF, Health Care Facility Improvement Projects, infill capacity, and construction grants provided for local jails. Finally, the report notes that 11,396 inmates remain in leased or contracted facilities that cost the state \$385 million per year.

Original Blueprint: No Elimination of Contracted Prison Beds. The department began sending inmates out-of-state when overcrowding was at its worst in 2007. At the time of the blueprint, there were more than 9,500 inmates housed outside of California. The blueprint projected that by 2014-15 there would be 1,864 inmates remaining in out-of-state contract beds and committed to ending all out-of-state contracts by 2015-16. Returning out-of-state inmates to in-state facilities was expected to save the state \$318 million annually. In addition, the blueprint assumed that as of June 30, 2016, there would only be 1,825 inmates in in-state contract beds.

- **Updated Blueprint.** The Administration proposes maintaining 4,900 inmates in out-of-state facilities in Arizona and Mississippi for the foreseeable future. As noted above, the Administration thinks that the higher than originally projected inmate population will require them to continue to need out-of-state capacity. However, the Administration also requires legislative approval to continue the use of out-of-state beds because the statutory language authorizing contract beds is scheduled to sunset.

In addition to out-of-state contracts, CDCR has increased utilization of in-state contract beds above the levels contained in the original blueprint. As noted above, there were approximately 5,600 inmates in in-state contract beds, including California City, as of January 20, 2016. The budget also contains trailer bill language extending the sunset date for in-state contract facilities and the lease of California City, all of which are due to expire on December 31, 2016. The draft trailer bill language proposes extending the sunset for all contract and lease facilities until December 31, 2020.

Original Blueprint: Makes Minimal Progress on Rehabilitation. The blueprint required the department to improve access to rehabilitative programs and place at least 70 percent of the department's target population (approximately 36 percent of the total prison population) in programs consistent with academic and rehabilitative needs. The blueprint further set June 30, 2015, as the completion date for reaching that goal.

Toward that end, the blueprint required the establishment of reentry hubs at certain prisons to provide intensive services to inmates as they get closer to being released. It also required the creation of enhanced programming yards, which are designed to incentivize positive behavior. For parolees, the blueprint increased the use 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.

- **Updated Blueprint.** In the revised blueprint, the Administration notes that it fell short of reaching its target and has only reached 60 percent of the target population. Further, the department continues to count an inmate who shows up for only one day for a program toward meeting the goal of reaching their target. The Office of the Inspector General has consistently recommended that CDCR only count a person as having met the requirement when the person completes a program. Given CDCR's counting method, it is unclear how many people receive rehabilitative programming, either in the larger population or within their much smaller target population. The revised blueprint notes that CDCR is working with the Inspector General to revise their counting methodology and they acknowledge that the new methodology would take the department farther away from the original goal.

Original Blueprint: Successfully Increased In-State Prison Capacity. As noted above, the original blueprint required the return of all inmates who were being housed outside of California. In order to accommodate the return of those inmates and the closure of the California Rehabilitation Center (discussed below), the blueprint outlined a plan for increasing in-state prison beds through the modification of existing facilities and the construction of three new infill-projects.

The blueprint called for the construction of additional low-security prison housing at three existing prisons. The proposed projects would have capacity for 3,445 inmates under the 145 percent population cap proposed by the blueprint (design capacity of 2,376 beds) and would include space to permit the operation of inmate programs such as mental health treatment and academic programs. In addition, the blueprint called for the renovation of the DeWitt Nelson Youth Correctional Facility to house adult offenders. The facility would serve as an annex to the California Health Care Facility (CHCF) that was under construction in Stockton. Under the proposed 145 percent population cap, the DeWitt facility would have capacity for 1,643 lower-security inmates (design capacity of 1,133 beds). Finally, the blueprint proposed converting the Valley State Prison for Women into a men's facility and the conversion of treatment facilities at Folsom Women's Facility into dormitory housing.

- **Updated Blueprint.** The department has fully activated the DeWitt Annex at CHCF, with a design capacity of 1,133 beds. In addition, they anticipate the activation of the infill projects at Mule Creek State Prison and RJ Donovan State Prison later this spring. Those infill projects will add an additional 2,376 beds to the prison system. Combined, these projects approved through the blueprint, increase the state's prison capacity by over 4,807 inmates (under the current population cap of 137.5 percent).

The updated report, however, rather than reducing contract capacity or closing CRC (as discussed below) finds that CDCR has an on-going need for additional capacity. Specifically, the original blueprint assumed that the bed capacity at the end of 2015-16 and ongoing would be approximately 124,438 beds. In the updated plan, the Administration assumes there will be an on-going need for 133,054 beds, which is an increase of 8,616 beds.

Original Blueprint: Will Not Close the California Rehabilitation Center (CRC) in the Foreseeable Future. The blueprint assumed that one prison, CRC (Norco), would be closed in 2015-16. This planned closure was due to the fact that CRC is in need of significant maintenance and repair. In addition, the Administration proposed that the savings achieved from closing CRC would offset the costs of operating the new infill beds (mentioned above). This goal was revised by SB 105 which suspended this requirement pending a review by the Department of Finance and CDCR that will determine whether the facility can be closed.

The 2015-16 budget included statutory language requiring the Administration provide an updated comprehensive plan for the state prison system, including a permanent solution for the decaying infrastructure of the California Rehabilitation Center. In addition, state law provides legislative findings and declarations that, given the reduction in the prison population, the Legislature believes that further investment in building additional prisons is unnecessary at this time and that the California Rehabilitation Center can be closed without jeopardizing the court-ordered population cap.

- **Updated Blueprint.** The new blueprint is intended to fulfill the requirement in the 2015-16 budget that the Administration provide the Legislature with an updated comprehensive plan for the prison system. However, in the revised blueprint, the Administration maintains that they are unable to close CRC in the near future, but states that it remains committed to its

closure at an unspecified future date. The proposed budget also includes \$6 million in General Fund for critical repairs to the facility. In addition, the report states that the Administration will work with the Federal Healthcare Receiver to determine other physical plant improvements needed to improve health care access at the facility.

Achieved Standardized Staffing Levels. Realignment’s downsizing left the department with uneven, ratio-driven staffing levels throughout the system. The blueprint proposed adopting a standardized staffing model for each prison based on factors such as the prison's population, physical design, and missions. For the most part, prison staffing levels would remain fixed unless there were significant enough changes in the inmate population to justify opening or closing new housing units. In contrast, historically prison staffing levels were adjusted to reflect changes in the inmate population regardless of the magnitude of those changes.

- **Updated Blueprint.** The report notes that the department has fully adopted a standardized staffing model and no longer uses a staffing model based upon the size of the prison population. The 2016-17 budget includes resources for 23,151 correctional officers to provide security at all state-run institutions and camps. This is an increase of 1,099 over the number of correctional officer positions at the time of the original blueprint. A portion of this increase is due to the activation of California City, the California Healthcare Correctional Facility (CHCF) and the infill projects at RJ Donovan and Mule Creek. However, it is also important to note that in April 2012, when the blueprint was released, the prison population was close to 138,000 inmates. At its peak population of approximately 170,000 inmates, CDCR was budgeted for approximately 24,332 correctional officers.

**California Department of Corrections and Rehabilitation:
Summary of Institutions, Inmates and Correctional Officers**

Year ¹	Number of Institutions	Number of Conservation/Inmate Camps	Number of Inmates ²	Number of Correctional Officers	Inmate to Correctional Officer Ratio
2006-2007	33	42	173,000	24,332	7.1:1
2012-2013	33	42	138,000	22,052	6.2:1
2016-2017	35	43	129,000	23,151	5.6:1

¹ 2006-07 and 2012-13 population figures as of June 30. 2016-17 represents the average population projected in the Governor’s January budget.

² Totals rounded to the nearest 1,000.

Future Vision. CDCR’s updated plan includes a section on the department’s future vision. That section primarily discusses CDCR’s current investments in rehabilitation programming, safety, and security. For example, the plan discusses the type of education provided to inmates, including career technical education and community college. In addition, the plan discusses the creation of reentry hubs, the provision of substance abuse treatment, innovative programming grants, arts-in-corrections, the Cal-ID project, and many other efforts that have been introduced and promoted by the Legislature. In terms of safety and security, the plan mentions the department’s drug and contraband interdiction pilot and the cell phone signal blocking technology that has been implemented at 18 prisons over the last few years.

In terms of future planning, the report contains the following major new initiatives or expansions of existing efforts:

- A commitment to evaluating all levels of rehabilitation programming, including inmate education.
- A budget request for \$15.2 million General Fund to continue the expansion of substance use disorder treatment at all state institutions.
- A budget request for \$57.1 million General Fund to continue and expand community reentry facilities. The department currently has 220 beds and plans to expand to 680 beds during 2016-17. \$25 million of the funding is designated as incentive payments for local communities that allow long-term conditional use permits for community reentry facilities.
- The establishment of a pilot program for in-prison sex offender treatment for 80 inmates at the Substance Abuse Treatment Facility in Corcoran.
- A budget request to increase funding dedicated toward services directed at long-term offenders, including residential and support services for offenders who are being released after long sentences, specialized programming for long-term offenders, and the expansion of the offender mentor certification program to provide training for inmates to become mentors for drug and alcohol counseling. In addition, the department plans to create a pre-employment transitions program and a community transitional housing program dedicated to long-term offenders.
- To enhance safety, CDCR plans to begin installing video surveillance systems at Mule Creek State Prison and RJ Donovan Correctional Facility in order to evaluate the benefits of using video technology to improve safety and security in the prisons.

Legislative Analyst's Office (LAO) Recommendations Related to the Revised Blueprint.

Approve Extension of Contract Bed Authority. The LAO recommends that the Legislature approve the Administration's requested extension of authority to procure contract beds. The LAO notes that it is very likely that the Administration will need to continue utilizing contract beds over the next several years in order to maintain compliance with the prison population cap.

Reduce Prison Capacity by Closing CRC. The LAO recommends that the Legislature direct CDCR to reduce its prison capacity in order to achieve a reduced buffer of 2,250 in 2016-17. They further recommend that the Legislature direct the department to achieve this capacity reduction by closing CRC. The LAO estimates this approach would eventually achieve net savings of roughly \$131 million annually, relative to the Governor's proposed approach. These savings are achieved primarily from reduced costs to operate CRC but also include reduced debt service from avoided capital outlay costs that the LAO estimates would need to be invested in order to keep CRC open permanently. These savings would be somewhat offset by increased costs for contract beds needed to replace a portion of the capacity lost from the closure of CRC. The LAO also recommends that the Legislature reject the Governor's proposed augmentation of \$6 million for special repairs at CRC, as these repairs would be unnecessary if CRC is closed.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Please explain why the population projections in the original blueprint ended up being so significantly wrong.
2. Please provide an update on how you plan to address the Inspector General's ongoing concern that CDCR measures an inmate who shows up one day for programming toward meeting their target. Why isn't program completion the measure that you use?
3. Given the value of rehabilitation programming, both in terms of the health of an institution and in reducing recidivism, why is the department continuing to focus only on a fairly small subset of the inmate population when considering an appropriate target population?
4. In your revised plan, you mention the significant value of the innovative programming grants. If those grants have proven to be effective in expanding programming, why isn't there a proposal to continue providing those grants?
5. Restorative justice programs such as Guiding Rage into Power (GRIP) and Getting Out by Going In (GOGI), are showing positive results in terms of reducing recidivism. Have you considered formalizing their role in rehabilitation and reentry services for long-term offenders, much in the way you have with former volunteer arts programs through Arts in Corrections?

Staff Comment. During future hearings, the subcommittee will be discussing standardized staffing, community reentry and other alternative placements, and rehabilitative programming, in depth. In addition, the subcommittee will be conducting oversight on the treatment of Coleman inmate-patients, which constitutes a growing population within CDCR according to their updated blueprint.

The Prison Population Reduction and General Fund Costs Savings Envisioned in the Blueprint Have Not Materialized. The long-term plan for the state's corrections system was developed in the context of restructuring the prison system in response to realignment and the federal court's ongoing requirement that the state reduce its prison population to 137.5 percent of capacity. However, instead of reducing the state's investment in the correction's system, as promised by the blueprint, that investment continues to grow at a significant rate. Given that the Administration is asking the Legislature to disregard their original commitment to returning prisoners from out-of-state prisons and close CRC, the Legislature may wish to use this opportunity to reassess other agreements that were made in the context of adopting the blueprint-- including standardized staffing-- and consider alternative, sustainable, long-term solutions that will both reduce the prison population and limit General Fund costs associated with incarcerating large numbers of Californians for significant periods of time.

Alternative Custody Placements. The Legislature may wish to find ways of supporting and expanding the initiatives outlined in the "Future Vision" portion of the new plan, which includes system changes that have long been priorities of the Legislature. For example, the Legislature may wish to invest any capacity expansion in reentry programs in the community for both men and women. The budget includes \$32.1 million General Fund to continue and expand the male community reentry program. The state currently has space to house 220 men in community facilities during the last few months of their sentence, and budget proposes expanding that capacity to 680 community reentry beds.

Increase Evidence-Based Programming for Long-Term Offenders. The plan and budget include efforts to increase rehabilitation programming and services for long-term offenders who were previously serving life sentences but are now able to be released on parole due to recent statutory changes. The budget includes \$10 million in funding to increase rehabilitation treatment and services specifically for this long-term population. The Legislature may consider additional funding to provide evidence-based, restorative justice programming opportunities for this population in their last 12- to 24-months of incarceration.

In the last two years, the Legislature has provided \$5.5 million for innovative programming grants. The Recidivism Reduction Fund money has allowed volunteer groups which have demonstrated success in providing programs focused on offender responsibility and restorative justice principles to receive funding to expand their programs to underserved prisons. While this grant program has allowed for an increase in volunteer programming at certain institutions, the Legislature may wish to consider committing on-going funding to non-profit organizations which have successfully provided evidence-based restorative justice programming to life-term or long-term inmates. As these programs are shown to reduce recidivism and reduce institutional violence, an investment that incorporated these programs into the reentry programming provided to long-term inmates, would likely reduce recidivism and reduce the prison population.

Issue 3: Pew Research Center *Results First* Initiative**Panelists**

Sara Dube – Director, State Policy, Pew-MacArthur Results First Initiative, The Pew Charitable Trust

Ashleigh Holand – Manager, State Policy, Pew-MacArthur Results First Initiative, The Pew Charitable Trusts

Scott Kernan – Secretary, California Department of Corrections and Rehabilitation

Background. The Pew-MacArthur Results First Initiative, a project of The Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation, works with states to implement a cost-benefit analysis approach that helps them invest in policies and programs that are proven to work. Since 2011, the Pew-MacArthur Results First Initiative has partnered with multiple states in this capacity. Among the states partnering with Pew are Texas, New York, Oregon, Massachusetts, and Wisconsin.

CDCR has recently begun working with Pew to begin a large-scale evaluation of the programs offered to CDCR inmates and parolees to best identify which programs are cost-effective and successful, and to prioritize and expand on effective, evidence-based programs based on the Results First analysis.

Four County Pilot Project. In California, Pew has already partnered with four pilot counties to evaluate the effectiveness of local correctional programs and policies. Those four counties are Fresno, Kern, Santa Barbara, and Santa Cruz. Since partnering with the Pew-MacArthur Results First Initiative in 2013, these California counties have used Results First to develop policies and programs to serve the realigned felon population and reduce recidivism.

Staff members from the Results First Initiative have worked closely with staff and leadership from each of the four counties to develop customized tools to help them identify and invest in effective programs that yield high returns. These tools and the Results First process enable leaders to catalog what programs they are operating, assess the evidence of these programs' effectiveness, and compare current and alternative programs based on their expected return on investment and the impact on key outcomes, such as reduction in recidivism.

The Results First staff also works with county leaders to use this information to inform budget and policy decisions. By implementing the Results First approach, each county has forged critical partnerships that encompass a wide range of criminal justice agencies, including offices of sheriffs, probation, courts, public defenders, district attorneys, and police, as well as other social service and health agencies. The counties have also formed cross-agency teams to gather, share, and analyze data to address common challenges of reducing recidivism and improving public safety.

Although there were some differences across counties, each followed the same general process in implementing the Results First approach. This process began with developing an inventory of currently funded programs that included information on each program's design, costs, capacity, and populations served. Next, the counties assessed the programs against the evidence base and built a customized benefit-cost model. Finally, policymakers have used these tools to help guide budget and policy decisions. The state-level program should operate in much the same way.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, March 10, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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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) 651-1505. Requests should be made one week in advance whenever possible.

PROPOSED FOR VOTE ONLY**0250 Judicial Branch**

1. **Trial Court Security (non-sheriff).** The budget proposes \$343,000 General Fund for cost increases related to court security services provide by marshals in the superior courts of Shasta and Trinity counties. The funds are necessary to address increased costs for court-provided (non-sheriff) security to maintain funding at 2010 security levels.

0820 Department of Justice

1. **Criminal Justice Reporting (AB 71).** The budget proposes \$374,000 General Fund and four positions to meet the reporting requirements associated with AB 71(Rodriguez, Chapter 462, Statutes of 2015), which requires law enforcement agencies to report to DOJ data on certain use of force incidences.
2. **Bureau of Gambling Control Training.** The budget proposes a \$200,000 appropriation (Gambling Control Fines and Penalties Account) to develop an on-going academy style training program for all levels of employees (both sworn and non-sworn).

ITEMS TO BE HEARD

0820 DEPARTMENT OF JUSTICE

Issue 1: Armed Prohibited Persons System (APPS)

Governor's Budget. The budget proposes an on-going increase of \$4.7 million in Firearms Safety and Enforcement Special Fund (FS&E) to provide permanent funding for 22 positions for APPS investigations. Currently, all APPS-related activities are funded through the Dealer Record of Sale Special Account (DROS) account. The DROS fund requires an appropriation from the Legislature. The FS&E fund is continuously appropriated. Therefore, if the proposed funding shift is approved, the Department of Justice (DOJ) would not require future legislative authority to expend money deposited in the fund for APPS.

January 21, 2016 Letter from the Attorney General. After the release of the Governor's January budget proposal, Attorney General Kamal Harris sent all members of the Legislature a letter requesting an on-going, permanent increase of \$8 million to retain 30 investigator, six supervisory and 12 non-sworn analyst positions within DOJ's Bureau of Firearms that had been authorized on a limited term basis by SB 140, (Leno), Chapter 2, Statutes of 2013.

Background

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 to the individual is on probation or parole or has been:

- Convicted of a felony or of certain misdemeanors.
- Proven to be a danger to himself/herself or others due to a mental illness.
- Been restrained under a protective order or restraining order.
- 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 2013. For example, between calendar year 2012 and calendar year 2013, gun purchases rose by over 15 percent in California. In 2014, the number of sales dipped for the first time since 2007. The table that follows illustrates the annual number of overall purchases of firearms in the state. Despite the dip, gun sales in California have almost tripled over the last decade.

**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

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

- \$19 background check fee payable to the DROS account, which currently funds the APPS program.
- \$5 is payable to the FS&E fund.
- \$1 firearm safety device fee is paid to the Firearms Safety Account (FSA).

Statistics on Gun Violence. The Centers for Disease Control reports that in 2013, 33,636 people died in firearms-related deaths in the United States. That equates to 10.6 people out of every 100,000. Of those deaths, 11,208 were homicides. According to statistics gathered by the Brady Campaign to Prevent Gun Violence, over 100,000 people a year in the United States are shot. 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 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.

Beginning in 1999, 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 due to the reasons listed above. 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 \$1.0 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 Dealers Record of Sale Account (DRoS) for firearm enforcement and regulatory activities related to the Armed Prohibited Persons System.

SB 950 also mandated that DOJ provide investigative assistance to local law enforcement agencies to better insure the investigation of individuals who continue to possess firearms despite being prohibited from doing so. (Penal Code § 30010) DOJ states that its special agents have trained approximately 500 sworn local law enforcement officials in 196 police departments and 35 sheriff's departments on how to use the database during firearms investigations. The department states it has also conducted 50 training sessions on how to use the vehicle-mounted California Law Enforcement Telecommunications System terminals to access the database.

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. When local agencies do confiscate weapons, they are required to send DOJ a notice so that the individual can be removed from the list.

In 2013, the Legislature, in coordination with DOJ, determined that there was a significant workload resource gap. At that time, it was estimated that approximately 2,600 offenders were added to the APPS list annually, creating a significant backlog in the number of investigations. According to DOJ, each special agent is capable of conducting 100 APPS investigations over a one-year period. During fiscal year 2012-13, the Bureau of Firearms had authority for 21 agents. Therefore, the bureau was capable of conducting roughly 2,100 investigations on an annual basis with that special agent authority, which would add 500 possible armed and prohibited persons to the backlog each year. The DOJ's Bureau of Firearms workload history is provided below.

**Armed Prohibited Persons
Workload History**

Fiscal Year	Armed and Prohibited Persons Identified	APPS Investigations Processed
2007-08	8,044	1,620
2008-09	11,997	1,590
2009-10	15,812	1,763
2010-11	17,606	1,700
2011-12	18,668	1,716
2012-13	21,252	2,772
2013-14	22,780	4,156
2014-15	17,479	7,573

To address the workload resources required to both reduce the growing backlog, and actively investigate incoming cases in a timely fashion, the Legislature passed SB 140, (Leno), Chapter 2, Statutes of 2013. SB 140 provided DOJ with \$24 million from the Dealer's Record of Sale (DROS) account in order to increase regulatory and enforcement capacity within DOJ's Bureau of Firearms. The resources financed in SB 140 were provided on a three-year limited-term basis, which, according to the DOJ, was adequate time to significantly reduce or eliminate the overall number of armed and prohibited persons in the backlog. Ongoing cases could be managed with resources within DOJ's Bureau of Firearms. Additionally, the measure included reporting requirements due annually to the Joint Legislative Budget Committee.

During the 2015 budget hearing process last spring, the Legislature expressed concern that half-way through the three years, the department had spent 40 percent of the \$24 million, and the backlog had only been reduced by approximately 3,770. In addition, the Bureau of Firearms had hired 45 agents, as of the date of their update, but had only retained 18 agents. Of the agents that left the bureau, the vast majority went to other agent positions in DOJ. It is unclear what caused this staff retention issue, whether it was due to the fact that the new positions were limited-term or that more senior agents were permitted to transfer. As a result, some SB 140 funding that was intended to directly address the APPS backlog was instead used to conduct background checks, provide training and to equip newly hired who agents subsequently left the bureau.

2015 Budget Actions. The 2015 Budget Act provided DOJ's Bureau of Firearms with 22 additional permanent positions dedicated to APPS investigations and required that they be funded utilizing existing resources. In addition, supplemental reporting language required DOJ to provide the Legislature, no later than January 10, 2016, an update on the department's progress on addressing the backlog in the APPS program and hiring and retaining investigators in the firearms bureau.

DOJ APPS Backlog Supplemental Report. *The Senate Bill 140 Supplemental Report of the 2015-16 Budget Package* submitted by DOJ notes that as of December 31, 2015, the department had addressed a combined total of 33,264 prohibited persons in the APPS database since July 1, 2013. However, as of the end of December 2015, 12,691 people remained of the 21,249 person backlog identified on January 1, 2014. DOJ has committed to eliminating the entire backlog by December 2016. However, given their current pace, it is unclear how they will achieve that goal in the next 11 months.

As noted above, the report also required DOJ to address concerns raised by the Legislature surrounding the high turnover and vacancy rate among agents in the firearms bureau. The department notes that they continue to have vacancies but have taken steps to retain agents, including instituting a 24-month transfer freeze for new agents. The department currently has 73 agent positions dedicated to APPS enforcement. As of July 1, 2015, 57 of the 73 positions were filled. However, rather than making progress in filling vacant positions, by December 31, 2015, there were a total of 75 agents positions dedicated to APPS but only 54 of them were filled, leaving 21 vacancies.

Despite on-going challenges associated with eliminating the APPS backlog and retaining agents, the department notes that between July 1, 2013 and October 31, 2015, approximately 18,608 cases had been closed at an average cost of \$775 per case. In addition, during the same reporting period (July 1, 2013 through December 31, 2015) the firearms bureau recovered 9,732 firearms, almost 950,000 rounds of ammunition, 6,425 magazines, and 9,475 large capacity magazines.

California State Auditor Report. In addition to concerns raised by the Legislature, on July 9, 2015, the State Auditor released a follow-up report to an audit of the APPS program conducted in 2013. Along with other concerns raised in that report, the most recent auditor report noted little or no progress in reducing the backlogs in DOJ's processing queues—the daily queue and a historical queue—noted in the State Auditor's 2013 report. Specifically:

- During late 2012 and early 2013, DOJ had a backlog of more than 1,200 matches pending initial review in its daily queue—a queue that contains the daily events from courts and mental health facilities that indicate a match and could trigger firearm ownership prohibition. Because a backlog in this queue means that DOJ is not reviewing these daily events promptly, the auditor recommended that DOJ establish a goal of no more than 400 to 600 cases in the daily queue. In the most recent audit, the auditor found that DOJ's daily queue during the first quarter of 2015 was over 3,600 cases—six times higher than its revised ceiling of 600 cases. Just as it did during the previous audit, DOJ cites its need to redirect staff to another Bureau of Firearms priority, which has a statutory deadline, as the reason for the continuing backlog. The auditor believes that if DOJ had a statutory deadline on the initial processing of the matches in the APPS database, it would encourage DOJ to avoid redirecting APPS unit staff. The chief of the bureau believes that seven days is a reasonable time frame to complete an initial review of matches.
- DOJ is unlikely to complete its review of events in the historical queue by its December 2016 goal, set forth in the October 2013 audit report. The former assistant bureau chief explained that the backlog in DOJ's historical queue consists of persons who registered an assault weapon since 1989 or acquired a firearm since 1996 and who have not yet been reviewed for prohibiting events since DOJ implemented the APPS database in November 2006. In the previous report, the auditor reported that as of July 2013, DOJ's historical backlog was nearly 380,000 persons; now as of April 2015, its historical backlog was still over 257,000 potentially prohibited persons. Based on DOJ's annual averages of reviewing the historical backlog since 2010, the auditor estimates that DOJ will not complete its review of the historical backlog until 2018, based on DOJ's most productive year. Based on its current pace of completion, the review would not be complete until 2022. The longer it takes DOJ to review the records in historical backlog, the longer armed prohibited persons keep their firearms, which increases the risk to public safety.

In response to the report, DOJ stated:

APPS grows by approximately 3,000 persons per year, but California local law enforcement does not have sufficient resources to proactively locate and contact armed and prohibited persons. To address this problem, Attorney General Harris sponsored Senate Bill 819 in 2011 to fund increased enforcement efforts. After its enactment, Attorney General Harris ordered a series of sweeps that successfully took firearms out of the possession of persons prohibited due to their criminal histories or mental health. After the success of these sweeps, Attorney General Harris sought and received additional resources from the Legislature in July 2013, via Senate Bill 140, to hire 36 additional agents for the APPS program. This has enabled the DOJ to conduct 13,313 APPS investigations from July 1, 2013, to May 30, 2015, and reduced the APPS subject backlog from an estimated 28,000 subjects (if not for the additional resources acquired via SB 140) to 15,797 APPS subjects as of June 19, 2015. That is a net reduction of more than 12,000 subjects.

DOJ is committed to eliminating the APPS historical backlog by December 2016. As previously indicated, the DOJ has continued to monitor and respond to workload fluctuations impacting APPS processing. Additionally, the DOJ did establish realistic goals to complete the backlog by December 31, 2016. However, the unforeseen loss of analytical staff, and the continued high level of firearms sales have forced the DOJ to redirect staff to meet the legislative time frames associated with completing background checks on firearm purchases in California. The DOJ agrees with this recommendation and is currently in the process of implementing a strategy to temporarily redirect staff from other areas of the department to assist with the historical backlog and for adding analytical staffing resources to the BOF to meet workload demands, thereby eliminating the need to redirect staff away from the goal of eliminating the APPS historical backlog by December 31, 2016.

In addition to the above response to the auditor's follow-up report, DOJ provided an update in its recent SB 140 Supplemental Report. As of January 1, 2016, the historical backlog had been reduced to 122,566.

Firearms and Domestic Violence Education and Intervention Project. Domestic violence involving firearms is a serious problem in California. Most intimate partner homicides involve firearms. Among women in shelters in California, one third come from homes where firearms are kept, and two thirds of those women report that their partner has used a firearm against them. Since 1999, California has prohibited the possession of firearms by persons subject to domestic violence restraining orders. Research suggests that such a prohibition may be effective, but it has never been systematically enforced.

In 2006, the California Department of Justice began work with San Mateo County and Butte County on pilot programs of systematic enforcement of the firearms prohibition. The initiative sought to identify persons owning or possessing firearms among respondents to domestic violence restraining orders and recover or otherwise dispose of their firearms as quickly as possible. San Mateo County implemented its initiative in May 2007; Butte County followed in April 2008. Both pilot programs ended in June 2010.

Teams of two detectives in each county reviewed all domestic violence restraining orders issued in their counties. To determine whether respondents were linked to firearms, detectives checked records in the state's Automated Firearm System (AFS) and other databases and reviewed the documents accompanying every order. Reports from petitioners were enhanced by a firearm identification form used by both teams. When firearm involvement was known or suspected, the teams often interviewed protected parties to gather additional information.

According to the evaluation of the pilot, "Considered alone, recovering firearms from restraining order respondents was associated with substantial and statistically significant decreases in overall risk of arrest in San Mateo County and a comparable, though non-significant, decrease in risk of arrest for violent and firearm-related crimes other than domestic violence. This is a particularly promising finding given the large increase in risk among respondents who had multiple prior arrests, a characteristic shared by nearly 85 percent of respondents who had been linked to firearms in both counties."¹

Questions for the Department of Justice. DOJ should be prepared to address the following questions:

1. In 2013, the legislature appropriated \$24 million to the Department of Justice to reduce the backlog in the Armed Prohibited Persons System (APPS). How much of the \$24 million has been spent? Please describe how these funds were spent.
2. Over \$18 million has been spent of the \$24 million appropriation. What was the backlog in the APPS in July of 2013? What is the current backlog?
3. The Department of Justice has had a difficult time retaining agents to handle the APPS cases. In fact, in the January 1, 2016 Supplemental report, the Department stated "At the start of Fiscal Year 2014-2015 there were 78 agent positions, 55 which were filled. During this timeframe: 28 agents were hired; 19 agents transferred to another bureau with the Department; three agents retired; two agents returned to their prior employer; and two agents promoted." The number of transfers appears to be drastically reduced in 2015-2016, what caused this reduction? Why did the department not take action to limit transfers prior to legislative involvement?
4. After much discussion last year, the legislature requested that the Department of Justice consider sending letters to individuals on the APPS. According to the January 2016 Supplemental Report, the department stated that it has sent out 55 letters in December. How many cases have been closed as a result of these letters? Are there plans to expand the letter program? The January 2016 Supplemental Report states that the department has determined that it will not send letters to individuals who are prohibited because of a felony, violent misdemeanor, mental health adjudication or domestic violence restraining order, is this still the department's position?

¹ "Firearms and Domestic Violence Education and Intervention Project Final Report of Process and Outcomes." Violence Prevention Research Program, School of Medicine, University of California, Davis and Center for Gun Policy and Research, Bloomberg School of Public Health, Johns Hopkins University. April 2012 (Revised October 2012).

5. Please describe the Firearms and Domestic Violence Education and Intervention Project and its outcomes.
6. Given the pilot project in San Mateo and Butte counties, and your partnerships with other state and local law enforcement through task forces committed to combating gang activity and drug trafficking, why hasn't DOJ expanded on those efforts in the area of APPS and gun trafficking?

Staff Comments

Create an Incentive for Local Law Enforcement Agencies to Collect Firearms. Given the success of the San Mateo and Butte counties pilot project, the committee may wish to consider creating an incentive program designed to provide an incentive payment equal to the APPS average cost per investigation for every new APPS case resulting from a domestic violence restraining order, gun violence restraining order or mental health prohibition that is closed at the local level.

Seek Assistance from Other Statewide Entities. Given the on-going struggle of DOJ to fill investigative positions in their firearms bureau and to process the APPS backlog and assess new cases, the Legislature may want to consider creating a partnership between DOJ and other state-wide law enforcement entities, like the California Highway Patrol (CHP), to investigate prohibited persons and firearms trafficking cases, and retrieve prohibited firearms and ammunition. DOJ currently focuses on a geographic region of the state for its APPS investigations, rather than prioritizing new cases throughout the state that may be easier to resolve. The CHP has officers stationed widely throughout the state. This partnership may allow the state to prioritize cases based on time in the system, rather than geographic region, thus resolving cases more quickly.

Prohibit the Transferring of Resources From One Program Area to Another. One problem raised during discussions surrounding DOJ's efforts to investigate firearms, and in the auditor's follow-up report, is that the department appears to shift or loan both sworn and non-sworn staff among their various bureaus and programs in order to increase the number of investigations in one area versus another area. The Legislature may wish to restructure the DOJ budget to prohibit or restrict the movement of personnel and funding from one area to another.

Should DOJ Increase the DROS Fee? Under current law, the DROS fund is intended to provide DOJ with the funding necessary for all firearms-related regulatory and enforcement activities related to the sale, purchase, possession, loan or transfer of firearms. Should the fee prove insufficient, DOJ has the authority to increase the fee at a rate not to exceed the Consumer Price Index (CPI). (Penal Code § 28225) The Legislature may wish to suggest that DOJ increase the DROS fee, rather than authorizing use of the FS&E fund for APPS-related activities. Should the CPI prove to be an inadequate increase, DOJ may wish to propose a statutory change allowing them to increase the fee beyond the CPI.

Remove Continuous Appropriations. As noted above, the DROS fund requires an appropriation from the Legislature for all expenditures; the other two firearms-related funds do not. Allowing other branches of government to spend funds without legislative authority or appropriation potentially erodes the Legislature's constitutional authority to establish policy priorities and funding levels for the state. It has been a long-standing policy among the fiscal committees in both houses to limit or prohibit continuous appropriations. The Legislature may wish to consider removing the continuous

appropriations from both the FS&E fund and the FSA fund, regardless of the Legislature's decision on the APPS funding proposal.

Establish a Deadline for Reviewing New Cases. The State Auditor has recommended that the Legislature require DOJ complete an initial review of cases in the daily queue within seven days and periodically reassess whether DOJ can complete these reviews more quickly. The auditor believes that this would ensure that DOJ fairly balances competing responsibilities and avoids redirecting APPS unit staff to conduct Dealers' Record of Sale background checks.

Issue 2: Fraud and Elder Abuse Enforcement Enhancement

Governor's Budget. The Governor's budget proposes a \$7.8 million augmentation (\$5.9 million in federal funds and \$2 million from the False Claims Act Fund), to support 35 additional positions for the bureau, as well as to lease office space for the establishment of three satellite offices in Fresno, Riverside, and San Francisco. The requested positions include: 18 special agents, 6 investigative auditors, 5 deputy attorney generals, 3 legal secretaries, 2 staff information systems analysts, and 1 office technician. DOJ plans to use the proposed resources to first eliminate the backlog of cases beginning in 2016–17. On an ongoing basis, the proposed resources would be used to address an anticipated increase in workload associated with an increasing elderly population and the Medi-Cal eligibility expansion. The department also intends to expand its abilities to investigate and prosecute fraud, such as by expanding its role in fraud related to managed care providers and using data-mining to identify patterns of fraudulent activity.

Background. Federal law requires that state attorneys general investigate allegations of Medicaid (Medi-Cal in California) fraud and complaints of abuse and neglect of patients in facilities paid by federal Medicaid funding. In 1978, the Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA) was created in the Attorney General's office. On average, the bureau opens 1,000 criminal investigations each year and they currently have approximately 231 backlogged cases.

Legislative Analyst's Office. The LAO has expressed concern over the on-going nature of the request. They recommend that the Legislature provide DOJ with \$7.8 million on a one-time basis from the Federal Trust Fund and the False Claims Act Fund to support 35 positions to eliminate an existing backlog largely related to abuse and neglect cases. However, as of this time, there is insufficient information to justify the need for these resources on an ongoing basis, as proposed by the Governor.

Questions for the Department of Justice. DOJ should be prepared to address the following questions:

1. One of DOJ's major justifications for ongoing resources is that the number of Medi-Cal beneficiaries has almost doubled, resulting in increased DOJ Medi-Cal fraud workload. However, DOJ is only responsible for fraud committed by providers (Department of Health Care Services is responsible for fraud committed by beneficiaries). As a result, an increase in beneficiaries doesn't necessarily increase DOJ workload. Why would an increase in the number of Medi-Cal beneficiaries increase DOJ workload? Has the number of Medi-Cal providers increased?
2. The bulk of BMFEA workload appears to involve elderly abuse and neglect cases. However, the justification in the BCP focuses more heavily on Medi-Cal provider fraud. How much ongoing workload can be attributed to abuse and neglect cases versus provider fraud cases?

Issue 3: Major League Sporting Event Raffles Program

Governor's Budget. The proposed budget requests a three-year limited-term General Fund increase of \$335,000 beginning in 2016-17 and two positions to address the workload related to the implementation of the Major League Sporting Event Raffles Program.

Background. Chapter 509, Statutes of 2015 (SB 549, Hall) authorizes a professional sports organization to conduct a 50/50 raffle for the purpose of directly supporting a specified beneficial or charitable purpose in California, or financially supporting another private, nonprofit, eligible organization. These types of charitable raffles are raffles in which 50 percent of the proceeds go to the winner, and 50 percent of the proceeds go to the local charities designated by the professional sports team for that particular event.

Legislative Analyst's Office (LAO). The LAO did not raise any concerns with this proposal in their analysis of the Governor's budget.

0250 JUDICIAL BRANCH

Background. The judicial branch is responsible for the interpretation of law, the protection of individual rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the state's 58 counties, and statewide entities of the branch (the Judicial Council, Judicial Branch Facility Program, and the Habeas Corpus Resource Center). The branch receives revenue from several funding sources, including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

Due to the state's fiscal situation, the judicial branch, like most areas of state and local government, received a series of General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. A number of these offsets were one-time solutions, such as the use of trial court reserves and, for the most part, those options have been exhausted. In addition, trial courts partially accommodated their ongoing reductions by implementing operational actions, such as leaving vacancies open, closing courtrooms and courthouses, and reducing clerk office hours. Some of these operational actions resulted in reduced access to court services, longer wait times, and increased backlogs in court workload.

Key Legislation

AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997, enacted the Lockyer-Isenberg Trial Court Funding Act of 1997, to provide a stable and consistent funding source for the trial courts. Beginning in 1997-98, consolidation of the costs of operation of the trial courts was implemented at the state level, with the exception of facility, revenue collection, and local judicial benefit costs. This implementation capped the counties' general purpose revenue contributions to trial court costs at a revised 1994-95 level. The county contributions become part of the Trial Court Trust Fund, which supports all trial court operations. Fine and penalty revenue collected by each county is retained or distributed in accordance with statute.

AB 1732 (Escutia), Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for transferring the responsibility for court facilities from the counties to the state, by July 1, 2007. It also established several new revenue sources, which went into effect on January 1, 2003. These revenues are deposited into the State Court Facilities Construction Fund (SCFCF) for the purpose of funding the construction and maintenance of court facilities throughout the state. As facilities were transferred to the state, counties began to contribute revenues for operation and maintenance of court facilities, based upon historical expenditures.

SB 1407 (Perata), Chapter 311, Statutes of 2008, authorized various fees, penalties and assessments, which were to be deposited into the Immediate and Critical Needs Account (ICNA) to support the construction, renovation, and operation of court facilities. In addition, the bill authorized the issuance of up to \$5 billion in lease-revenue bonds.

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, altered the administration of trial court reserves by limiting the amount of the reserves individual courts could carry from year to year to one percent of their funding and establishing a statewide reserve for trial courts, which is limited to two percent of total trial court funding.

In enacting these changes, the Legislature sought to create a trial court system that was more uniform in terms of standards, procedures, and performance. The Legislature also wanted to maintain a more efficient trial court system through the implementation of cost management and control systems.

Budget Overview. The Governor's proposed budget includes \$3.6 billion (\$1.7 billion General Fund and \$1.9 billion in other funds) in 2016-17 for the judicial branch. Of that amount, \$2.8 billion is provided to support trial court operations. The following table displays three-year expenditures and positions for the judicial branch; as presented in the Governor's budget.

(Dollars in thousands)

Program	2014-15	2015-16	2016-17
Supreme Court	\$43,363	\$46,519	\$46,438
Courts of Appeal	211,101	219,274	224,784
Judicial Council	134,104	134,203	133,173
Judicial Branch Facilities Program	320,469	369,788	409,904
State Trial Court Funding	2,537,897	2,674,738	2,804,693
Habeas Corpus Resource Center	12,819	14,525	15,015
Offset from Local Property Tax Revenue	-30,000	-30,000	-30,000
Total	\$3,228,997	\$3,429,047	\$3,604,007
Positions	1752.2	1714.0	1,717.0

Issue 1: Trial Court Augmentation and On-Going Trial Court Shortfall

Governor's Budget. The Governor's proposed 2016–2017 budget provides approximately \$4 billion for the judicial branch and includes \$146.3 million in new funding. The proposed new funding would be allocated for innovation grants, language access expansion in civil proceedings, workload associated with Proposition 47 implementation, Trial Court Trust Fund revenue shortfall backfill, and court construction projects.

The \$4 billion budget proposal for the judicial branch includes \$1.7 billion in General Fund, representing 1.4 percent of all General Fund spending. The judicial branch represents 2.1 percent of total state funds of \$170.7 billion. Approximately 77 percent of the branch's operational budget is allocated to the trial courts.

Prior Budget Actions. Over the last several years, the Legislature has included augmentations in the trial court budget in an attempt to begin reducing the funding shortfall and to ensure that the gap does not continue to grow.

In the 2014-15 budget, the Legislature approved an increase of \$60 million General Fund for trial court funding, for a total General Fund increase of \$160 million. Specifically, the budget included a five percent increase in state trial court operations, for a total increase of \$86.3 million. In addition, the budget provided an increase of \$42.8 million General Fund to reflect increased health benefit and retirement adjustment costs for trial court employees. Finally, the Legislature authorized a General Fund increase of \$30.9 million to account for an estimated shortfall in the Trial Court Revenue Trust Fund.

In 2015-16 the state's overall trial court budget provides an increase of \$168 million, or 9.7 percent, from the 2014-15 amount. This augmentation included \$90.6 million General Fund in on-going additional funding to support trial court operations; \$42.7 million General Fund for increases in trial court employee benefit costs; and \$35.3 million General Fund to backfill reductions in fine and penalty revenue in 2015-16. In addition, the budget:

- **Trial Court Trust Fund Revenue Shortfall.** Provided additional \$15.5 million General Fund to cover the revenue shortfall in the trial court budget. This brought the total General Fund transfer for the shortfall to \$66.2 million.
- **Dependency Counsel.** Increased funding for dependency court attorneys in 2015-16 and on-going by \$11 million in General Fund. In addition, the budget shifted all dependency counsel funding to a separate item within the trial courts budget to insure that it remains dedicated to funding attorneys who represent children and their parents in the dependency court system.

**Trial Court Funding Reductions and Offsets
(Dollars in Millions)**

Source: Legislative Analyst's Office, 2016

Trial Court Reductions	2012-13	2013-14	2014-15	2015-16	2016-17 (proposed)
One-time reduction	-\$418	\$0	\$0	\$0	\$0
Ongoing reductions (ongoing)	-\$724	-\$664	-\$577	-\$486	-\$466
Total	-\$1,142	-\$664	-\$577	-\$486	-\$466
Funding Offsets	2012-13	2013-14	2014-15	2015-16	2016-17 (proposed)
Transfer from other funds	\$401	\$107	\$107	\$93	\$93
Trial court reserves	\$385	\$200	\$0	\$0	\$0
Increased fines and fees	\$121	\$121	\$121	\$121	\$121
Statewide programmatic changes	\$21	\$21	\$21	\$21	\$21
Total	\$928	\$449	\$249	\$235	\$235
Total Trial Court Reductions	-\$214	-\$215	-\$328	-\$251	-\$231

Budget impact on children in the child welfare system. When a child is removed from his or her home because of physical, emotional, or sexual abuse, the state of California assumes the role of a legal parent and local child welfare agencies are entrusted with the care and custody of these children. County child welfare works in partnership with the courts, attorneys, care providers, and others to meet desired outcomes of safety, permanency, and well-being for foster children. Through the dependency court, critical decisions are made regarding the child's life and future – i.e., whether the child will return to his or her parents, whether the child will be placed with siblings, and what services the child will receive.

Every child in the dependency court system is assigned his or her own attorney who represents that child's interests. Budget reductions over the years have increased the caseloads of children's attorneys. Children's attorneys represent, on average 250 clients per year, far above the recommended optimal standard of 77 clients and maximum of 188 clients per attorney. Inadequate funding can impede services to children and families and may result in delays in court hearings, all of which undermines county child welfare's efforts for improved outcomes for children, such as reunifying children with their families, placing children with siblings, and finding a permanent home through adoption or guardianship.

For several years, the Legislature has worked to increase funding for dependency counsel but has remained largely unsuccessful. In the 2015-16 budget, the Legislature included \$11 million General

Fund augmentation to reduce the overall funding need from \$33 million to \$22 million. In addition, the Legislature shifted dependency counsel funding into its own budget item to ensure that those funds would remain dedicated to dependency counsel and could not be shifted to other funding priorities.

At the urging of the Administration, the Judicial Council was asked to develop a new funding methodology to determine the appropriate caseload and funding level for dependency attorneys. In addition, the Judicial Council was asked to begin redistributing funding among the courts to create a more equitable attorney-client caseload ratio throughout the different courts. The Judicial Council has completed the first phase of a three phase redistribution process.

Budget Impact on legal aid services. The Equal Access Fund (EAF) supports approximately 100 legal aid non-profits providing critical assistance to low-income Californians throughout the state. The EAF was established in 1999 with a \$10 million on-going General Fund appropriation, in subsequent years the EAF also began to receive a portion of court filing fees. The Governor's budget contains a total of approximately \$16 million (\$10.6 million General Fund and \$5.5 million special fund). Legal aid services providers argue that their funding remains unchanged despite significant increases in the number of clients who need their services. Providers further note that California was 10th in the nation in state funding for legal services but has now fallen to 22nd in the nation. They further note that the state of New York provides \$85 million per year for their legal aid programs.

Dependency attorneys and legal aid services providers are just two of many groups in recent years that have expressed concern that reductions in court funding has significantly reduced Californians' access to justice. In addition to concerns from these entities, across the state courthouses and courtrooms have been closed and hours have been reduced due to a lack of funding. The latest data available shows that between October 19, 2010 and April 2014, the Judicial Council had received notice of the following reductions:

- 51 courthouses closed.
- 205 courtrooms closed.
- 30 courts with reduced public service hours.
- 37 courts with reduced self-help/family law facilitator services.

Legislative Analyst's Office (LAO). The Governor's budget proposes a \$20 million General Fund base augmentation for trial court operations. The LAO notes that the Administration has not provided sufficient information to justify why the trial courts need this additional funding. For example, it is unclear what specific needs at the trial courts are not currently being met that necessitate an augmentation. Moreover, the LAO notes that the Governor's budget already includes \$72 million for workload changes, increased costs, and the expansion of specific services—making it even less clear why the proposed \$20 million in resources is needed for trial court operations. Accordingly, the LAO recommends rejecting the proposal.

Questions for the Administration. The Judicial Council and the Administration should be prepared to address the following questions:

1. Please explain how the Administration arrived at the \$20 million base augmentation figure.

2. The reallocation of funding for dependency counsel contained in last year's budget was approved with the assumption that increased funding would likely be provided to help mitigate the cuts to courts that had previously invested heavily in their dependency counsel funding. Does the Judicial Council intend to continue with the reallocation despite the lack of additional funding?

3. If available, please provide an update on the number of courthouses and court rooms closed and the number of courts that continue to have reduced hours.

Issue 2: Court Innovations Grant Program

Governor’s Budget. The Governor’s budget proposes \$30 million in one–time General Fund support to create a new Court Innovations Grant Program. According to background information provided by the Administration, the proposed program, which would be developed and administered by Judicial Council, would provide grants on a competitive basis to support trial and appellate court programs and practices that promote innovation, modernization, and efficiency. Grants would be two to three years in duration and could be awarded up until 2019–20. Grant funds could be encumbered through 2019–20, after which any unexpended funds would revert to the state General Fund.

According to the Administration, courts would be required to describe how grant funds are to be used to support the development of sustainable, ongoing programs and practices that can be adopted and replicated by other courts. Participating programs will also be required to provide measurable results, outcomes, or benefits to demonstrate the impact of the program on the court and the public.

Legislative Analyst’s Office (LAO). The LAO recommends that the Legislature withhold action on the Governor’s proposal to provide \$30 million in one–time funding from the General Fund for trial and appellate court innovation, modernization, and efficiency projects, pending additional information from the Administration and judicial branch (such as the specific programs and services that would be funded). To the extent that such information is not provided, the LAO recommends the Legislature reject the proposal.

Questions for the Administration. The Administration and the Judicial Council should be prepared to address the following questions:

1. Please provide some specific examples of the projects envisioned under this grant program. What is the estimated savings associated with the proposals?

Issue 3: Rate Increase for Appellate Attorneys

Governor's Budget. The Governor's budget includes an on-going augmentation of \$4.3 million General Fund to provide a \$10 per hour rate increase for panel attorneys appointed by the Courts of Appeal.

Background. Under the United States Constitution, indigent defendants convicted of felony crimes have a right to a court-appointed attorney for the initial appeal of their convictions. These appeals court appointed attorneys are paid hourly for their duties. Statewide there are currently 890 attorneys have been appointed by the court of appeal to represent indigent defendants. Currently, these attorneys are paid between \$85 and \$105 per hour for their work. The Judicial Council believes that a \$10 per hour increase is necessary in order to attract and recruit new attorneys and retain experienced attorneys.

Judicial Council Request. As noted above, the Governor's budget requests funding for a rate increase for the appellate attorneys. The Judicial Council, however, has raised concerns about the adequacy of funding for the appellate projects. These organizations manage the court-appointed counsel system in that district and perform quality control functions. The projects are responsible for working with the panel attorney to ensure effective assistance is provided, reviewing claims for payment for the work performed by the panel attorneys to ensure consistency and controls over the expenditure of public money, and training attorneys to provide competent legal counsel.

The Judicial Council requests a \$2.2 million increase for California's six Appellate Projects to allow them to continue providing competent representation in criminal and juvenile cases in the Courts of Appeal and death penalty cases in the Supreme Court (\$1.4 million combined for the five Court of Appeal appellate projects working on non-death penalty cases, \$800,000 for the Supreme Court appellate project working on death penalty cases). The council notes, "The Appellate Projects are critical to ensuring that we satisfy the constitutional guarantee that indigent defendants convicted of a felony have competent counsel."

The council further argues, "Virtually all of the funding for the Appellate Projects comes from the contracts they have with the Courts of Appeal. While the costs of rent, employee benefits, mandatory professional and fiduciary insurance, the need for improved technology, and all other costs of doing business have increased substantially, the amount of funding available for these projects has not increased since FY 2007-08. Absent additional funding, the projects have indicated they will no longer be able to continue providing the same level of services, oversight, and support for the panel attorneys and the courts."

Legislative Analyst's Office (LAO). The LAO did not raise any concerns with this proposal in their analysis of the Governor's budget.

Questions for the Administration. The Judicial Council and the Administration should be prepared to address the following questions:

1. Given the wide variety of needs, including dependency counsel and legal aid services funding shortages, how did you determine that an increase in funding for appellate attorneys was the most critical need at this time?
2. Why didn't the Administration believe an augmentation was necessary for the appellate projects but that one was warranted for the appellate attorneys?

Issue 4: Language Access

Governor's Budget. The Governor's budget includes an on-going General Fund augmentation of \$7 million to expand language interpreter services to all civil proceedings.

Background. On January 22, 2015, the Judicial Council approved a comprehensive *Strategic Plan for Language Access in the California Courts*, which includes eight strategic goals and 75 detailed recommendations to be completed in three distinct phases." Fundamental to the plan is the principle that the plan's implementation will be adequately funded so the expansion of language access services will take place without impairing other court services. The Judicial Council created Language Access Plan Implementation Task Force charged with turning the Language Access Plan (LAP) into a practical roadmap for courts by creating an implementation plan for full implementation in all 58 trial courts.

The annual funding for court interpreter services has historically been limited primarily to constitutionally-mandated cases, including criminal cases and juvenile matters. Current funding is not sufficient to support growth and expansion of interpreter services into domestic violence, family law, guardianship and conservatorship, small claims, unlawful detainers and other civil matters. This augmentation will allow the courts to continue to provide court interpreter services in civil matters, and assure all 58 trial courts that increased funding for expanded court interpreter services for limited English proficient court users in civil is available.

Legislative Analyst's Office (LAO). The LAO did not raise any concerns with this proposal in their analysis of the Governor's budget.

8140 OFFICE OF THE STATE PUBLIC DEFENDER**Issue 1: Defense Services for Condemned Inmates**

Governor's Budget. The budget proposal requests \$1.05 million and 7.5 permanent positions (4.5 attorneys, 1 legal analyst, 1 association information systems analyst, and 1 staff services analyst) to address a delay in the office's ability to accept new appointments in death penalty cases.

Background. The California Legislature created the Office of the State Public Defender (OSPD) in 1976 to represent indigent criminal defendants on appeal. The office was formed in response to the need for consistent, high-quality representation of defendants in the state appellate courts. Over the years, the mission of the agency has changed. At the time, it was envisioned that OSPD would provide a counter-weight to the Attorney General's criminal appeals division. In the 1990s OSPD shifted its resources to focus primarily on post-conviction appellate representation in death penalty cases. In 1998, OSPD's primary statutory mission became the representation of indigent death row inmates in their post-conviction appeals.

Over the past decade, OSPD lost 50 percent of their staff due to budget reductions. OSPD notes that this reduction has made it impossible for them to accept appointments in death penalty appeals in a timely manner. The office further notes that this will not fully address their current backlog, but it is a first step.

Currently, 59 death row inmates await the appointment of appellate court counsel. According to OSPD, it generally takes at least five years for an inmate to receive appellate court counsel.

Legislative Analyst's Office (LAO). The LAO did not raise any concerns with this proposal in their analysis of the Governor's budget.

0280 COMMISSION ON JUDICIAL PERFORMANCE**Issue 1: Increased Workload**

Governor's Budget. The budget proposal requests \$257,000 General Fund for one investigative attorney and one staff secretary.

Background. The Commission on Judicial Performance (CJP) is an independent, constitutionally-created body that was established in 1960. CJP is responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges. The commission's jurisdiction includes all active judges and justices of California's superior courts, Courts of Appeal and Supreme Court, and former judges for conduct prior to retirement or resignation.

Justification. Over the past 10 years, CJP's workload has increased. In 2014, CJP received 1,302 complaints against judges and subordinate judicial officers, a 16 percent increase over the 1,120 complaints received in 2005. The commission conducted 139 investigations in 2014, which constitutes a 78 percent increase over the investigations conducted in 2005. CJP has not received authorization or funding for additional staff since 1999-2000. CJP notes that over the past decade, investigations have taken considerably longer. The average length of an investigation is now over 16 months, as opposed to 10 months a decade ago. The increased length of the investigations have resulted in fewer formal proceedings, resulting in a number of serious cases being backed up for hearings.

Legislative Analyst's Office (LAO). The LAO did not raise any concerns with this proposal in their analysis of the Governor's budget.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, March 17, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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ITEMS TO BE HEARD

5225 CALIFORNIA CORRECTIONAL HEALTHCARE SERVICES (CCHCS)

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 34 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 current receiver was appointed in January of 2008. The receivership continues to be unprecedented in size and scope nationwide.

The receiver is tasked with the responsibility of bringing the level of medical care in California's prisons to a standard which no longer violates the U.S. Constitution. The receiver oversees over 11,000 prison health care employees, including doctors, nurses, pharmacists, psychiatric technicians and administrative staff. Over the last ten years, healthcare costs have risen significantly. The estimated per inmate health care cost for 2015-16 (\$21,815) is almost three times the cost for 2005-06 (\$7,668). The state spent \$1.2 billion in 2005-06 to provide health care to 162,408 inmates. The state estimates that it will be spending approximately \$2.8 billion in 2016-17 for 128,834 inmates. Of that amount, \$1.9 billion is dedicated to prison medical care under the oversight of the receivership.

CDCR Historical Health Care Costs Per Inmate

Program	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Medical	\$10,841	\$12,917	\$12,591	\$13,661	\$15,496	\$16,843
Dental	\$1,094	\$1,128	\$1,165	\$1,247	\$1,311	\$1,378
Mental Health	\$2,806	\$2,236	\$2,279	\$2,587	\$2,990	\$3,594
Total Health Care	\$14,740	\$16,281	\$16,035	\$17,496	\$19,796	\$21,815

Issue 1: Update on Healthcare Transition

Governor's Budget. The budget includes \$1.9 billion General Fund for prison medical care. At the request of the receiver, this amount includes \$26.8 million for increased pharmaceutical costs, \$12.1 million to expand janitorial services at the California Health Care Facility in Stockton, and \$11.9 million to establish executive healthcare management teams at prisons that currently share management oversight and create supervisory ratios for certain healthcare classifications. The Administration notes that these augmentations support the transition of medical care back to the state.

Background. On June 30, 2005, the United States District Court ruled in the case of *Marciano Plata, et al v. Arnold Schwarzenegger* that it would establish a receivership and take control of the delivery of medical services to all California prisoners confined by CDCR. In a follow-up written ruling dated October 30, 2005, the court noted:

By all accounts, the California prison medical care system is broken beyond repair. The harm already done in this case to California's prison inmate population could not be more grave, and the threat of future injury and death is virtually guaranteed in the absence of drastic action. The Court has given defendants every reasonable opportunity to bring its prison medical system up to constitutional standards, and it is beyond reasonable dispute that the State has failed. Indeed, it is an uncontested fact that, on average, an inmate in one of California's prisons needlessly dies every six to seven days due to constitutional deficiencies in the CDCR's medical delivery system. This statistic, awful as it is, barely provides a window into the waste of human life occurring behind California's prison walls due to the gross failures of the medical delivery system.

Since the appointment of the receivership, spending on inmate health care has almost tripled. A new prison hospital has been built, new systems are being created for maintaining medical records and scheduling appointments, and new procedures are being created that are intended to improve health outcomes for inmates. According to the CCHCS, over 450,000 inmates per month have medical appointments and the rate of preventable deaths has dropped 54 percent since 2006 (from 38.5 per 100,000 inmates in 2006 to 17.7 per 100,000 inmates in 2014).

Chief Executive Officers for Health Care. Each of California's 34 prisons has a chief executive officer (CEO) for health care who reports to the receiver. The CEO is the highest-ranking health care authority within a CDCR adult institution. A CEO is responsible for all aspects of delivering health care at their respective institution(s) and reports directly to the receiver's office.

The CEO is also responsible for planning, organizing, and coordinating health care programs at one or two institutions and delivering a health care system that features a range of medical, dental, mental health, specialized care, pharmacy and medication management, and clinic services.

Serving as the receiver's advisor for institution-specific health care policies and procedures, the CEO manages the institution's health care needs by ensuring that appropriate resources are requested to support health care functions, including adequate clinical staff, administrative support, procurement, staffing, and information systems support.

Regional CEOs. As part of transition activities, the receivership has been in discussions with CDCR regarding what would be the appropriate organizational model for oversight of institutional health care. Under CDCR, both dental and mental health had previously adopted, and had in place, a geographical, “regional” model for organizational oversight of their activities. As part of the movement toward transitioning medical care back to the state, the receiver felt that creation of cohesive, interdisciplinary regions that included medical leadership would lead to a more sustainable model for the future. As a result, the receiver took steps to hire four regional CEOs and worked with CDCR to align each region geographically so that medical, mental health, and dental executives consistently oversee the same institutions on a regional basis. The four regions are as follows:

Region I: Pelican Bay State Prison, High Desert State Prison, California Correctional Center, Folsom State Prison, California State Prison Sacramento, Mule Creek State Prison, California State Prison San Quentin, California Medical Facility, and California State Prison Solano.

Region II: California Health Care Facility, Stockton, Sierra Conservation Center, Deuel Vocational Institution, Central California Women’s Facility, Valley State Prison, Correctional Training Facility, Salinas Valley State Prison, and California Men’s Colony.

Region III: Pleasant Valley State Prison, Avenal State Prison, California State Prison Corcoran, Substance Abuse Treatment Facility, Kern Valley State Prison, North Kern State Prison, Wasco State Prison, California Correctional Institution, California State Prison Los Angeles County, and California City Prison.

Region IV: California Institution for Men, California Institution for Women, California Rehabilitation Center, Ironwood State Prison, Chuckawalla Valley State Prison, Calipatria State Prison, Centinela State Prison, and RJ Donovan Correctional Facility.

Each region consists of a regional health care executive, one staff services analyst/associate governmental program analyst, one office technician, and one health program specialist I. The cost for each of the regional offices is \$565,000 per year, with a total budget for regional CEOs of almost \$2.25 million per year.

Office of Inspector General (OIG) – Medical Inspections. In 2007, the federal receiver approached the Inspector General about developing an inspection and monitoring function for prison medical care. The receiver’s goal was to have the OIG’s inspection process provide a systematic approach to evaluating medical care. Using a court-approved medical inspection compliance-based tool, the OIG’s Medical Inspection Unit (MIU) was established and conducted three cycles of medical inspections at CDCR’s 33 adult institutions and issued periodic reports of their findings from 2008 through 2013.

In 2013, court-appointed medical experts began conducting follow-up evaluations of prisons scoring 85 percent or higher in the OIG’s third cycle of medical inspections. (Those evaluations are discussed in more detail in a later item.) The expert panel found that six of the ten institutions evaluated had an inadequate level of medical care, despite scoring relatively high overall ratings in the OIG’s evaluations. The difference between the two types of evaluations resulted in very different findings. The OIG’s evaluations focused on the institutions’ compliance with CDCR’s written policies and procedures for medical care. The court experts, however, focused on an in-depth analysis of individual

patients' medical treatment to determine the quality of care at each prison. After meeting with the receiver's office and the court medical experts, the Inspector General decided that his inspections should be modified to include the methodologies used by the medical experts in order to determine the quality of care being provided.

Previous Budget Action. The 2015-16 budget provided \$3.9 million and 19 additional positions to allow the Office of the Inspector General (OIG) to annually evaluate the quality of medical care provided to inmates in all of the California Department of Corrections and Rehabilitation (CDCR) adult institutions. The medical inspections staff increase included:

- Three Analysts
- Three Nursing Consultants
- Three Physicians
- Nine Registered Nurses
- One Nursing Supervisor

Transition Planning. On September 9, 2012, the federal court entered an order entitled Receivership Transition Plan and Expert Evaluations. As part of the transition from the receivership, the court required the receiver to provide CDCR with an opportunity to demonstrate their ability to maintain a constitutionally-adequate system of inmate medical care. The receiver was instructed to work with CDCR to determine a timeline for when CDCR would assume the responsibility for particular tasks.

As a result of the court's order, the receiver and CDCR began discussions in order to identify, negotiate, and implement the transition of specific areas of authority for specific operational aspects of the receiver's current responsibility—a practice that had already been used in the past (construction had previously been delegated to the state in September 2009). On October 26, 2012, the receiver and the state reached agreement and signed the first two revocable delegations of authority:

- Health Care Access Units are dedicated, institution-based units, comprised of correctional officers, which have responsibility for insuring that inmates are transported to medical appointments and treatment, both on prison grounds and off prison grounds. Each institution's success at insuring that inmates are transported to their medical appointments/treatment is tracked and published in monthly reports.
- The Activation Unit is responsible for all of the activities related to activating new facilities, such as the California Health Care Facility at Stockton and the DeWitt Annex. Activation staff act as the managers for CDCR and coordinate activities such as the hiring of staff for the facility, insuring that the facility is ready for licensure, overseeing the ordering, delivery, and installation of all equipment necessary for the new facility, as well as a myriad of other activities. Activation activities, again, are tracked on monthly reports provided to the receiver's office.

In addition to the two delegations that have been executed and signed by the receiver and CDCR, the receiver has produced draft delegations of authority for other operational aspects of its responsibility which have been provided to the state. These operational aspects include:

- Quality Management
- Medical Services

- Healthcare Invoice, Data, and Provider Services
- Information Technology Services
- Legal Services
- Allied Health Services
- Nursing Services
- Fiscal Management
- Policy and Risk Management
- Medical Contracts
- Business Services
- Human Resources

Process for Delegating Responsibility to State. In March 2015, the Plata court issued an order outlining the process for transitioning responsibility for inmate medical care back to the state. Under the order, responsibility for each institution, as well as overall statewide management of inmate medical care, must be delegated back to the state. The court indicates that, once these separate delegations have occurred and CDCR has been able to maintain the quality of care for one year, the receivership would end.

The federal court order outlines a specific process for delegating care at each institution back to the state. Specifically, each institution must first be inspected by the Office of the Inspector General (OIG) to determine whether the institution is delivering an adequate level of care. The receiver then uses the results of the OIG inspection—regardless of whether the OIG declared the institution adequate or inadequate—along with other health care indicators, including those published on each institution’s Health Care Services Dashboard, to determine whether the level of care is sufficient to be delegated back to CDCR. To date, the OIG has completed inspections for 13 institutions and has found nine to be adequate and four to be inadequate.

As of March 11, 2016, the receiver has delegated care at Folsom State Prison and the Correctional Training Facility at Soledad back to CDCR. The receiver is currently in the process of determining whether to delegate care at the other institutions that have been found adequate by the OIG. In addition, the receiver could also delegate care at the four prisons deemed inadequate by the OIG if care has been found to have improved. The OIG plans to complete medical inspections for the remaining institutions by the end of 2016. The process for delegating the responsibility for headquarters functions related to medical care does not require an OIG inspection. Under the court order, the receiver only has to determine that CDCR can adequately carry out these functions.

Questions for the Healthcare Receiver. The receiver should be prepared to address the following:

1. Please provide an update on the delegation of any additional responsibility from the receiver to CDCR since last spring.
2. How are you training both the medical and custodial staff to ensure the provision of adequate medical care and that the staff understand what adequate care entails?
3. What procedures have you put in place throughout the system to ensure that adequate care continues once the receivership ends?

4. It has been a concern of the Legislature that there is on-going tension between the custody staff and medical staff in terms of proper procedures that should be followed when someone is in medical danger. In several incidents in recent years, the custody staff's concerns appear to have outweighed the medical staff's. What has the receiver's office done to develop a formal procedure for each institution that clarifies what should happen in such emergencies when the medical staff requires that someone be removed from a cell and the custody staff refuses? What type of training has been provided to both the custody staff and the medical staff in this area? Have you seen a change in the way that medical staff and custody staff are interacting?

Questions for the Department. The Administration should be prepared to address the following:

1. Please respond to the receiver's assessment of the current medical situation in the adult institutions.
2. What types of specialized training and written policies are provided to CDCR custody staff prior to allowing them to work in a medical unit or with inmate-patients?
3. The Department of State Hospitals uses medical technical assistants (MTA) instead of correctional officers to provide custody in their psychiatric inpatient programs. Does CDCR use MTAs to provide custody for inmates with significant medical or mental health needs? If not, why not?

Issue 2: California Health Care Facility – Stockton Janitorial Services

Governor’s Budget. The budget proposes five positions and \$6.4 million General Fund in the current year, and \$12 million General Fund in the budget year, to contract with PRIDE Industries to provide janitorial services for the California Healthcare Facility (CHCF) in Stockton.

Background. CHCF was designed and constructed to be a state-of-the-art medical facility that would provide care to inmates with high medical and mental health care needs. The construction of CHCF was completed in July 2013 and the receiver and CDCR began shifting inmates to the new hospital facility. The facility provides about 1,800 total beds including about 1,000 beds for inpatient medical treatment, about 600 beds for inpatient mental health treatment, and 100 general population beds. The CHCF cost close to \$1 billion to construct and has an annual operating budget of almost \$300 million.

Almost immediately after activation began, serious problems started to emerge. It was reported that there was a shortage of latex gloves, catheters, soap, clothing, and shoes for the prisoners. In addition, over a six-month period, CHCF went through nearly 40,000 towels and washcloths for a prison that was housing approximately 1,300 men. Investigations by officials at the facility found that the linens were being thrown away, rather than laundered and sanitized. In addition, the prison kitchen did not pass the initial health inspections, resulting in the requirement that prepared meals be shipped in from outside the institution. The problems were further compounded by staffing shortages and a lack of training. In addition, early this year, the prison suffered from an outbreak of scabies which the receiver’s office attributes to the unsanitary conditions at the hospital.

Despite being aware of serious problems at the facility as early as September of 2013, it was not until February of 2014, that the receiver closed down intake at the facility and stopped admitting new prisoners. In addition, the receiver delayed the activation of the neighboring DeWitt-Nelson facility, which is designed to house inmate labor for CHCF, prisoners with mental illnesses, and prisoners with chronic medical conditions who need on-going care. The CHCF resumed admissions in July 2014, and currently houses about 2,200 inmates.

PRIDE Industries. PRIDE is a non-profit organization operating in 14 states that employs and serves over 5,300 people, including more than 2,900 people with disabilities.

Previous Budget Actions. The 2015-16 budget included a General Fund augmentation of \$76.4 million, and 714.7 additional clinical positions to increase staffing at CHCF, including primary care, nursing, and support staff. The receiver is also received a supplemental appropriation to cover the partial-year cost of the proposed staffing increase in 2014-15. With the augmentation to CHCF, total clinical staffing costs increased from about \$82 million annually to about \$158 million, annually, and staffing levels increased from 810 positions to 1,525 positions.

The 2014-15 budget included a General Fund augmentation of \$12.5 million General Fund to increase staffing at CHCF to address problems raised by the federal healthcare receiver around plant operations, food services, and custody staffing.

Legislative Analyst’s Office (LAO). The LAO did not raise any concerns with this proposal.

Questions for the Healthcare Receiver. The receiver should be prepared to address the following:

1. Please describe the various alternatives you considered prior to entering into the contract with PRIDE Industries, including using state employees or the current CalPIA training program.
2. Concerns have been expressed about bringing potentially vulnerable individuals into a work environment that will require them to interact with individuals who perhaps have a history of manipulating, victimizing and preying on people. Please describe the steps PRIDE Industries, CDCR and the receiver's office are taking to ensure that CHCF will be a safe place to work for PRIDE employees.

Issue 3: Healthcare Supervisory Positions

Governor's Budget. The Governor's budget proposes a \$12 million General Fund augmentation and 68.6 additional positions to increase health care executive and supervisory staffing levels throughout the prison system.

Background. In 2014-15, the receiver adopted a medical classification staffing model (MCM) which is a new population methodology that is now used to adjust medical staffing based upon patient-inmate acuity and each institution's medical mission. That staffing model, however, did not include any adjustments in the supervisory classifications that are necessary to carry out the administrative functions of the healthcare facility.

In an effort to control costs, the first healthcare receiver implemented a sister institution structure for several prisons. While most institutions have their own health care executive management teams, there are 16 sister institutions—eight pairs of prisons that are very near to one another—that share health care executive management teams. The following are the current institution pairings:

- High Desert State Prison and the California Correctional Center
- Central California Women's Facility and Valley State Prison
- California Institution for Women and California Rehabilitation Center
- Avenal State Prison and Pleasant Valley State Prison
- Calipatria State Prison and Centinela State Prison
- California Correctional Institution and California City Correctional Facility
- Chuckawalla Valley State Prison and Ironwood State Prison
- Deuel Vocational Institution and Sierra Conservation Center

Previous Budget Actions. As noted above, in the 2014-15 budget, the Legislature approved a new healthcare staffing model which included the reduction of 148 positions and the approval of the implementation of the MCM.

Legislative Analyst's Office. The LAO recommends that the Legislature reject the Governor's proposal to provide a \$6 million augmentation in 2016-17 to provide for a separate executive management team at each institution, as such separate teams do not appear to be necessary in order to deliver a constitutional level of care.

While the LAO recognizes the need to transition control of inmate medical care back to the state in a timely manner, their analysis indicates that the need for each of the 16 sister institutions to have its own executive management team has not been justified.

Questions for the Healthcare Receiver. The receiver should be prepared to address the following:

1. Please address the LAO's findings that institutions that are sharing an executive team have been found to be providing a constitutional level of care. Why do you believe it is necessary at this time to require each institution to have its own, separate team?

Issue 4: Increased Pharmaceutical Costs

Governor's Budget. The proposed budget includes \$20 million General Fund in 2015-16 and \$27 million General Fund in 2016-17 and on-going to address shortfalls in pharmaceutical funding caused by increasing drug costs, the implementation of the Electronic Health Record System (EHRS) and the implementation of the Women's Health Care Initiative (WHCI). The specific components driving the increase are as follows:

- Pharmaceutical cost increases — \$27.6 million in 2015-16 and \$35.5 million in 2016-17.
- Implementation of the pharmacy program in EHRS — \$7.5 million in 2015-16 and \$5.5 million in 2016-17.
- Women's Health Care Initiative — \$632,000 beginning in 2016-17.
- Hepatitis C Treatment Savings — \$15 million in 2015-16 and 2016-17.

Background. The receiver's office is currently responsible for providing medical pharmaceuticals prescribed by physicians under his management, as well as psychiatric and dental medications prescribed by psychiatrists and dentists managed by CDCR. From 2004-05 through 2014-15, the inmate pharmaceutical budget increased from \$136 million to \$236 million. (The pharmaceutical budget reflects only the cost of pharmaceuticals and not the cost of medication distribution or management.) According to information provided by the LAO, the level of spending on pharmaceuticals per inmate has also increased over this time period, increasing from \$860 in 2004-05 to \$2,000 by 2014-15, an increase of over 130 percent.

Women's Health Care Initiative. Recently, CCHCS established a Women's Health Care Initiative that is responsible for insuring that the health care of incarcerated female patients meets community standards. Among other findings, it was determined that family planning services at the California Institution for Women, the Central California Women's Facility and the newly established Folsom Women's Facility needed enhancements. As a result, part of the pharmaceutical budget will now include funding for birth control/contraception services for female patients who would benefit from their use. Effective use of family planning services will reduce the risks of unwanted pregnancies as a result of conjugal visits, as well as providing services for women nearing parole who are seeking assistance.

Previous Budget Actions. Last year's budget included a one-time General Fund augmentation of \$18.4 million in 2014-15 for unanticipated increases in the pharmaceutical budget. In addition, the budget included a General Fund increase of \$51.8 million in 2014-15, and \$60.6 million in 2015-16, for the cost of providing inmates with new Hepatitis C treatments.

Legislative Analyst's Office. An independently verified source to determine how pharmaceutical prices have changed, or are likely to change in the future, is an appropriate method to use when determining whether adjustments in the pharmaceutical budget are necessary. Accordingly, using the pharmaceutical consumer price index (CPI) for estimating future increases in pharmaceutical costs seems reasonable. However, the receiver proposes using past-year changes in the pharmaceutical CPI to estimate future-year changes, rather than relying on available projections of how the pharmaceutical CPI is actually expected to change. Using pharmaceutical CPI projections is preferable as it may account for changes in the market that are not reflected in the past-year values of the index. For example, pharmaceutical CPI projections for 2015-16 and 2016-17 are lower than the 4.9 percent

growth assumed by the receiver. Specifically, projections of the pharmaceutical CPI suggest that prices will only increase by 3.8 percent in 2015–16 and by 3.3 percent in 2016–17. Accordingly, these projections suggest that the pharmaceutical budget requires \$1.7 million less than proposed by the Governor in 2015–16 and \$4.3 million less in 2016–17.

In view of the above, LAO recommends that the Legislature approve increases to the inmate pharmaceutical budget based on projections for the pharmaceutical CPI in 2015–16 and 2016–17. However, in order to determine the appropriate adjustments, they recommend the Legislature hold off on taking such action until the receiver provides additional information. Specifically, the receiver should provide by April 1 (1) an updated estimate of current–year monthly pharmaceutical expenditures, and (2) an updated estimate of the pharmaceutical CPI for the remainder of the current–year and the budget–year based on the most recent projections available.

Questions for the Healthcare Receiver. The receiver should be prepared to address the following:

1. Please respond to the LAO recommendation and explain why the current methodology does not rely on available CPI projections for pharmaceutical costs and instead relies on past changes.

Issue 5: Recruitment and Retention/Student Loan Repayment Program

Background. In 2007, the Plata Workforce Development Unit was created in response to a court order requiring the receiver to develop a detailed plan designed to improve prison medical care. The unit consisted of 40 positions dedicated to the recruitment and retention of positions within the medical program deemed critical to providing a constitutional level of medical care. The goal was met in 2010 and the positions were shifted to other healthcare improvement priorities.

A subsequent federal court order on March 27, 2014, requires CHCS to report on recruitment and retention in their tri-annual reports in order to ensure that healthcare facilities do not dip below a 10 percent vacancy rate. The latest recruitment and retention report submitted in January 2015; show that 18 prisons currently have a vacancy rate of less than 10 percent, including remote prisons such as Pelican Bay in Crescent City and Ironwood and Chuckawalla Valley prisons in Blythe. Another 13 prisons have a vacancy rate for physicians between 10 and 30 percent. Finally, two prisons, North Kern Valley and Salinas Valley, have a physician vacancy rate in excess of 30 percent. Given the vacancy patterns and the fact that in several instances, there is a disparity in the ability to recruit and retain adequate staff between prisons that are in very close proximity. For example, North Kern State Prison has at least a 30 percent vacancy rate for physicians, while neighboring Wasco State Prison has a physician vacancy rate of less than 10 percent. Similar examples can be seen throughout the report. This would suggest that geography or remoteness of institutions is not the reason for high turnover or high vacancies, rather something in the working conditions, culture or the running of the institution itself may be causing the difficulties in recruiting or retaining clinicians.

Availability of Student Loan Repayment Programs to Assist in Attracting Medical Staff. The receiver's workforce development unit has relied on tools such as the Federal Loan Repayment Program (FLRP) which provides physicians with federal funding to pay student loan debts in exchange for working in a federal-designated health professional shortage area. The state's prisons are often included in those designated areas. However, since 2012 FLRP funding has been reduced and fewer programs meet the requirements as a designated health professional shortage area. CCHCS notes that the number of employees receiving funding through FLRP (mostly psychiatrists) has decreased from 231 participants in 2012 to 36 participants in 2015, an 84 percent decrease.

Previous Budget Actions. The 2015 budget act included \$872,000 from the General Fund, and eight positions, to build an internal recruitment and retention program designed to recruit and retain clinicians and other medical personnel.

Questions for the Receiver. The receiver should be prepared to address the following:

1. The 2015-16 budget included funding to allow the receiver to increase clinician recruitment activities. Please provide an update on that effort.
2. The subcommittee held a joint hearing with the Senate Committee on Public Safety on March 15, 2016, to explore ways in which CDCR can better train and support staff working in the state's prisons. Specifically, the both committees would like to ensure that custody staff and others working in highly stressful and often volatile environment are provided with the tools they need to successfully navigate often complicated and difficult interactions with inmates. Similarly, the

medical staff in the institutions must often deal with difficult and stressful situations. Has your office considered ways in which training and other supports may need to be expanded to ensure the best environment for both the medial employees and the patients in their care?

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**Issue 1: Physician and Licensed Vocational Nurse Coverage**

Governor's Budget. The budget proposes \$2 million General Fund beginning in 2016-17 to provide additional medical coverage at the in-state contract facilities, as required by the federal receiver's office.

Background. The *Plata v. Brown* lawsuit requires that the state provide a constitutional level of care for all inmates in the state's prison system. While the receivership has been primarily focused on improving care at the 34 state-run institutions, the receiver has required that inmates housed in the in state contract facilities must receive a level of care that is consistent with the medical care provided to all patients housed within CDCR.

Legislative Analyst's Office. The LAO has not raised any concerns with this budget request.

Issue 2: Access to Healthcare

Governor's Budget. The Governor's budget requests \$9.4 million General Fund and 78.4 positions in 2016-17, \$11.8 million General Fund and 98.7 positions in 2017-18, and \$12.2 million General Fund and 102 positions in 2018-19 and ongoing, for increased staffing needs related to the Health Care Facility Improvement Program (HCFIP), triage and treatment areas/correctional treatment centers, and the heating, ventilation, and air conditioning system replacement at Ironwood State Prison.

All but five of the positions requested are for additional correctional officers. Sixty one of the new positions will be providing security for new or expanded primary care clinics at 23 institutions. The 36 remaining correctional officer positions will provide security at the triage and treatment areas or correctional treatment centers at 18 institutions. The standardized staffing model used by CDCR to determine staffing needs is based upon changes to the physical layout of a prison or changes in activities, rather than being based on the number of inmates housed in an institution. Therefore, despite a declining inmate population, the need for security staff is increasing.

The remaining five positions are for the stationary engineers due to the increased workload resulting from the construction of a new chilled water plant at Ironwood State Prison.

Background

Health Care Facility Improvement Program (HCFIP). As discussed in previous agenda items, the healthcare receivership was established by U.S. District Court Judge Thelton E. Henderson as the result of a 2001 class-action lawsuit (*Plata v. Brown*) against the State of California over the quality of medical care in the State's then 33 prisons. The court found that the medical care was a violation of the Eighth Amendment of the U.S. Constitution, which forbids cruel and unusual punishment. The state settled the suit in 2002, and in June 2005, Judge Henderson established a receivership for prison medical care. A major component of the receiver's "Turnaround Plan of Action" includes HCFIP.

The goal of HCFIP is to provide a facilities infrastructure within the CDCR institutions. This allows timely, competent, and effective health care delivery system with appropriate health care diagnostics, treatment, medication distribution, and access to care for individuals incarcerated within the CDCR. The existing health facilities, constructed between 1852 and the 1990s, were deficient and did not meet current health care standards, public health requirements and current building codes. The facilities also served a population that was greater in number than when it was originally built. These conditions were one of the conditions leading to the *Plata v. Brown* lawsuit.

Healthcare Access Unit (HCAU). Health Care Access Units (HCAU) are dedicated, institution-based units, comprised of correctional officers, which have responsibility for insuring that inmates are transported to medical appointments and treatment, both on prison grounds and off prison grounds. Each institution's success at insuring that inmates are transported to their medical appointments/treatment is tracked and published in monthly reports.

On October 26, 2012, delegation of the HCAUs was turned over to the secretary of CDCR. Upon the effective date of the delegation, the secretary assumed control of the HCAU. Because standardized staffing was implemented prior to the delegation of HCAU positions being turned over to the CDCR's direct control, the CDCR did not include HCAU posts in the reviews and standardization of custody

health care positions. The Division of Adult Institutions, working collaboratively with the California Correctional Health Care Services, has identified 18 institutions with custody staffing deficiencies within the triage and treatment areas and correctional treatment centers.

Standardized Staffing. In the 2012 Blueprint, CDCR established a standardized staffing model at the adult institutions to achieve budgetary savings and improve efficiency in operations. Prior to standardized staffing, the department's budget was adjusted on a 6:1 inmate-to-staff ratio based on changes in the inmate population—for every six inmates, the department received or reduced the equivalent of one position. These staffing adjustments occurred even with minor fluctuations in population and resulted in staffing inconsistencies among adult institutions. The prior staffing model allowed local institutions to have more autonomy in how budgeted staffing changes were made. The standardized staffing model provides consistent staffing across institutions with similar physical plant/design and inmate populations. The model also clearly delineates correctional staff that provide access to other important activities, such as rehabilitative programs and inmate health care. The concept that an institution could reduce correctional staff for marginal changes in the inmate population was not valid without further detriment to an institution's operations. Therefore, the standardized staffing model was established to maintain the staff needed for a functional prison system.

According to the Administration, given the significant population reductions expected as a result of realignment, using the CDCR's ratio-based adjustment would have resulted in a shortage of staff and prison operations would have been disrupted. The Administration argues that a standardized methodology for budgeting and staffing the prison system was necessary to provide a staffing model that could respond to fluctuations in the population and allow for the safe and secure operation of housing units at each prison regardless of minor population changes.

Legislative Analyst's Office. The LAO recommends that the Legislature reduce the Governor's proposal to provide \$524,000 for maintenance of the new central chiller system at Ironwood State Prison (ISP) by \$275,000 to reflect savings available from eliminating maintenance on the pre-existing cooling system.

Issue 3: Segregated Housing Unit Conversion

Governor's Budget. The Governor's budget proposes to reduce General Fund support for CDCR by \$16 million in 2015–16 and by \$28 million in 2016–17 to account for savings from a reduction in the number of inmates housed in segregated housing units. According to the department, the policy changes it is implementing pursuant to the *Ashker v. Brown* settlement will reduce the number of inmates held in ASUs and SHUs, allowing it to convert several of these units to less expensive general population housing units. For example, CDCR estimates that the number of inmates held in SHUs could decline by around 1,000, or about one-third of the current population.

In addition, the Administration requests \$3.4 million General fund for 2015-16 and \$5.8 million General Fund for 2016-17 to increase the number of staff in the Investigative Services Unit (ISU), which would offset the above 2016–17 savings. The redirected funding would support the addition of 48 correctional officers to the ISU, an increase of 18 percent. According to the Administration, these positions are needed to handle workload from an anticipated increase in gang activity related to the new segregated housing policies. Specifically, the department plans to use the additional positions to monitor the activities of gang members released to the general population. The department is requesting 22 of the proposed positions be approved on a two-year, limited-term basis because it has not yet determined the exact amount of ongoing workload associated with the segregated housing policy changes.

Background. CDCR currently operates different types of celled segregated housing units that are used to hold inmates separate from the general prison population. These segregated housing units include:

Administrative Segregation Units (ASUs). ASUs are intended to be temporary placements for inmates who, for a variety of reasons, constitute a threat to the security of the institution or the safety of staff and inmates. Typically, ASUs house inmates who participate in prison violence or commit other offenses in prison.

Security Housing Units (SHUs). SHUs are used to house for an extended period inmates who CDCR considers to be the greatest threat to the safety and security of the institution. Historically, department regulations have allowed two types of inmates to be housed in SHUs: (1) inmates sentenced to determinate SHU terms for committing serious offenses in prison (such as assault or possession of a weapon) and (2) inmates sentenced to indeterminate SHU terms because they have been identified as prison gang members. (As discussed below, changes were recently made to CDCR's regulations as a result of a legal settlement.)

Segregated housing units are typically more expensive to operate than general population housing units. This is because, unlike the general population, inmates in segregated housing units receive their meals and medication in their cells, which requires additional staff. In addition, custody staff are required to escort inmates in segregated housing when they are temporarily removed from their cells, such as for a medical appointment.

Ashker v. Brown. In 2015, CDCR settled a class action lawsuit, known as *Ashker v. Brown*, related to the department's use of segregated housing. The terms of the settlement include significant changes to many aspects of CDCR's segregated housing unit policies. For example, inmates can no longer be

placed in the SHU simply because they are gang members. Instead, inmates can only be placed in the SHU if they are convicted of one of the specified SHU-eligible offenses following a disciplinary due process hearing. In addition, the department will no longer impose indeterminate SHU sentences. The department has also made changes in its step-down program to allow inmates to transition from segregated housing (including SHUs and ASUs) to the general population more quickly than before.

Investigative Services Unit (ISU). CDCR currently operates an ISU consisting of 263 correctional officer positions located across the 35 state-operated prisons. Correctional officers who are assigned to the ISU receive specialized training in investigation practices. These staff are responsible for various investigative functions such as monitoring the activities of prison gangs and investigating assaults on inmates and staff.

Legislative Analyst's Office (LAO)

Proposed ISU Staffing Increase Lacks Detailed Workload Analysis. While the LAO acknowledges that the new segregated housing policies may drive some increased workload for the ISU, the department has not established a clear nexus between the policy changes and the increased workload. In particular, the department has been unable to provide a detailed analysis which indicates the specific workload increases that will result from the policy changes and how it was determined that 48 is the correct number of staff to handle this increased workload. Without this information it is difficult for the Legislature to assess the need for the requested positions.

Other Factors Have Impacted ISU Workload in Recent Years. There are a variety of factors that drive workload for the ISU, such as the number of violent incidences occurring in the prisons. It appears that a couple of these key factors have declined in recent years. First, the number of inmates in CDCR-operated prisons has decreased from about 124,000 in 2012-13 to a projected level of about 117,000 in 2015-16. Second, the number of assaults on inmates and staff has decreased from about 8,500 in 2012-13 to about 1,200 in 2014-15. Accordingly, the ISU now has fewer inmates to monitor and fewer assaults to investigate. Despite these developments, correctional officer staffing for the ISU has actually increased slightly from 253 officers in 2012-13 to 263 officers in 2014-15. This raises the question of whether any increased workload for the ISU resulting from segregated housing policy is offset by other workload decreases in recent years, meaning that potential workload increases could be accommodated with existing resources.

LAO Recommendation. The LAO recommends that the Legislature reject the Administration's proposal for \$5.8 million to fund increased staffing for the ISU because the proposal lacks sufficient workload justification, particularly in light of recent declines in other ISU workload.

Questions for the Administration. The Administration should be prepared to address the following:

1. Please provide an update on the SHU conversion. Have all inmates with indeterminate SHU terms been released?
2. Is CDCR providing any specialized programming to assist inmates who have served long SHU terms as they reintegrate back into the general prison population?

3. Please provide information on any problems that have arisen as a result of inmates being reintegrated back into the general population.

Issue 4: Alternative Housing for Inmates**Governor's Budget**

Conservation Camps. The budget does not propose any changes or expansions to the budget for the 44 conservation camps, and the budget proposes a combined CDCR/CalFIRE annual camp budget of approximately \$200 million General Fund.

Male Community Reentry Program (MCRP). The Governor's budget proposes \$32 million (General Fund) in 2016–17 and \$34 million in 2017–18 to expand the MCRP. The 2016–17 appropriation includes \$20 million to support existing contracts and \$12 million to expand the program. The proposed augmentation would allow CDCR to contract with four additional facilities—three in Los Angeles County and one in San Diego County—to provide an additional 460 beds. In addition, CDCR proposes to increase the amount of time participants can spend in the program from 120 days to 180 days.

Custody to Community Transitional Re-Entry Programs (CCTRP) for Women. The proposed budget includes an increase of \$390,000 General Fund on-going to expand both their San Diego CCTRP and Santa Fe Springs CCTRP by an additional 36 beds each.

Alternative Custody Program. The proposed budget includes an increase of \$3.3 million General Fund and 20 positions in 2015-16 and \$6 million General Fund and 40 positions in 2016-17 and on-going for the workload associated with implementing a 12-month Alternative Custody Program for male inmates as is required by the *Sassman v. Brown* judgement.

Background. For decades, the state's prison system has included alternative types of housing for certain low-risk inmates. Among these programs are the following:

Conservation (Fire) Camps — The Conservation Camp Program was initiated by CDCR to provide able-bodied inmates the opportunity to work on meaningful projects throughout the state. The CDCR road camps were established in 1915. During World War II much of the work force that was used by the Division of Forestry (now known as CalFIRE), was depleted. The CDCR provided the needed work force by having inmates occupy "temporary camps" to augment the regular firefighting forces. There were 41 "interim camps" during WWII, which were the foundation for the network of camps in operation today. In 1946, the Rainbow Conservation Camp was opened as the first permanent male conservation camp. Rainbow made history again when it converted to a female camp in 1983. The Los Angeles County Fire Department (LAC), in contract with the CDCR, opened five camps in Los Angeles County in the 1980's.

There are 43 conservation camps for adult offenders and one camp for juvenile offenders. Three of the adult offender camps house female fire fighters. Thirty-nine adult camps and the juvenile offender camp are jointly managed by CDCR and CalFIRE. Five of the camps are jointly managed with the Los Angeles County Fire Department.

The conservation camps, which are located in 29 counties, can house up to 4,522 adult inmates and 80 juveniles, which make up approximately 219 fire-fighting crews. A typical camp houses five 17-member fire-fighting crews as well as inmates who provide support services. As of March 9, 2016, there were 3,554 inmates living and working in the camps.

The Male Community Reentry Program (MCRP) — MCRP is designed to provide or arrange linkage to a range of community-based, rehabilitative services that assist with substance use disorders, mental health care, medical care, employment, education, housing, family reunification, and social support. The MCRP is designed to help participants successfully reenter the community from prison and reduce recidivism.

The MCRP is a voluntary program for male inmates who have approximately 120 days left to serve. The MCRP allow eligible inmates committed to state prison to serve the end of their sentences in the community in lieu of confinement in state prison.

The MCRP is a Department of Health Care Services-licensed alcohol or other drug treatment facility with on-site, 24-hour supervision. Participants are supervised by on-site correctional staff in combination with facility contracted staff.

As of March 9, 2016, there were 137 male inmates in the MCRP.

The Custody to Community Transitional Reentry Program (CCTRP) — CCTRP allows eligible inmates with serious and violent crimes committed to state prison to serve their sentence in the community in the CCTRP, as designated by the department, in lieu of confinement in state prison and at the discretion of the secretary. CCTRP provides a range of rehabilitative services that assist with alcohol and drug recovery, employment, education, housing, family reunification, and social support.

CCTRP participants remain under the jurisdiction of the CDCR and will be supervised by the on-site correctional staff while in the community. Under CCTRP, one day of participation counts as one day of incarceration in state prison, and participants in the program are also eligible to receive any sentence reductions that they would have received had they served their sentence in state prison. Participants may be returned to an institution to serve the remainder of their term at any time.

As of March 9, 2016, there were 235 female inmates in the CCTRP.

Alternative Custody Program (ACP) — In 2010, Senate Bill 1266 (Liu), Chapter 644, Statutes of 2010, established the ACP program within the CDCR. The program was subsequently expanded in 2012 by SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012. Under this program, eligible female inmates, including pregnant inmates or inmates who were the primary caregivers of dependent children, are allowed to participate in lieu of their confinement in state prison. Through this program, female inmates may be placed in a residential home, a nonprofit residential drug-treatment program, or a transitional-care facility that offers individualized services based on an inmate's needs. The program focuses on reuniting low-level inmates with their families and reintegrating them back into their community.

All inmates continue to serve their sentences under the jurisdiction of the CDCR and may be returned to state prison for any reason. An inmate selected for ACP is under the supervision of a parole agent and is required to be electronically monitored at all times.

To be eligible for the program, a woman must, meet the eligibility criteria, and cannot have a current conviction for a violent or serious felony or have any convictions for sex-related crimes.

Services for ACP participants can include: education/vocational training, anger management, family- and marital-relationship assistance, substance-abuse counseling and treatment, life-skills training, narcotics/alcoholics anonymous, faith-based and volunteer community service opportunities.

On September 9, 2015, the federal court found in *Sassman v. Brown* that the state was unlawfully discriminating against male inmates by excluding them from the ACP and ordered CDCR to make male inmates eligible for the program. The ruling now requires the state to expand the existing female Alternative Custody Program to males.

As of March 9, 2016, there were 38 inmates participating in ACP.

None of the inmates in these alternative housing program count toward the state's 137.5 percent prison population cap established by the federal court. Therefore, these programs and their expansion create an important tool for the state's prison population management.

Legislative Analyst's Office (LAO)

MCRP. The LAO recommends that the Legislature reject the Governor's proposed \$32 million General Fund augmentation for the Male Community Reentry Program (MCRP), as it is unlikely to be the most cost-effective recidivism reduction strategy given that it (1) does not target higher-risk offenders and (2) it is very costly. To the extent that the Legislature wants to expand rehabilitative programming, the LAO recommends directing the department to come back with a proposal that focuses on meeting the rehabilitative needs of higher-risk offenders.

CCTRP and ACP. The Governor's proposals to expand CCTRP and allow male inmates to participate in the ACP appear to be aligned with recent court orders. However, unlike the current ACP which takes inmates for up to 24 months, the budget proposes reducing that time to the last 12 months of an inmate's sentence. However, the LAO notes that the Administration has not provided information to justify that change. Therefore, they recommend that the Legislature withhold action on the Governor's proposal to reduce the length of the alternative custody programs pending additional information to determine whether the proposed change is warranted.

Questions for the Administration. The Administration should be prepared to address the following:

1. Several months ago, CDCR staff and the contractor for the Bakersfield MCRP mentioned that there was difficulty finding male inmates to fill all 50 of the beds in that program. Based on the recent population reports, it would appear that continues to be a problem? What is CDCR doing to promote the MCRP's among inmates and what is your plan for ensuring that all MCRP beds are continuously filled?

2. Please explain how CDCR determines an inmates eligibility for a conversation camp and how many years an inmate can be housed and work in a camp.
3. Last year, CDCR proposed expanding eligibility for the conservation camps but has since backed off on that expansion. Please explain why you decided not to expand eligibility. In addition, please provide an update on the population of the camps and your ability to safely and effectively keep those camps filled.
4. Does the training and experience received by an inmate in a fire camp allow them to gain employment as a CalFIRE firefighter upon their release? If not, has CDCR considered working with CalFIRE and the State Personnel Board to ensure that those individuals are eligible to compete for those positions?

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, March 17, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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ITEMS TO BE HEARD

5225 CALIFORNIA CORRECTIONAL HEALTHCARE SERVICES (CCHCS)

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 34 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 current receiver was appointed in January of 2008. The receivership continues to be unprecedented in size and scope nationwide.

The receiver is tasked with the responsibility of bringing the level of medical care in California's prisons to a standard which no longer violates the U.S. Constitution. The receiver oversees over 11,000 prison health care employees, including doctors, nurses, pharmacists, psychiatric technicians and administrative staff. Over the last ten years, healthcare costs have risen significantly. The estimated per inmate health care cost for 2015-16 (\$21,815) is almost three times the cost for 2005-06 (\$7,668). The state spent \$1.2 billion in 2005-06 to provide health care to 162,408 inmates. The state estimates that it will be spending approximately \$2.8 billion in 2016-17 for 128,834 inmates. Of that amount, \$1.9 billion is dedicated to prison medical care under the oversight of the receivership.

CDCR Historical Health Care Costs Per Inmate

Program	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Medical	\$10,841	\$12,917	\$12,591	\$13,661	\$15,496	\$16,843
Dental	\$1,094	\$1,128	\$1,165	\$1,247	\$1,311	\$1,378
Mental Health	\$2,806	\$2,236	\$2,279	\$2,587	\$2,990	\$3,594
Total Health Care	\$14,740	\$16,281	\$16,035	\$17,496	\$19,796	\$21,815

Issue 1: Update on Healthcare Transition

Governor's Budget. The budget includes \$1.9 billion General Fund for prison medical care. At the request of the receiver, this amount includes \$26.8 million for increased pharmaceutical costs, \$12.1 million to expand janitorial services at the California Health Care Facility in Stockton, and \$11.9 million to establish executive healthcare management teams at prisons that currently share management oversight and create supervisory ratios for certain healthcare classifications. The Administration notes that these augmentations support the transition of medical care back to the state.

Background. On June 30, 2005, the United States District Court ruled in the case of *Marciano Plata, et al v. Arnold Schwarzenegger* that it would establish a receivership and take control of the delivery of medical services to all California prisoners confined by CDCR. In a follow-up written ruling dated October 30, 2005, the court noted:

By all accounts, the California prison medical care system is broken beyond repair. The harm already done in this case to California's prison inmate population could not be more grave, and the threat of future injury and death is virtually guaranteed in the absence of drastic action. The Court has given defendants every reasonable opportunity to bring its prison medical system up to constitutional standards, and it is beyond reasonable dispute that the State has failed. Indeed, it is an uncontested fact that, on average, an inmate in one of California's prisons needlessly dies every six to seven days due to constitutional deficiencies in the CDCR's medical delivery system. This statistic, awful as it is, barely provides a window into the waste of human life occurring behind California's prison walls due to the gross failures of the medical delivery system.

Since the appointment of the receivership, spending on inmate health care has almost tripled. A new prison hospital has been built, new systems are being created for maintaining medical records and scheduling appointments, and new procedures are being created that are intended to improve health outcomes for inmates. According to the CCHCS, over 450,000 inmates per month have medical appointments and the rate of preventable deaths has dropped 54 percent since 2006 (from 38.5 per 100,000 inmates in 2006 to 17.7 per 100,000 inmates in 2014).

Chief Executive Officers for Health Care. Each of California's 34 prisons has a chief executive officer (CEO) for health care who reports to the receiver. The CEO is the highest-ranking health care authority within a CDCR adult institution. A CEO is responsible for all aspects of delivering health care at their respective institution(s) and reports directly to the receiver's office.

The CEO is also responsible for planning, organizing, and coordinating health care programs at one or two institutions and delivering a health care system that features a range of medical, dental, mental health, specialized care, pharmacy and medication management, and clinic services.

Serving as the receiver's advisor for institution-specific health care policies and procedures, the CEO manages the institution's health care needs by ensuring that appropriate resources are requested to support health care functions, including adequate clinical staff, administrative support, procurement, staffing, and information systems support.

Regional CEOs. As part of transition activities, the receivership has been in discussions with CDCR regarding what would be the appropriate organizational model for oversight of institutional health care. Under CDCR, both dental and mental health had previously adopted, and had in place, a geographical, “regional” model for organizational oversight of their activities. As part of the movement toward transitioning medical care back to the state, the receiver felt that creation of cohesive, interdisciplinary regions that included medical leadership would lead to a more sustainable model for the future. As a result, the receiver took steps to hire four regional CEOs and worked with CDCR to align each region geographically so that medical, mental health, and dental executives consistently oversee the same institutions on a regional basis. The four regions are as follows:

Region I: Pelican Bay State Prison, High Desert State Prison, California Correctional Center, Folsom State Prison, California State Prison Sacramento, Mule Creek State Prison, California State Prison San Quentin, California Medical Facility, and California State Prison Solano.

Region II: California Health Care Facility, Stockton, Sierra Conservation Center, Deuel Vocational Institution, Central California Women’s Facility, Valley State Prison, Correctional Training Facility, Salinas Valley State Prison, and California Men’s Colony.

Region III: Pleasant Valley State Prison, Avenal State Prison, California State Prison Corcoran, Substance Abuse Treatment Facility, Kern Valley State Prison, North Kern State Prison, Wasco State Prison, California Correctional Institution, California State Prison Los Angeles County, and California City Prison.

Region IV: California Institution for Men, California Institution for Women, California Rehabilitation Center, Ironwood State Prison, Chuckawalla Valley State Prison, Calipatria State Prison, Centinela State Prison, and RJ Donovan Correctional Facility.

Each region consists of a regional health care executive, one staff services analyst/associate governmental program analyst, one office technician, and one health program specialist I. The cost for each of the regional offices is \$565,000 per year, with a total budget for regional CEOs of almost \$2.25 million per year.

Office of Inspector General (OIG) – Medical Inspections. In 2007, the federal receiver approached the Inspector General about developing an inspection and monitoring function for prison medical care. The receiver’s goal was to have the OIG’s inspection process provide a systematic approach to evaluating medical care. Using a court-approved medical inspection compliance-based tool, the OIG’s Medical Inspection Unit (MIU) was established and conducted three cycles of medical inspections at CDCR’s 33 adult institutions and issued periodic reports of their findings from 2008 through 2013.

In 2013, court-appointed medical experts began conducting follow-up evaluations of prisons scoring 85 percent or higher in the OIG’s third cycle of medical inspections. (Those evaluations are discussed in more detail in a later item.) The expert panel found that six of the ten institutions evaluated had an inadequate level of medical care, despite scoring relatively high overall ratings in the OIG’s evaluations. The difference between the two types of evaluations resulted in very different findings. The OIG’s evaluations focused on the institutions’ compliance with CDCR’s written policies and procedures for medical care. The court experts, however, focused on an in-depth analysis of individual

patients' medical treatment to determine the quality of care at each prison. After meeting with the receiver's office and the court medical experts, the Inspector General decided that his inspections should be modified to include the methodologies used by the medical experts in order to determine the quality of care being provided.

Previous Budget Action. The 2015-16 budget provided \$3.9 million and 19 additional positions to allow the Office of the Inspector General (OIG) to annually evaluate the quality of medical care provided to inmates in all of the California Department of Corrections and Rehabilitation (CDCR) adult institutions. The medical inspections staff increase included:

- Three Analysts
- Three Nursing Consultants
- Three Physicians
- Nine Registered Nurses
- One Nursing Supervisor

Transition Planning. On September 9, 2012, the federal court entered an order entitled Receivership Transition Plan and Expert Evaluations. As part of the transition from the receivership, the court required the receiver to provide CDCR with an opportunity to demonstrate their ability to maintain a constitutionally-adequate system of inmate medical care. The receiver was instructed to work with CDCR to determine a timeline for when CDCR would assume the responsibility for particular tasks.

As a result of the court's order, the receiver and CDCR began discussions in order to identify, negotiate, and implement the transition of specific areas of authority for specific operational aspects of the receiver's current responsibility—a practice that had already been used in the past (construction had previously been delegated to the state in September 2009). On October 26, 2012, the receiver and the state reached agreement and signed the first two revocable delegations of authority:

- Health Care Access Units are dedicated, institution-based units, comprised of correctional officers, which have responsibility for insuring that inmates are transported to medical appointments and treatment, both on prison grounds and off prison grounds. Each institution's success at insuring that inmates are transported to their medical appointments/treatment is tracked and published in monthly reports.
- The Activation Unit is responsible for all of the activities related to activating new facilities, such as the California Health Care Facility at Stockton and the DeWitt Annex. Activation staff act as the managers for CDCR and coordinate activities such as the hiring of staff for the facility, insuring that the facility is ready for licensure, overseeing the ordering, delivery, and installation of all equipment necessary for the new facility, as well as a myriad of other activities. Activation activities, again, are tracked on monthly reports provided to the receiver's office.

In addition to the two delegations that have been executed and signed by the receiver and CDCR, the receiver has produced draft delegations of authority for other operational aspects of its responsibility which have been provided to the state. These operational aspects include:

- Quality Management
- Medical Services

- Healthcare Invoice, Data, and Provider Services
- Information Technology Services
- Legal Services
- Allied Health Services
- Nursing Services
- Fiscal Management
- Policy and Risk Management
- Medical Contracts
- Business Services
- Human Resources

Process for Delegating Responsibility to State. In March 2015, the Plata court issued an order outlining the process for transitioning responsibility for inmate medical care back to the state. Under the order, responsibility for each institution, as well as overall statewide management of inmate medical care, must be delegated back to the state. The court indicates that, once these separate delegations have occurred and CDCR has been able to maintain the quality of care for one year, the receivership would end.

The federal court order outlines a specific process for delegating care at each institution back to the state. Specifically, each institution must first be inspected by the Office of the Inspector General (OIG) to determine whether the institution is delivering an adequate level of care. The receiver then uses the results of the OIG inspection—regardless of whether the OIG declared the institution adequate or inadequate—along with other health care indicators, including those published on each institution’s Health Care Services Dashboard, to determine whether the level of care is sufficient to be delegated back to CDCR. To date, the OIG has completed inspections for 13 institutions and has found nine to be adequate and four to be inadequate.

As of March 11, 2016, the receiver has delegated care at Folsom State Prison and the Correctional Training Facility at Soledad back to CDCR. The receiver is currently in the process of determining whether to delegate care at the other institutions that have been found adequate by the OIG. In addition, the receiver could also delegate care at the four prisons deemed inadequate by the OIG if care has been found to have improved. The OIG plans to complete medical inspections for the remaining institutions by the end of 2016. The process for delegating the responsibility for headquarters functions related to medical care does not require an OIG inspection. Under the court order, the receiver only has to determine that CDCR can adequately carry out these functions.

Questions for the Healthcare Receiver. The receiver should be prepared to address the following:

1. Please provide an update on the delegation of any additional responsibility from the receiver to CDCR since last spring.
2. How are you training both the medical and custodial staff to ensure the provision of adequate medical care and that the staff understand what adequate care entails?
3. What procedures have you put in place throughout the system to ensure that adequate care continues once the receivership ends?

4. It has been a concern of the Legislature that there is on-going tension between the custody staff and medical staff in terms of proper procedures that should be followed when someone is in medical danger. In several incidents in recent years, the custody staff's concerns appear to have outweighed the medical staff's. What has the receiver's office done to develop a formal procedure for each institution that clarifies what should happen in such emergencies when the medical staff requires that someone be removed from a cell and the custody staff refuses? What type of training has been provided to both the custody staff and the medical staff in this area? Have you seen a change in the way that medical staff and custody staff are interacting?

Questions for the Department. The Administration should be prepared to address the following:

1. Please respond to the receiver's assessment of the current medical situation in the adult institutions.
2. What types of specialized training and written policies are provided to CDCR custody staff prior to allowing them to work in a medical unit or with inmate-patients?
3. The Department of State Hospitals uses medical technical assistants (MTA) instead of correctional officers to provide custody in their psychiatric inpatient programs. Does CDCR use MTAs to provide custody for inmates with significant medical or mental health needs? If not, why not?

Issue 2: California Health Care Facility – Stockton Janitorial Services

Governor’s Budget. The budget proposes five positions and \$6.4 million General Fund in the current year, and \$12 million General Fund in the budget year, to contract with PRIDE Industries to provide janitorial services for the California Healthcare Facility (CHCF) in Stockton.

Background. CHCF was designed and constructed to be a state-of-the-art medical facility that would provide care to inmates with high medical and mental health care needs. The construction of CHCF was completed in July 2013 and the receiver and CDCR began shifting inmates to the new hospital facility. The facility provides about 1,800 total beds including about 1,000 beds for inpatient medical treatment, about 600 beds for inpatient mental health treatment, and 100 general population beds. The CHCF cost close to \$1 billion to construct and has an annual operating budget of almost \$300 million.

Almost immediately after activation began, serious problems started to emerge. It was reported that there was a shortage of latex gloves, catheters, soap, clothing, and shoes for the prisoners. In addition, over a six-month period, CHCF went through nearly 40,000 towels and washcloths for a prison that was housing approximately 1,300 men. Investigations by officials at the facility found that the linens were being thrown away, rather than laundered and sanitized. In addition, the prison kitchen did not pass the initial health inspections, resulting in the requirement that prepared meals be shipped in from outside the institution. The problems were further compounded by staffing shortages and a lack of training. In addition, early this year, the prison suffered from an outbreak of scabies which the receiver’s office attributes to the unsanitary conditions at the hospital.

Despite being aware of serious problems at the facility as early as September of 2013, it was not until February of 2014, that the receiver closed down intake at the facility and stopped admitting new prisoners. In addition, the receiver delayed the activation of the neighboring DeWitt-Nelson facility, which is designed to house inmate labor for CHCF, prisoners with mental illnesses, and prisoners with chronic medical conditions who need on-going care. The CHCF resumed admissions in July 2014, and currently houses about 2,200 inmates.

PRIDE Industries. PRIDE is a non-profit organization operating in 14 states that employs and serves over 5,300 people, including more than 2,900 people with disabilities.

Previous Budget Actions. The 2015-16 budget included a General Fund augmentation of \$76.4 million, and 714.7 additional clinical positions to increase staffing at CHCF, including primary care, nursing, and support staff. The receiver is also received a supplemental appropriation to cover the partial-year cost of the proposed staffing increase in 2014-15. With the augmentation to CHCF, total clinical staffing costs increased from about \$82 million annually to about \$158 million, annually, and staffing levels increased from 810 positions to 1,525 positions.

The 2014-15 budget included a General Fund augmentation of \$12.5 million General Fund to increase staffing at CHCF to address problems raised by the federal healthcare receiver around plant operations, food services, and custody staffing.

Legislative Analyst’s Office (LAO). The LAO did not raise any concerns with this proposal.

Questions for the Healthcare Receiver. The receiver should be prepared to address the following:

1. Please describe the various alternatives you considered prior to entering into the contract with PRIDE Industries, including using state employees or the current CalPIA training program.
2. Concerns have been expressed about bringing potentially vulnerable individuals into a work environment that will require them to interact with individuals who perhaps have a history of manipulating, victimizing and preying on people. Please describe the steps PRIDE Industries, CDCR and the receiver's office are taking to ensure that CHCF will be a safe place to work for PRIDE employees.

Action: Issue discussed, no action taken.

Issue 3: Healthcare Supervisory Positions

Governor's Budget. The Governor's budget proposes a \$12 million General Fund augmentation and 68.6 additional positions to increase health care executive and supervisory staffing levels throughout the prison system.

Background. In 2014-15, the receiver adopted a medical classification staffing model (MCM) which is a new population methodology that is now used to adjust medical staffing based upon patient-inmate acuity and each institution's medical mission. That staffing model, however, did not include any adjustments in the supervisory classifications that are necessary to carry out the administrative functions of the healthcare facility.

In an effort to control costs, the first healthcare receiver implemented a sister institution structure for several prisons. While most institutions have their own health care executive management teams, there are 16 sister institutions—eight pairs of prisons that are very near to one another—that share health care executive management teams. The following are the current institution pairings:

- High Desert State Prison and the California Correctional Center
- Central California Women's Facility and Valley State Prison
- California Institution for Women and California Rehabilitation Center
- Avenal State Prison and Pleasant Valley State Prison
- Calipatria State Prison and Centinela State Prison
- California Correctional Institution and California City Correctional Facility
- Chuckawalla Valley State Prison and Ironwood State Prison
- Deuel Vocational Institution and Sierra Conservation Center

Previous Budget Actions. As noted above, in the 2014-15 budget, the Legislature approved a new healthcare staffing model which included the reduction of 148 positions and the approval of the implementation of the MCM.

Legislative Analyst's Office. The LAO recommends that the Legislature reject the Governor's proposal to provide a \$6 million augmentation in 2016-17 to provide for a separate executive management team at each institution, as such separate teams do not appear to be necessary in order to deliver a constitutional level of care.

While the LAO recognizes the need to transition control of inmate medical care back to the state in a timely manner, their analysis indicates that the need for each of the 16 sister institutions to have its own executive management team has not been justified.

Questions for the Healthcare Receiver. The receiver should be prepared to address the following:

1. Please address the LAO's findings that institutions that are sharing an executive team have been found to be providing a constitutional level of care. Why do you believe it is necessary at this time to require each institution to have its own, separate team?

Action: Approved as budgeted.

Vote: 3 – 0

Issue 4: Increased Pharmaceutical Costs

Governor's Budget. The proposed budget includes \$20 million General Fund in 2015-16 and \$27 million General Fund in 2016-17 and on-going to address shortfalls in pharmaceutical funding caused by increasing drug costs, the implementation of the Electronic Health Record System (EHRS) and the implementation of the Women's Health Care Initiative (WHCI). The specific components driving the increase are as follows:

- Pharmaceutical cost increases — \$27.6 million in 2015-16 and \$35.5 million in 2016-17.
- Implementation of the pharmacy program in EHRS — \$7.5 million in 2015-16 and \$5.5 million in 2016-17.
- Women's Health Care Initiative — \$632,000 beginning in 2016-17.
- Hepatitis C Treatment Savings — \$15 million in 2015-16 and 2016-17.

Background. The receiver's office is currently responsible for providing medical pharmaceuticals prescribed by physicians under his management, as well as psychiatric and dental medications prescribed by psychiatrists and dentists managed by CDCR. From 2004-05 through 2014-15, the inmate pharmaceutical budget increased from \$136 million to \$236 million. (The pharmaceutical budget reflects only the cost of pharmaceuticals and not the cost of medication distribution or management.) According to information provided by the LAO, the level of spending on pharmaceuticals per inmate has also increased over this time period, increasing from \$860 in 2004-05 to \$2,000 by 2014-15, an increase of over 130 percent.

Women's Health Care Initiative. Recently, CCHCS established a Women's Health Care Initiative that is responsible for insuring that the health care of incarcerated female patients meets community standards. Among other findings, it was determined that family planning services at the California Institution for Women, the Central California Women's Facility and the newly established Folsom Women's Facility needed enhancements. As a result, part of the pharmaceutical budget will now include funding for birth control/contraception services for female patients who would benefit from their use. Effective use of family planning services will reduce the risks of unwanted pregnancies as a result of conjugal visits, as well as providing services for women nearing parole who are seeking assistance.

Previous Budget Actions. Last year's budget included a one-time General Fund augmentation of \$18.4 million in 2014-15 for unanticipated increases in the pharmaceutical budget. In addition, the budget included a General Fund increase of \$51.8 million in 2014-15, and \$60.6 million in 2015-16, for the cost of providing inmates with new Hepatitis C treatments.

Legislative Analyst's Office. An independently verified source to determine how pharmaceutical prices have changed, or are likely to change in the future, is an appropriate method to use when determining whether adjustments in the pharmaceutical budget are necessary. Accordingly, using the pharmaceutical consumer price index (CPI) for estimating future increases in pharmaceutical costs seems reasonable. However, the receiver proposes using past-year changes in the pharmaceutical CPI to estimate future-year changes, rather than relying on available projections of how the pharmaceutical CPI is actually expected to change. Using pharmaceutical CPI projections is preferable as it may account for changes in the market that are not reflected in the past-year values of the index. For example, pharmaceutical CPI projections for 2015-16 and 2016-17 are lower than the 4.9 percent

growth assumed by the receiver. Specifically, projections of the pharmaceutical CPI suggest that prices will only increase by 3.8 percent in 2015–16 and by 3.3 percent in 2016–17. Accordingly, these projections suggest that the pharmaceutical budget requires \$1.7 million less than proposed by the Governor in 2015–16 and \$4.3 million less in 2016–17.

In view of the above, LAO recommends that the Legislature approve increases to the inmate pharmaceutical budget based on projections for the pharmaceutical CPI in 2015–16 and 2016–17. However, in order to determine the appropriate adjustments, they recommend the Legislature hold off on taking such action until the receiver provides additional information. Specifically, the receiver should provide by April 1 (1) an updated estimate of current–year monthly pharmaceutical expenditures, and (2) an updated estimate of the pharmaceutical CPI for the remainder of the current–year and the budget–year based on the most recent projections available.

Questions for the Healthcare Receiver. The receiver should be prepared to address the following questions:

1. Please respond to the LAO recommendation and explain why the current methodology does not rely on available CPI projections for pharmaceutical costs and instead relies on past changes.

Action: Held open pending updated information from during May Revise.

Issue 5: Recruitment and Retention/Student Loan Repayment Program

Background. In 2007, the Plata Workforce Development Unit was created in response to a court order requiring the receiver to develop a detailed plan designed to improve prison medical care. The unit consisted of 40 positions dedicated to the recruitment and retention of positions within the medical program deemed critical to providing a constitutional level of medical care. The goal was met in 2010 and the positions were shifted to other healthcare improvement priorities.

A subsequent federal court order on March 27, 2014, requires CHCS to report on recruitment and retention in their tri-annual reports in order to ensure that healthcare facilities do not dip below a 10 percent vacancy rate. The latest recruitment and retention report submitted in January 2015; show that 18 prisons currently have a vacancy rate of less than 10 percent, including remote prisons such as Pelican Bay in Crescent City and Ironwood and Chuckawalla Valley prisons in Blythe. Another 13 prisons have a vacancy rate for physicians between 10 and 30 percent. Finally, two prisons, North Kern Valley and Salinas Valley, have a physician vacancy rate in excess of 30 percent. Given the vacancy patterns and the fact that in several instances, there is a disparity in the ability to recruit and retain adequate staff between prisons that are in very close proximity. For example, North Kern State Prison has at least a 30 percent vacancy rate for physicians, while neighboring Wasco State Prison has a physician vacancy rate of less than 10 percent. Similar examples can be seen throughout the report. This would suggest that geography or remoteness of institutions is not the reason for high turnover or high vacancies, rather something in the working conditions, culture or the running of the institution itself may be causing the difficulties in recruiting or retaining clinicians.

Availability of Student Loan Repayment Programs to Assist in Attracting Medical Staff. The receiver's workforce development unit has relied on tools such as the Federal Loan Repayment Program (FLRP) which provides physicians with federal funding to pay student loan debts in exchange for working in a federal-designated health professional shortage area. The state's prisons are often included in those designated areas. However, since 2012 FLRP funding has been reduced and fewer programs meet the requirements as a designated health professional shortage area. CCHCS notes that the number of employees receiving funding through FLRP (mostly psychiatrists) has decreased from 231 participants in 2012 to 36 participants in 2015, an 84 percent decrease.

Previous Budget Actions. The 2015 budget act included \$872,000 from the General Fund, and eight positions, to build an internal recruitment and retention program designed to recruit and retain clinicians and other medical personnel.

Questions for the Receiver. The receiver should be prepared to address the following:

1. The 2015-16 budget included funding to allow the receiver to increase clinician recruitment activities. Please provide an update on that effort.
2. The subcommittee held a joint hearing with the Senate Committee on Public Safety on March 15, 2016, to explore ways in which CDCR can better train and support staff working in the state's prisons. Specifically, the both committees would like to ensure that custody staff and others working in highly stressful and often volatile environment are provided with the tools they need to successfully navigate often complicated and difficult interactions with inmates. Similarly, the

medical staff in the institutions must often deal with difficult and stressful situations. Has your office considered ways in which training and other supports may need to be expanded to ensure the best environment for both the medial employees and the patients in their care?

Action: The subcommittee directed budget staff to work with the receiver and the Administration to develop language for a loan repayment program for both CDCR and the Department of State Hospitals.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**Issue 1: Physician and Licensed Vocational Nurse Coverage**

Governor's Budget. The budget proposes \$2 million General Fund beginning in 2016-17 to provide additional medical coverage at the in-state contract facilities, as required by the federal receiver's office.

Background. The *Plata v. Brown* lawsuit requires that the state provide a constitutional level of care for all inmates in the state's prison system. While the receivership has been primarily focused on improving care at the 34 state-run institutions, the receiver has required that inmates housed in the in state contract facilities must receive a level of care that is consistent with the medical care provided to all patients housed within CDCR.

Legislative Analyst's Office. The LAO has not raised any concerns with this budget request.

Action: Approved as budgeted.

Vote: 3 – 0

Issue 2: Access to Healthcare

Governor's Budget. The Governor's budget requests \$9.4 million General Fund and 78.4 positions in 2016-17, \$11.8 million General Fund and 98.7 positions in 2017-18, and \$12.2 million General Fund and 102 positions in 2018-19 and ongoing, for increased staffing needs related to the Health Care Facility Improvement Program (HCFIP), triage and treatment areas/correctional treatment centers, and the heating, ventilation, and air conditioning system replacement at Ironwood State Prison.

All but five of the positions requested are for additional correctional officers. Sixty one of the new positions will be providing security for new or expanded primary care clinics at 23 institutions. The 36 remaining correctional officer positions will provide security at the triage and treatment areas or correctional treatment centers at 18 institutions. The standardized staffing model used by CDCR to determine staffing needs is based upon changes to the physical layout of a prison or changes in activities, rather than being based on the number of inmates housed in an institution. Therefore, despite a declining inmate population, the need for security staff is increasing.

The remaining five positions are for the stationary engineers due to the increased workload resulting from the construction of a new chilled water plant at Ironwood State Prison.

Background

Health Care Facility Improvement Program (HCFIP). As discussed in previous agenda items, the healthcare receivership was established by U.S. District Court Judge Thelton E. Henderson as the result of a 2001 class-action lawsuit (*Plata v. Brown*) against the State of California over the quality of medical care in the State's then 33 prisons. The court found that the medical care was a violation of the Eighth Amendment of the U.S. Constitution, which forbids cruel and unusual punishment. The state settled the suit in 2002, and in June 2005, Judge Henderson established a receivership for prison medical care. A major component of the receiver's "Turnaround Plan of Action" includes HCFIP.

The goal of HCFIP is to provide a facilities infrastructure within the CDCR institutions. This allows timely, competent, and effective health care delivery system with appropriate health care diagnostics, treatment, medication distribution, and access to care for individuals incarcerated within the CDCR. The existing health facilities, constructed between 1852 and the 1990s, were deficient and did not meet current health care standards, public health requirements and current building codes. The facilities also served a population that was greater in number than when it was originally built. These conditions were one of the conditions leading to the *Plata v. Brown* lawsuit.

Healthcare Access Unit (HCAU). Health Care Access Units (HCAU) are dedicated, institution-based units, comprised of correctional officers, which have responsibility for insuring that inmates are transported to medical appointments and treatment, both on prison grounds and off prison grounds. Each institution's success at insuring that inmates are transported to their medical appointments/treatment is tracked and published in monthly reports.

On October 26, 2012, delegation of the HCAUs was turned over to the secretary of CDCR. Upon the effective date of the delegation, the secretary assumed control of the HCAU. Because standardized staffing was implemented prior to the delegation of HCAU positions being turned over to the CDCR's direct control, the CDCR did not include HCAU posts in the reviews and standardization of custody

health care positions. The Division of Adult Institutions, working collaboratively with the California Correctional Health Care Services, has identified 18 institutions with custody staffing deficiencies within the triage and treatment areas and correctional treatment centers.

Standardized Staffing. In the 2012 Blueprint, CDCR established a standardized staffing model at the adult institutions to achieve budgetary savings and improve efficiency in operations. Prior to standardized staffing, the department's budget was adjusted on a 6:1 inmate-to-staff ratio based on changes in the inmate population—for every six inmates, the department received or reduced the equivalent of one position. These staffing adjustments occurred even with minor fluctuations in population and resulted in staffing inconsistencies among adult institutions. The prior staffing model allowed local institutions to have more autonomy in how budgeted staffing changes were made. The standardized staffing model provides consistent staffing across institutions with similar physical plant/design and inmate populations. The model also clearly delineates correctional staff that provide access to other important activities, such as rehabilitative programs and inmate health care. The concept that an institution could reduce correctional staff for marginal changes in the inmate population was not valid without further detriment to an institution's operations. Therefore, the standardized staffing model was established to maintain the staff needed for a functional prison system.

According to the Administration, given the significant population reductions expected as a result of realignment, using the CDCR's ratio-based adjustment would have resulted in a shortage of staff and prison operations would have been disrupted. The Administration argues that a standardized methodology for budgeting and staffing the prison system was necessary to provide a staffing model that could respond to fluctuations in the population and allow for the safe and secure operation of housing units at each prison regardless of minor population changes.

Legislative Analyst's Office. The LAO recommends that the Legislature reduce the Governor's proposal to provide \$524,000 for maintenance of the new central chiller system at Ironwood State Prison (ISP) by \$275,000 to reflect savings available from eliminating maintenance on the pre-existing cooling system.

Staff Note. The Administration has determined that they do not need the five additional stationary engineers at this time. Therefore, the subcommittee should reject \$524,000 in General Fund and the five positions, regardless of the action taken on the remainder of the proposal.

Action: Rejected \$525,000 General Fund and the five stationary engineer positions and held open the remainder of the proposal.

Vote: 3 – 0

Issue 3: Segregated Housing Unit Conversion

Governor's Budget. The Governor's budget proposes to reduce General Fund support for CDCR by \$16 million in 2015–16 and by \$28 million in 2016–17 to account for savings from a reduction in the number of inmates housed in segregated housing units. According to the department, the policy changes it is implementing pursuant to the *Ashker v. Brown* settlement will reduce the number of inmates held in ASUs and SHUs, allowing it to convert several of these units to less expensive general population housing units. For example, CDCR estimates that the number of inmates held in SHUs could decline by around 1,000, or about one-third of the current population.

In addition, the Administration requests \$3.4 million General fund for 2015-16 and \$5.8 million General Fund for 2016-17 to increase the number of staff in the Investigative Services Unit (ISU), which would offset the above 2016–17 savings. The redirected funding would support the addition of 48 correctional officers to the ISU, an increase of 18 percent. According to the Administration, these positions are needed to handle workload from an anticipated increase in gang activity related to the new segregated housing policies. Specifically, the department plans to use the additional positions to monitor the activities of gang members released to the general population. The department is requesting 22 of the proposed positions be approved on a two-year, limited-term basis because it has not yet determined the exact amount of ongoing workload associated with the segregated housing policy changes.

Background. CDCR currently operates different types of celled segregated housing units that are used to hold inmates separate from the general prison population. These segregated housing units include:

Administrative Segregation Units (ASUs). ASUs are intended to be temporary placements for inmates who, for a variety of reasons, constitute a threat to the security of the institution or the safety of staff and inmates. Typically, ASUs house inmates who participate in prison violence or commit other offenses in prison.

Security Housing Units (SHUs). SHUs are used to house for an extended period inmates who CDCR considers to be the greatest threat to the safety and security of the institution. Historically, department regulations have allowed two types of inmates to be housed in SHUs: (1) inmates sentenced to determinate SHU terms for committing serious offenses in prison (such as assault or possession of a weapon) and (2) inmates sentenced to indeterminate SHU terms because they have been identified as prison gang members. (As discussed below, changes were recently made to CDCR's regulations as a result of a legal settlement.)

Segregated housing units are typically more expensive to operate than general population housing units. This is because, unlike the general population, inmates in segregated housing units receive their meals and medication in their cells, which requires additional staff. In addition, custody staff are required to escort inmates in segregated housing when they are temporarily removed from their cells, such as for a medical appointment.

Ashker v. Brown. In 2015, CDCR settled a class action lawsuit, known as *Ashker v. Brown*, related to the department's use of segregated housing. The terms of the settlement include significant changes to many aspects of CDCR's segregated housing unit policies. For example, inmates can no longer be

placed in the SHU simply because they are gang members. Instead, inmates can only be placed in the SHU if they are convicted of one of the specified SHU-eligible offenses following a disciplinary due process hearing. In addition, the department will no longer impose indeterminate SHU sentences. The department has also made changes in its step-down program to allow inmates to transition from segregated housing (including SHUs and ASUs) to the general population more quickly than before.

Investigative Services Unit (ISU). CDCR currently operates an ISU consisting of 263 correctional officer positions located across the 35 state-operated prisons. Correctional officers who are assigned to the ISU receive specialized training in investigation practices. These staff are responsible for various investigative functions such as monitoring the activities of prison gangs and investigating assaults on inmates and staff.

Legislative Analyst's Office (LAO)

Proposed ISU Staffing Increase Lacks Detailed Workload Analysis. While the LAO acknowledges that the new segregated housing policies may drive some increased workload for the ISU, the department has not established a clear nexus between the policy changes and the increased workload. In particular, the department has been unable to provide a detailed analysis which indicates the specific workload increases that will result from the policy changes and how it was determined that 48 is the correct number of staff to handle this increased workload. Without this information it is difficult for the Legislature to assess the need for the requested positions.

Other Factors Have Impacted ISU Workload in Recent Years. There are a variety of factors that drive workload for the ISU, such as the number of violent incidences occurring in the prisons. It appears that a couple of these key factors have declined in recent years. First, the number of inmates in CDCR-operated prisons has decreased from about 124,000 in 2012-13 to a projected level of about 117,000 in 2015-16. Second, the number of assaults on inmates and staff has decreased from about 8,500 in 2012-13 to about 1,200 in 2014-15. Accordingly, the ISU now has fewer inmates to monitor and fewer assaults to investigate. Despite these developments, correctional officer staffing for the ISU has actually increased slightly from 253 officers in 2012-13 to 263 officers in 2014-15. This raises the question of whether any increased workload for the ISU resulting from segregated housing policy is offset by other workload decreases in recent years, meaning that potential workload increases could be accommodated with existing resources.

LAO Recommendation. The LAO recommends that the Legislature reject the Administration's proposal for \$5.8 million to fund increased staffing for the ISU because the proposal lacks sufficient workload justification, particularly in light of recent declines in other ISU workload.

Questions for the Administration. The Administration should be prepared to address the following:

1. Please provide an update on the SHU conversion. Have all inmates with indeterminate SHU terms been released?
2. Is CDCR providing any specialized programming to assist inmates who have served long SHU terms as they reintegrate back into the general prison population?

3. Please provide information on any problems that have arisen as a result of inmates being reintegrated back into the general population.

Action: Held open.

Issue 4: Alternative Housing for Inmates**Governor's Budget**

Conservation Camps. The budget does not propose any changes or expansions to the budget for the 44 conservation camps, and the budget proposes a combined CDCR/CalFIRE annual camp budget of approximately \$200 million General Fund.

Male Community Reentry Program (MCRP). The Governor's budget proposes \$32 million (General Fund) in 2016–17 and \$34 million in 2017–18 to expand the MCRP. The 2016–17 appropriation includes \$20 million to support existing contracts and \$12 million to expand the program. The proposed augmentation would allow CDCR to contract with four additional facilities—three in Los Angeles County and one in San Diego County—to provide an additional 460 beds. In addition, CDCR proposes to increase the amount of time participants can spend in the program from 120 days to 180 days.

Custody to Community Transitional Re-Entry Programs (CCTRP) for Women. The proposed budget includes an increase of \$390,000 General Fund on-going to expand both their San Diego CCTRP and Santa Fe Springs CCTRP by an additional 36 beds each.

Alternative Custody Program. The proposed budget includes an increase of \$3.3 million General Fund and 20 positions in 2015-16 and \$6 million General Fund and 40 positions in 2016-17 and on-going for the workload associated with implementing a 12-month Alternative Custody Program for male inmates as is required by the *Sassman v. Brown* judgement.

Background. For decades, the state's prison system has included alternative types of housing for certain low-risk inmates. Among these programs are the following:

Conservation (Fire) Camps — The Conservation Camp Program was initiated by CDCR to provide able-bodied inmates the opportunity to work on meaningful projects throughout the state. The CDCR road camps were established in 1915. During World War II much of the work force that was used by the Division of Forestry (now known as CalFIRE), was depleted. The CDCR provided the needed work force by having inmates occupy "temporary camps" to augment the regular firefighting forces. There were 41 "interim camps" during WWII, which were the foundation for the network of camps in operation today. In 1946, the Rainbow Conservation Camp was opened as the first permanent male conservation camp. Rainbow made history again when it converted to a female camp in 1983. The Los Angeles County Fire Department (LAC), in contract with the CDCR, opened five camps in Los Angeles County in the 1980's.

There are 43 conservation camps for adult offenders and one camp for juvenile offenders. Three of the adult offender camps house female fire fighters. Thirty-nine adult camps and the juvenile offender camp are jointly managed by CDCR and CalFIRE. Five of the camps are jointly managed with the Los Angeles County Fire Department.

The conservation camps, which are located in 29 counties, can house up to 4,522 adult inmates and 80 juveniles, which make up approximately 219 fire-fighting crews. A typical camp houses five 17-member fire-fighting crews as well as inmates who provide support services. As of March 9, 2016, there were 3,554 inmates living and working in the camps.

The Male Community Reentry Program (MCRP) — MCRP is designed to provide or arrange linkage to a range of community-based, rehabilitative services that assist with substance use disorders, mental health care, medical care, employment, education, housing, family reunification, and social support. The MCRP is designed to help participants successfully reenter the community from prison and reduce recidivism.

The MCRP is a voluntary program for male inmates who have approximately 120 days left to serve. The MCRP allow eligible inmates committed to state prison to serve the end of their sentences in the community in lieu of confinement in state prison.

The MCRP is a Department of Health Care Services-licensed alcohol or other drug treatment facility with on-site, 24-hour supervision. Participants are supervised by on-site correctional staff in combination with facility contracted staff.

As of March 9, 2016, there were 137 male inmates in the MCRP.

The Custody to Community Transitional Reentry Program (CCTRP) — CCTRP allows eligible inmates with serious and violent crimes committed to state prison to serve their sentence in the community in the CCTRP, as designated by the department, in lieu of confinement in state prison and at the discretion of the secretary. CCTRP provides a range of rehabilitative services that assist with alcohol and drug recovery, employment, education, housing, family reunification, and social support.

CCTRP participants remain under the jurisdiction of the CDCR and will be supervised by the on-site correctional staff while in the community. Under CCTRP, one day of participation counts as one day of incarceration in state prison, and participants in the program are also eligible to receive any sentence reductions that they would have received had they served their sentence in state prison. Participants may be returned to an institution to serve the remainder of their term at any time.

As of March 9, 2016, there were 235 female inmates in the CCTRP.

Alternative Custody Program (ACP) — In 2010, Senate Bill 1266 (Liu), Chapter 644, Statutes of 2010, established the ACP program within the CDCR. The program was subsequently expanded in 2012 by SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012. Under this program, eligible female inmates, including pregnant inmates or inmates who were the primary caregivers of dependent children, are allowed to participate in lieu of their confinement in state prison. Through this program, female inmates may be placed in a residential home, a nonprofit residential drug-treatment program, or a transitional-care facility that offers individualized services based on an inmate's needs. The program focuses on reuniting low-level inmates with their families and reintegrating them back into their community.

All inmates continue to serve their sentences under the jurisdiction of the CDCR and may be returned to state prison for any reason. An inmate selected for ACP is under the supervision of a parole agent and is required to be electronically monitored at all times.

To be eligible for the program, a woman must, meet the eligibility criteria, and cannot have a current conviction for a violent or serious felony or have any convictions for sex-related crimes.

Services for ACP participants can include: education/vocational training, anger management, family- and marital-relationship assistance, substance-abuse counseling and treatment, life-skills training, narcotics/alcoholics anonymous, faith-based and volunteer community service opportunities.

On September 9, 2015, the federal court found in *Sassman v. Brown* that the state was unlawfully discriminating against male inmates by excluding them from the ACP and ordered CDCR to make male inmates eligible for the program. The ruling now requires the state to expand the existing female Alternative Custody Program to males.

As of March 9, 2016, there were 38 inmates participating in ACP.

None of the inmates in these alternative housing program count toward the state's 137.5 percent prison population cap established by the federal court. Therefore, these programs and their expansion create an important tool for the state's prison population management.

Legislative Analyst's Office (LAO)

MCRP. The LAO recommends that the Legislature reject the Governor's proposed \$32 million General Fund augmentation for the Male Community Reentry Program (MCRP), as it is unlikely to be the most cost-effective recidivism reduction strategy given that it (1) does not target higher-risk offenders and (2) it is very costly. To the extent that the Legislature wants to expand rehabilitative programming, the LAO recommends directing the department to come back with a proposal that focuses on meeting the rehabilitative needs of higher-risk offenders.

CCTRP and ACP. The Governor's proposals to expand CCTRP and allow male inmates to participate in the ACP appear to be aligned with recent court orders. However, unlike the current ACP which takes inmates for up to 24 months, the budget proposes reducing that time to the last 12 months of an inmate's sentence. However, the LAO notes that the Administration has not provided information to justify that change. Therefore, they recommend that the Legislature withhold action on the Governor's proposal to reduce the length of the alternative custody programs pending additional information to determine whether the proposed change is warranted.

Questions for the Administration. The Administration should be prepared to address the following:

1. Several months ago, CDCR staff and the contractor for the Bakersfield MCRP mentioned that there was difficulty finding male inmates to fill all 50 of the beds in that program. Based on the recent population reports, it would appear that continues to be a problem? What is CDCR doing to promote the MCRP's among inmates and what is your plan for ensuring that all MCRP beds are continuously filled?

2. Please explain how CDCR determines an inmates eligibility for a conversation camp and how many years an inmate can be housed and work in a camp.
3. Last year, CDCR proposed expanding eligibility for the conservation camps but has since backed off on that expansion. Please explain why you decided not to expand eligibility. In addition, please provide an update on the population of the camps and your ability to safely and effectively keep those camps filled.
4. Does the training and experience received by an inmate in a fire camp allow them to gain employment as a CalFIRE firefighter upon their release? If not, has CDCR considered working with CalFIRE and the State Personnel Board to ensure that those individuals are eligible to compete for those positions?

Action: Approved the proposals as budgeted and adopted placeholder trailer bill language authorizing CDCR to expand up to 12 months the time an inmate can spend in the male community reentry program prior to their release.

Vote: 2 – 1 (Anderson: no)

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, April 7, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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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) 651-1505. Requests should be made one week in advance whenever possible.

PROPOSED FOR VOTE ONLY**Board of State and Community Corrections**

- 1. Funding Reduction for Standards and Training for Corrections** – The budget proposes a reduction of \$489,000 in spending authority from the Corrections Training Fund. The requested reduction is due to lower than anticipated program costs.

California Department of Corrections and Rehabilitation

- 2. Sex Offender Management Board** – The proposed budget includes \$212,000 General Fund and two permanent analyst positions beginning in 2016-17 due to increased workload for the California Sex Offender Management Board and the State Authorized Risk Assessment Tools for Sex Offenders Task Force, primarily related to an anticipated increase in the need for certified treatment providers and programs as required by Chelsea's Law.

ITEMS TO BE HEARD

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS
0250 JUDICIAL BRANCH
Issue 1: Proposition 47

Governor’s Budget. The Governor’s budget includes \$21.4 million to address increased trial court workload associated with voter approval of Proposition 47 (the Safe Neighborhoods and Schools Act), which reduced many possessory drug offenses and low-value property thefts to misdemeanors (described in detail below). This second year of proposed new funding is \$13.8 million more than originally estimated for 2016–2017.

In addition, the budget assumes an initial Proposition 47 savings in 2016-17 of \$29.3 million, growing to an annual on-going savings of \$57 million per year. Proposition 47 requires the Department of Finance to provide their first official estimate by July 31, 2016, and on July 31 each year thereafter.

Background. In November 2014, the voters approved Proposition 47, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing.

Reduction in Existing Penalties Under Proposition 47

Crime	Description
Drug Possession	Prior to the passage of Proposition 47, possession for personal use of most illegal drugs (such as cocaine or heroin) was a misdemeanor, a wobbler, ¹ or a felony—depending on the amount and type of drug. Under current law, such crimes are now misdemeanors. The measure would not change the penalty for possession of marijuana, which was already either an infraction or a misdemeanor.
Grand Theft	Prior to the passage of Proposition 47, theft of property worth \$950 or less was often charged as petty theft, which is a misdemeanor or an infraction. However, such crimes could sometimes be charged as grand theft, which is generally a wobbler. For example, a wobbler charge can occur if the crime involves the theft of certain property (such as cars) or if the offender has previously committed certain theft-related crimes. Proposition 47 limited when theft of property of \$950 or less could be charged as grand theft. Specifically, such crimes can no longer be charged as grand theft solely because of the type of property involved or because the defendant had previously committed certain theft-related crimes.
Shoplifting	Prior to the passage of Proposition 47, shoplifting property worth \$950 or less (a type of petty theft) was often a misdemeanor. However, such crimes could also be charged as burglary, which is a wobbler. Under the new law, shoplifting property worth \$950 or less will always be a misdemeanor and cannot be charged as burglary.
Receiving Stolen Property	Prior to the passage of Proposition 47, individuals found with stolen property could be charged with receiving stolen property, which was a wobbler crime. Under current law, receiving stolen property worth \$950 or less would always be a misdemeanor.

¹ “A wobbler” refers to a crime that can either be charged as a misdemeanor or a felony.

Writing Bad Checks	Prior to the passage of Proposition 47, writing a bad check was generally a misdemeanor. However, if the check was worth more than \$450, or if the offender had previously committed a crime related to forgery, it was a wobbler crime. Under the new law, it is a misdemeanor to write a bad check unless the check is worth more than \$950 or the offender had previously committed three forgery-related crimes, in which case they would remain wobbler crimes.
Check Forgery	Prior to the passage of Proposition 47, it was a wobbler crime to forge a check of any amount. Under the new law, forging a check worth \$950 or less is always a misdemeanor, except that it remains a wobbler crime if the offender commits identity theft in connection with forging a check.

Source: Legislative Analyst's Office, "Proposition 47 – Criminal Sentences. Misdemeanor Penalties. Initiative Statute." November 4, 2014.

Proposition 47 requires that state savings resulting from the proposition be transferred into a new fund, the Safe Neighborhoods and Schools Fund (SNSF). The new fund will be used to reduce truancy and support drop-out prevention programs in K-12 schools (25 percent of fund revenue), increase funding for trauma recovery centers (10 percent of fund revenue), and support mental health and substance use disorder treatment services and diversion programs for people in the criminal justice system (65 percent of fund revenue).

Role of the Legislature in Determining Proposition 47 Savings. The proposition does not provide for legislative input on the calculation of the savings. The Administration and the State Controller have sole discretion over determining the amount of the state savings. Specifically, the statute requires that Director of Finance, on or before July 31, 2016, and on or before July 31 of each fiscal year thereafter, calculate the state savings for the previous fiscal year compared to 2013-14. Actual data or best estimates are to be used and the calculation is final and must be certified by the State Controller's Office no later than August 1 of each fiscal year. The first transfer of state savings to the Safe Neighborhoods and Schools Fund will occur in 2016-17, after the Department of Finance (DOF) calculates savings pursuant to the proposition.²

AB 1056 (Atkins) Chapter 438, Statutes of 2015. AB 1056 was enacted to establish a grant program and process for the Proposition 47 savings – the "Safe Neighborhoods and Schools Fund" – to be allocated by the BSCC. The key features of AB 1056 enumerate a number of prioritized proposal criteria, such as those proposals that include mental health services, substance use disorder treatment services, misdemeanor diversion programs; housing-related assistance that utilizes evidence-based models; other community-based supportive services, such as job skills training, case management, and civil legal services; and proposals that advance principles of restorative justice while demonstrating a capacity to reduce recidivism. In addition, the bill codifies characteristics for the executive steering community (discussed in more detail in the next item).

Legislative Analyst's Office (LAO). The LAO plays a key role in the initiative process. They work with DOF to prepare an impartial assessment of each statewide initiative submitted by the public before it can be circulated for signature gathering. State law requires that this analysis provide an estimate of the measure's impact on state and local government revenues and costs. The analysis typically also includes relevant background information and a summary of the measure's provisions. The LAO does not take a position on proposed initiatives, nor does it advise proponents on what

² 2015-16 Governor's Budget Summary

changes they should make during the public review period. The Attorney General incorporates a summary of the fiscal estimate developed jointly by the LAO and DOF into the summary that is included on the petitions circulated by signature gatherers.

LAO Independent Ballot Analysis for Proposition 47. Following is the independent fiscal analysis provided by the LAO for proposition 47:

This measure would have a number of fiscal effects on the state and local governments. The size of these effects would depend on several key factors. In particular, it would depend on the way individuals are currently being sentenced for the felony crimes changed by this measure. Currently, there is limited data available on this, particularly at the county level. The fiscal effects would also depend on how certain provisions in the measure are implemented, including how offenders would be sentenced for crimes changed by the measure. For example, it is uncertain whether such offenders would be sentenced to jail or community supervision and for how long. In addition, the fiscal effects would depend heavily on the number of crimes affected by the measure that are committed in the future. Thus, the fiscal effects of the measure described below are subject to significant uncertainty.

State Effects of Reduced Penalties

The proposed reduction in penalties would affect state prison, parole, and court costs.

State Prison and Parole. This measure makes two changes that would reduce the state prison population and associated costs. First, changing future crimes from felonies and wobblers to misdemeanors would make fewer offenders eligible for state prison sentences. We estimate that this could result in an ongoing reduction to the state prison population of several thousand inmates within a few years. Second, the resentencing of inmates currently in state prison could result in the release of several thousand inmates, temporarily reducing the state prison population for a few years after the measure becomes law.

In addition, the resentencing of individuals currently serving sentences for felonies that are changed to misdemeanors would temporarily increase the state parole population by a couple thousand parolees over a three-year period. The costs associated with this increase in the parole population would temporarily offset a portion of the above prison savings.

State Courts. Under the measure, the courts would experience a one-time increase in costs resulting from the resentencing of offenders and from changing the sentences of those who have already completed their sentences. However, the above costs to the courts would be partly offset by savings in other areas. First, because misdemeanors generally take less court time to process than felonies, the proposed reduction in penalties would reduce the amount of resources needed for such cases. Second, the measure would reduce the amount of time offenders spend on county community supervision, resulting in fewer offenders being supervised at any given time. This would likely reduce the number of court hearings for offenders who break the rules that they are required to follow while supervised in the community. Overall, we estimate that the measure could result in a net increase in court costs for a few years with net annual savings thereafter.

Summary of State Fiscal Effects. *In total, we estimate that the effects described above could eventually result in net state criminal justice system savings in the low hundreds of millions of dollars annually, primarily from an ongoing reduction in the prison population of several thousand inmates. As noted earlier, any state savings would be deposited in the Safe Neighborhoods and Schools Fund to support various purposes.*

County Effects of Reduced Penalties

The proposed reduction in penalties would also affect county jail and community supervision operations, as well as those of various other county agencies (such as public defenders and district attorneys' offices).

County Jail and Community Supervision. *The proposed reduction in penalties would have various effects on the number of individuals in county jails. Most significantly, the measure would reduce the jail population as most offenders whose sentence currently includes a jail term would stay in jail for a shorter time period. In addition, some offenders currently serving sentences in jail for certain felonies could be eligible for release. These reductions would be slightly offset by an increase in the jail population as offenders who would otherwise have been sentenced to state prison would now be placed in jail. On balance, we estimate that the total number of statewide county jail beds freed up by these changes could reach into the low tens of thousands annually within a few years. We note, however, that this would not necessarily result in a reduction in the county jail population of a similar size. This is because many county jails are currently overcrowded and therefore release inmates early. Such jails could use the available jail space created by the measure to reduce such early releases.*

We also estimate that county community supervision populations would decline. This is because offenders would likely spend less time under such supervision if they were sentenced for a misdemeanor instead of a felony. Thus, county probation departments could experience a reduction in their caseloads of tens of thousands of offenders within a few years after the measure becomes law.

Other County Criminal Justice System Effects. *As discussed above, the reduction in penalties would increase workload associated with resentencing in the short run. However, the changes would reduce workload associated with both felony filings and other court hearings (such as for offenders who break the rules of their community supervision) in the long run. As a result, while county district attorneys' and public defenders' offices (who participate in these hearings) and county sheriffs (who provide court security) could experience an increase in workload in the first few years, their workload would be reduced on an ongoing basis in the long run.*

Summary of County Fiscal Effects. *We estimate that the effects described above could result in net criminal justice system savings to the counties of several hundred million dollars annually, primarily from freeing jail capacity.³*

³ Legislative Analyst's Office. *Proposition 47: Criminal Sentences, Misdemeanor Penalties, Initiative Statute*. July 17, 2014. LAO.CA.GOV.

As noted above, currently, the Administration estimates that \$29.3 million from the General Fund would be deposited into the SNSF on July 31, 2016 for expenditure in 2016–17, based on its estimates of the savings and costs resulting from the implementation of Proposition 47. This amount is significantly different from the low hundreds of millions noted in the LAO’s ballot initiative estimate.

On February 16, 2016, the LAO released a report on the fiscal impact of Proposition 47. Generally, the report found that the Administration significantly underestimated the savings associated with Proposition 47 and overestimated the costs. Specifically, the LAO noted:

How Much Money Should Be Deposited to SNSF in 2016–17. Based on its estimates of the savings and costs resulting from the implementation of Proposition 47, the Administration currently estimates that it will deposit \$29.3 million from the General Fund into the SNSF for expenditure in 2016–17. The LAO finds that the Administration likely underestimates the savings and overestimates the costs resulting from the measure. For example, the LAO estimates that the actual level of prison savings due to Proposition 47 could be \$83 million, higher compared to the Administration’s estimate. Overall, the LAO estimates that the SNSF deposit in 2016–17 could be around \$100 million higher than the Administration’s figure.

How to Pay for SNSF Deposit in 2016–17. The Administration proposes to allow both the state courts and the Department of State Hospitals (DSH) to keep savings they are estimated to realize as a result of Proposition 47. The LAO finds that this would reduce legislative oversight by allowing these agencies to redirect their savings to other programs and services without legislative review or approval. The LAO recommends that the Legislature reduce the budgets for the courts and DSH to account for the savings resulting from this measure.

Allocation of Funds Deposited Into SNSF. Under the measure, funds deposited in the SNSF are required to be annually allocated as follows: (1) 65 percent for the Board of State and Community Corrections (BSCC) to support mental health and substance use services, (2) 25 percent for the California Department of Education (CDE) to support truancy and dropout prevention, and (3) 10 percent for the Victim Compensation and Government Claims Board (VCGCB) for grants to trauma recovery centers (TRCs). The LAO finds that the Administration’s proposal to allocate the funds provided to BSCC based on recently passed legislation to be reasonable. In addition, the LAO recommends that the funds provided to CDE be allocated to schools with the highest concentrations of at-risk students and that schools be given flexibility in deciding how to best use the funds. Finally, the LAO also recommends that the VCGCB be given more guidance on how to manage the grants to TRCs. Specifically, the LAO recommends that the Legislature (1) structure the grants to ensure the funds are spent in an effective manner, (2) ensure that the state receives federal reimbursement funds for all eligible services provided by TRCs, (3) expand TRCs to additional regions of the state, and (4) evaluate grant recipients based on outcomes.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Given DOF’s role in developing the fiscal estimate for the ballot initiative, it is surprising that the new estimate of savings is significantly different. How do you account for the significant difference between the original estimate and the most recent estimate?

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

Originally, the Board of Corrections (BOC) was established in 1944 as part of the state prison system. Effective July 1, 2005, as part of the corrections agency consolidation, the Corrections Standards Authority (CSA) was created within the California Department of Corrections and Rehabilitation (CDCR) by bringing together the BOC and the Correctional Peace Officers Standards and Training (CPOST) Commission. The reorganization consolidated the duties and functions of the BOC and CPOST and entrusted the CSA with new responsibilities.

Legislation associated with the 2011 budget act abolished the CSA and established the Board of State and Community Corrections (BSCC or board) as an independent entity, effective July 1, 2012. The BSCC absorbed the previous functions of the CSA as well as other public safety programs previously administered by the California Emergency Management Agency (CalEMA). Specific statutory changes included:

- Abolishing the CSA within CDCR and established the BSCC as an independent entity.
- Transferring the powers and duties of the CSA to the BSCC.
- Transferring certain powers and duties from the California Emergency Management Agency (CalEMA) to the BSCC.
- Eliminating the California Council on Criminal Justice and assigning its powers and duties to the board.

Assuming the responsibilities of the CSA, the BSCC works in partnership with city and county officials to develop and maintain standards for the construction and operation of local jails and juvenile detention facilities and for the employment and training of local corrections and probation personnel. The BSCC also inspects local adult and juvenile detention facilities, administers funding programs for local facility construction, administers grant programs that address crime and delinquency, and conducts special studies relative to the public safety of California's communities.

As part of the 2011 budget act legislation, the BSCC was tasked with providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system. Particularly, the BSCC coordinates with, and assists local governments, as they implement the realignment of many adult offenders to local government jurisdictions that began in 2011. The intent is for the BSCC to guide statewide public safety policies and ensure that all available resources are maximized and directed to programs that are proven to reduce crime and recidivism among all offenders.

The BSCC is an entity independent from CDCR. However, although a local law enforcement representative chairs the BSCC, the Secretary of the CDCR serves as its vice chair. The BSCC consists of 13 members, streamlined from both its immediate predecessor (CSA), which had 19 members, and its former predecessor (BOC), which had 15 members. Members reflect state, local, judicial, and public stakeholders. The current members of the BSCC are:

Linda Penner	Chair
Scott Kernan	Secretary of CDCR
Bobby Haase	Director of Adult Parole Operations, CDCR
Dean Growdon	Sheriff of Lassen County
Geoff Dean	Sheriff of Ventura County
Leticia Perez	County Supervisor, Kern County
Michelle Scray Brown	Chief Probation Officer, San Bernardino County
Michael Ertola	Chief Probation Officer, Nevada County
Ramona Garrett	Retired Judge, Solano County
David Bejarano	Chief of Police, City of Chula Vista
Scott Budnick	Founder of the Anti-Recidivism Coalition
David Steinhart	Director of Juvenile Justice Program Commonweal
Mimi H. Silbert	Chief Executive Officer and President of Delancey Street Foundation

The Governor's budget proposes total funding of \$417.6 million (\$328.7 million General Fund) and 86.5 positions for the BSCC.

(dollars in millions)

	Funding	Positions
Administration, Research and Program Support	\$ 4.8	24.8
Corrections Planning and Grant Programs	137.5	30.0
Local Facilities Standards, Operations, and Construction	253.9	19.2
Standards and Training for Local Corrections	21.4	13.0
BSCC Total	\$417.6	86.5

Issue 2: BSCC Grant Programs and the Grant Making Process

Governor’s Budget. The proposed budget contains multiple items that will require the Board of State and Community Corrections (BSCC) to use their executive steering committee (ESC) process. Among those programs included in the budget are \$250 million General Fund for jail construction grants and \$6 million General Fund for on-going funding for grants designed to improve the relationship between local law enforcement and the communities they serve.

Background. The BSCC’s work involves collaboration with stakeholders, primarily local probation departments, sheriffs, county administrative offices, justice system partners, community-based organizations, and others. The BSCC sets standards and provides training for local adult and juvenile corrections and probation officers. It is also the administering agency for multiple federal and state public safety grants, including the Edward Byrne Memorial Justice Assistance Grants, several juvenile justice grants, Mentally Ill Offender Crime Reduction Grants, and jail construction grants.

Executive Steering Committees (ESC). In 2011, a longstanding practice of the BSCC and its predecessor entities (the Corrections Standards Authority and the Board of Corrections) to seek the input of outside experts and stakeholders through executive steering committees (ESC) was codified. Penal Code section 6024 now provides:

The board shall regularly seek advice from a balanced range of stakeholders and subject matter experts on issues pertaining to adult corrections, juvenile justice, and gang problems relevant to its mission. Toward this end, the board shall seek to ensure that its efforts (1) are systematically informed by experts and stakeholders with the most specific knowledge concerning the subject matter, (2) include the participation of those who must implement a board decision and are impacted by a board decision, and (3) promote collaboration and innovative problem solving consistent with the mission of the board. The board may create special committees, with the authority to establish working subgroups as necessary, in furtherance of this subdivision to carry out specified tasks and to submit its findings and recommendations from that effort to the board.

The BSCC (and its predecessors) has employed this process in numerous contexts, including the promulgation of regulations and the development of requests for proposals for grant programs. In addition, in 2013 AB 1050 (Dickinson; Chapter 2070, Statutes of 2013) was enacted to require the BSCC to develop definitions of certain key terms, including recidivism and, in doing that work, to “consult with” specified stakeholders and experts. (Penal Code Sec. 6027.)

As discussed in the previous item, AB 1056 was enacted to establish a grant program and process for the Proposition 47 savings – the “Safe Neighborhoods and Schools Fund” -- to be allocated by the BSCC. The key features of AB 1056 enumerate a number of prioritized proposal criteria, and codify characteristics for an ESC reflecting a “balanced and diverse membership from relevant state and local government entities, community-based treatment and

service providers, and the formerly incarcerated community.” This ESC is tasked by law with developing specified guidelines for the program.

Recently, BSCC staff advised prospective Proposition 47 ESC members that employees of nongovernmental entities or service providers that “might receive Prop 47 funding” are “financially interested” individuals for purposes of Government Code section 1090 and, as a result, are prohibited from participating in the ESC process. In addition, nongovernmental stakeholders were advised that they would be regarded as “financially interested” and ineligible for ESC participation if they “serve with an organization that might make a contribution” to the Proposition 47 fund. Prospective Proposition 47 ESC members were “encouraged to consider these points carefully, and consult with an attorney if necessary.”

These limitations have been applied by the BSCC only to persons who are employees of nongovernmental entities. A 2013 trailer bill provision (SB 74 (Committee on Budget and Fiscal Review) Chapter 30, Statutes of 2013)) sought by the Administration expressly provided that for purposes of Government Code section 1090 – the conflict of interest law noted above – “members of a committee created by the board, including a member of the board in his or her capacity as a member of a committee created by the board, have no financial interest in any contract made by the board, including a grant or bond financing transaction, based upon the receipt of compensation for *holding public office or public employment.*” (emphasis added.) BSCC has applied these provisions to impose different conflict rules for government employees and nonprofit employees.

In addition to the Proposition 47 ESC, which has yet to be formed, the BSCC recently advised persons already serving on the ESC for the \$6 million “Strengthening Law Enforcement and Community Relations” grants, that “the board cannot approve funding to the agencies in which the community-based organizations that participated in drafting the RFP were financially interested.” This appears to be a retroactive application of the BSCC’s recent conflict determination on an ESC which already has completed some of its recommendations to the board. The BSCC consequently has extended the due date for these applications, although that extension does not appear to affect the application disqualification impact of these recent conflict decisions on persons who served on this ESC.

Current Governor’s Budget BSCC Grant Proposals

Strengthening Law Enforcement and Community Relations Grants. The 2015 budget act include a new \$6 million grant program designed to provide local law enforcement entities with funding for programs and initiatives intended to strengthen the relationship between law enforcement and the communities they serve. The initiatives could include training for front-line peace officers on issues such as implicit bias; assessing the state of law enforcement-community relations; supporting problem-oriented initiatives such as Operation Ceasefire; and restorative justice programs that address the needs of victims, offenders, and the community. The Legislature proposed the funds following a hearing in early 2015 that was prompted by several controversial officer-involved shootings and other racially charged incidents across the country. The Governor has proposed \$6 million in ongoing funding in the Budget Act of 2016, which, if approved, would allow the BSCC to finance additional qualifying proposals.

The request for proposal (RFP) requires that 30 percent of the grant funding must be passed through to the community groups and organizations with which the law enforcement agency is partnering. The BSCC intends to judge and rate the proposals based on the strength of collaborations and how well they meet criteria spelled out in the RFP. The maximum grant for a single law enforcement agency will be \$600,000. Joint agency applications are eligible for up to \$850,000. A 20 percent match is required. The grants are payable over two years. Law enforcement agencies were required to notify the BSCC of their intent to apply by March 18, 2016. Proposals are due on April 15, 2016.

As mentioned above, after the grant request for proposal had been developed by the ESC, BSCC sent out a notice to their ESC members on March 15th telling them that if they were a nongovernmental agency, they would not be allowed to participate in the grant program as a contract or subcontractor. The same prohibition did not apply the governmental entities participating in the ESC process

Jail Construction Grants. 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 \$2.2 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.

Questions for the Administration. The Administration should be prepared to address the following:

1. Please tell the committee which of your grant programs currently, or as proposed in the Governor's budget, use the ESC process.
2. Will the recent communications from the BSCC to its ESC members and prospective members have a chilling effect on the willingness of nongovernmental stakeholders and experts to participate on ESCs? Will these recent communications and the approach taken by the BSCC foster trust between the BSCC and its non-governmental community stakeholders?
3. The policy value of the BSCC being informed by advice from a broad range of stakeholders and experts has long been recognized. Providing protections against self-interest or the appearance of self-interest in the decisions of the BSCC is equally important. Is the law as interpreted by the BSCC general counsel – applying different standards to government employees and non-profit employees – the best way to promote these two important values? Recognizing that BSCC staff is following what it believes to be the law on conflicts of interest, is there a way we can fix the law, so that all stakeholders, government and nongovernment alike, can be equally engaged in advising the board without exposing these stakeholders either to real conflicts, or potential appearances of conflict?
4. The Governor's Office of Emergency Services (OES) administers a number of grants, including the recent additional \$233 million from the federal Victims of Crime Act (VOCA) Formula Grant Program. In administering these funds, OES has a steering committee comprised of a number of stakeholders, including nonprofits which receive grant awards under this program. Why do the nonprofits which served on the Cal OES VOCA Steering Committee not have the same conflict problems identified by the BSCC for its ESCs? How does OES handle conflict issues? Can the OES approach be used by BSCC?
5. In terms of the request for additional jail construction funding, the Administration has provided no justification. Please explain the need for funding and why this is an appropriate use of one-time General Fund over other state funding priorities.

Legislative Analyst's Office (LAO).

Reject Proposed Jail Funding. The LAO Advises that while it is possible that there may be some need for additional state funding for county jail construction, the Administration has not been able to provide a detailed assessment of the current need. Absent such justification, we recommend that the Legislature reject the Governor's proposal to provide \$250 million from the General Fund for jail construction.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**Issue 1: Arts in Corrections Update**

Governor’s Budget. The budget includes on-going funding of \$2 million General Fund for the Arts in Corrections program administered by the California Arts Council.

Background. Prior to the most recent recession, California had pioneered the concept of art-as-rehabilitation. In 1977, artist Eloise Smith, then the director of the California Arts Council, proposed the idea of art in prison as a way to “provide an opportunity where a man can gain the satisfaction of creation rather than destruction.” She found private funding to launch an arts program in one prison, and it grew to six prisons. In 1980, California became the first state to fund a professional arts program – named Arts in Corrections – throughout its prison system. “It was recognized as an international model for arts in corrections,” says Craig Watson, director of the California Arts Council, which again is administering the program.

In 1983, University of San Francisco professor Larry Brewster performed a financial analysis at four prisons that found benefits from the program was more than double the costs. He also found that inmates in the arts program were 75 percent less likely than others to face disciplinary actions. “It’s critically important,” Brewster says of the program he’s now studied for three decades. He went on to note, “It instills a work ethic and self-confidence. “People in the arts programs don’t cause problems because they don’t want to lose the privilege of being in the program.”

By 2000, state budget cuts began to squeeze prison arts dry. In 2003, the program lost most of its funding, and by 2010 it had lapsed altogether. Some arts programs continued to work with inmates – the Prison Arts Project, the Marin Shakespeare Company and the Actors’ Gang – but they were privately funded.⁴

Studies have shown that arts programs in prisons reduce behavioral incidents, improve relationships not only between various populations housed within the prison but with guards and supervisory staff, and reduce recidivism. Specifically, a 1987 state Department of Corrections study showed that recidivism among inmates in the arts programs, two years after their release, dropped by nearly 40 percent. In addition, studies have demonstrated that arts in corrections programs can have a positive impact on inmate behavior, provide incentives for participation in other rehabilitative programs, and increase critical thinking, positive relationship building, and healthy behaviors.

The New Arts in Corrections program. The state’s Arts in Corrections program began as a one-time, two-year pilot program in 2014, using \$2.5 million unspent CDCR rehabilitation funds and administered by the California Arts Council. The Arts Council worked closely with the Department of General Services to develop an RFP over a very short period of several months. Organizations were then given three weeks in which to draft their proposals and submit them. Under this expedited time frame, the Arts Council, over a three to four month period beginning in February 2014, was able to develop an RFP, solicit applications, review applications, award funding and begin the pilot program

⁴ The Orange County Register. “The state is reviving an arts program for inmates. Can it help?” August 17, 2015.

by June 2014. The renewed program offers arts to offenders in many forms such as literacy, visual arts, performing arts, and media arts as well as drawing, painting, and sculpting.

Despite one year remaining in the pilot project, the 2015-16 budget included \$2 million General Fund to expand the pilot into an on-going program, which is currently available at 18 institutions. The Arts Council intends to use the \$1.5 million in remaining funding to conduct research in the value of arts programs, fund special projects, including arts in corrections pilots, that partner with universities, provide arts programming for inmates with mental illnesses, provide art programming as support for inmates approaching reentry, and provide specialized programming focused on job training.

Current service providers. In partnership with CDCR, the California Arts Council has contracted with the following organizations to provide rehabilitative arts services in state correctional facilities.

Actors' Gang - Los Angeles, CA
Alliance for California Traditional Arts (ACTA) - Fresno, CA
Dance Kaiso - San Francisco, CA
Fresno Arts Council – Fresno, CA
Inside Out Writers – Los Angeles, CA
Marin Shakespeare Company - San Rafael, CA
Muckenthaler Cultural Center - Fullerton, CA
Red Ladder Theatre Company / Silicon Valley Creates - San Jose, CA
Strindberg Laboratory - Los Angeles, CA
William James Association- Santa Cruz, CA

Legislative Analyst's Office (LAO). When the Legislature heard the 2015 May Revise proposal to provide \$2 million for an Arts in Corrections program, the LAO noted while such training could have some benefits, based on their review of existing research, they found little evidence to suggest that it is the most cost-effective approach to reducing recidivism. As such, the LAO recommended that the Legislature instead allocate these funds to support the expansion of existing programs that have been demonstrated through research to be cost-effective at reducing recidivism, such as cognitive behavioral therapy or correctional education programs.

Issue 2: Educational Opportunities Update

Governor's Budget. The proposed budget includes a total of \$186 million (\$180 million GF/Prop 98) for the current year and \$197 million (\$190 million GF/Prop 98) for 2016-17 for education programming.

The budget includes \$480,000 General Fund for increased security staff in order to allow community college courses to be taught in the evenings in prison.

Background. Inmate Education, both academic and career technical education, are key to giving inmates the skills and social support they need in finding employment upon release from prison. While some higher education and community organizations have traditionally provided career skills development opportunities to inmates, until recently, few collaborations had resulted in the hands-on sequences of courses leading to industry or state certifications known to be key in seeking subsequent employment. As discussed in more detail below, the passage of SB 1391 (Hancock) Chapter 695, Statutes of 2014, has allowed CDCR to expand their voluntary education programs to include in-person community college courses for inmates, thus allowing CDCR to expand their range of educational programs.

As part of CDCR's Division of Rehabilitative Programs, the Office of Correctional Education (OCE) offers various academic and education programs at each of California's adult state prisons. The goal of OCE is to provide offenders with needed education and career training as part of a broader CDCR effort to increase public safety and reduce recidivism. CDCR currently gives priority to those inmates with a criminogenic need for education. The department's main academic focus is on increasing an inmate's reading ability to at least a ninth-grade level.

All adult schools in the CDCR prisons are fully accredited by the Western Association of Schools and Colleges (WASC) to ensure the highest level of education, and some Career Technical Education programs offer industry standard certification.

The Office of Correctional Education focuses on the following programs:

- **Adult Basic Education (ABE) I, II, and III.** The Office of Correctional Education (OCE) manages Educational Programs for inmates/students. Inmates/students with reading skills below the ninth grade level may attend Adult Basic Education. Adult Basic Education (ABE) is divided into class levels I, II, and III. These ABE programs are targeted to serve the academic needs of the inmate/student population. ABE provides opportunities for acquiring academic skills through an emphasis on language arts and mathematics. The Test of Adult Basic Education (TABE) assessment is used to determine the initial placement of each inmate/student into an appropriate ABE level.

ABE I includes inmates/students who have scored between 0.0 and 3.9 on the reading portion of the TABE assessment. ABE II includes inmates/students with a reading score between 4.0 and 6.9. ABE III includes inmates/students with reading scores between 7.0 and 8.9. To advance or promote from one level to the next, inmates/students must show curriculum competence, completion or

achieve a higher TABE score through the TABE matrix testing process. As inmates/students progress through the ABE program levels, increasingly difficult language and mathematical concepts are introduced.

The ABE classes are designed to prepare the inmates/students for entry into a high school equivalency program or a high school diploma program, if certain criteria are met. ABE programs are available to all populations through class assignments and as a voluntary education program that may include tutorial support.

- **Career Technical Education (CTE) Programs.** CTE training is provided in six different career sectors that include the building trade and construction sector, the energy and utilities sector, the finance and business sector, the public service sector, manufacturing and product development sector, and the transportation sector.

Each of the 19 CTE programs is aligned with a positive employment outlook within the State of California, providing an employment pathway to a livable wage. Each of the CTE programs is also aligned to industry recognized certification.

- **General Education Development (GED).** The General Education Development (GED) program is offered to inmates/students who possess neither a high school diploma nor a high school equivalency certificate. Inmates/students receive instruction in language arts, mathematical reasoning, science, and social studies. To achieve the GED certificate, inmates/students must achieve a minimum score of 150 in each section and a total score of 600. Inmates/students must meet test requirements based upon their Tests of Adult Basic Education (TABE) results.

In January 2015, all CDCR institutions began delivering the GED 2014 test. Currently that test is computer-based. Due to custody constraints, some inmates may be allowed to take a paper and pencil version, on a case-by-case determination. The GED 2014 test is taken on a computer which delivers test data directly to the scoring site. The test is scored and results are returned immediately. A passing score on the GED 2014 test ensures that an adult's high school equivalency credential signifies he or she has the skills and knowledge necessary to take the next critical steps, whether entering the job market or obtaining additional education.

Inmates/students are placed into the GED program after completing Adult Basic Education (ABE) III or achieving the required TABE score and do not possess a high school diploma or a high school equivalency certificate. Inmates/students who are accepted into the GED program are provided educational support in completing the specific subject matter that will allow them to successfully pass the GED 2014 exam.

- **High School Diploma (HD) Program.** To be eligible for the HD program, designated Office of Correctional Education (OCE) staff review high school transcript information from the last high school the inmate/student attended. Based upon an analysis of the transcript, the inmate/student receives instruction in the areas needed for graduation.

Areas of high school instruction include life science, economics, U.S. history, U.S. government, English, and math. After completing instruction and successfully passing each required course and

exit examination, inmates/students may receive a high school diploma. For placement purposes, inmates/students need to be able to function at a high school grade level (9-12).

Inmates/students accepted into the HD program are provided support in completing targeted subject matter that will allow them to fulfill their graduation requirements.

- ***Voluntary Education Program (VEP)***. The purpose of the VEP is to offer inmates access to educational programming when an educational assignment is not available and/or to supplement traditional educational programming with opportunities for improvement in literacy and academic skills. Inmates are not assigned, but rather enrolled, and have no assigned hourly attendance requirements. The program is open entry/open exit.

The VEP includes literacy, adult secondary education, and/or college services. It offers participants the opportunity to continue progressing toward academic advancement and the attainment of a General Educational Development (GED) certificate, high school diploma, or college degree.

The program is designed to provide inmates/students support, as needed, in order for them to be able to succeed in their academic program. This support may begin at the very basic level for some inmates/students and may last throughout their academic program, while other inmates/students may enroll in VEP for assistance in a college course and only use the program for a very short time.

- ***Voluntary Education Program (VEP) – College***. Access to college courses is available to inmates/students through the VEP. Senate Bill 1391 (discussed below) will have significant impact on incarcerated students, allowing colleges to offer classes inside prisons. Currently CDCR works with 27 different college institutions, teaching close to 7,000 inmates. This bill will allow California Department of Corrections and Rehabilitation's Office of Correctional Education (OCE) to expand college programs.

OCE is currently working with the leaders of our existing college partners to create a list of minimum standards, as well as proper training for new colleges. Training will include topics as follows: safety/security, working with custody, the criminal personality, academic rigor, and providing degrees with transferable credits.

Inmates/students who participate in college courses through VEP receive academic support as needed. This support includes teacher-assisted tutoring, peer tutoring at some institutions, test-proctoring, and limited access to used textbooks in some institutions. Inmate/student progress is monitored, and course completions are verified and reported. Inmates may earn milestone credits for college course participation.

- ***Library Services***. Law and recreational Library Services are offered at all institutions, providing inmates with an extensive collection of recreational fiction and non-fiction books, as well as reference reading materials; e.g. selected periodicals, encyclopedias, selected Career Technical Education and college level textbooks, and basic literacy materials recommended by the American Library Association and the American Correctional Association. Additionally, the legal research materials in all of the libraries are offered in digital format and provide meaningful access to the

courts in accord with all current court requirements. The libraries also offer materials to support inmate rehabilitation, and include resources on employment, community reentry, and life skills.

- ***Institutional Television Services (ITVS)***. Television programming is provided to inmates at all CDCR institutions. Each institution has a television specialist and television communication center that produces, schedules, and delivers a mixture of television network programming, movies, and a compliment of rehabilitation television programs. ITVS interactive television programming also supports a variety of educational programming from basic literacy to GED preparation courses, as well as pre-recorded college courses.

Infrastructure improvement through Internet Protocol Television Integration (IPTV) is underway. It will provide central streaming, centralized programming content, improved delivery of content, create the ability to add channel capacity, provide television transmissions to all institutions, increase the number of areas served in the institutions, update the technology and improve the reliability of Institutional Programming.

- ***Recreation***. The Recreation Program offers various activities for the inmate population. Activities include intramural leagues and tournaments in both team and individual sports, board games, courses on personal fitness, and a selection of institutional movies.

Approximately 45,000 inmates participate in recreation-sponsored tournaments and activities on a monthly basis.

The department notes that, in order to continue improving education in prison, additional issues need to be addressed such as providing individually tailored education programming, reducing interruptions in learning due to movement between facilities, and improving offenders' familiarity with computer technology.

Retention and Recruitment of Teachers and Librarians. CDCR has been successful over the last two years in hiring approximately 160 additional academic teachers to expand CDCR's educational services in prison. However, in several key areas, CDCR continues to struggle with filling vacant teaching and librarian positions. Based on recent data provided by the department, as of January, CDCR had a vacancy rate of 33.3 percent for science teachers, 28.2 percent for math teachers, and 24.1 percent for librarians. In addition, unlike public school systems that can access a pool of substitute teachers to fill interim vacancies or teach during the absence of a permanent teacher, prisons generally cannot hold classes or provide access to the libraries unless the teacher or librarian is present. Therefore, having a successful strategy for recruiting and retaining skilled educators who are willing to work in a prison setting is critical to meeting the educational needs of inmates.

SB 1391 (Hancock) Chapter 695, Statutes of 2014. College-level academics have been shown to have positive impacts on recidivism and improve offender reentry. However, until the passage of SB 1391, state law prevented community colleges from receiving payment for any courses not available to the general public, including for incarcerated individuals. Specifically, SB 1391 allowed community colleges to receive payment for courses offered in prisons. After its passage, CDCR entered into an agreement with the California Community College Chancellor's Office to develop four pilot programs to provide inmate access to community college courses that lead to either careers or transfer to a four-year university.

The pilot districts of Antelope Valley, Chaffey, Los Rios, and Lassen were awarded \$2 million to develop their inmate education programs with an emphasis on face-to-face instruction. Classes in these pilot districts began in late January 2016, and will each serve 21 to 30 inmates per semester. Business and business entrepreneurship programs will be offered at Lancaster State Prison, California Institution for Women, Folsom's Women's Facility, and High Desert State Prison.

In addition to the pilot colleges, the change in state law made it easier for other local colleges to offer courses for inmates. Currently, 14 community colleges offer inmate courses to approximately 7,500 inmates throughout the state. These programs, including distance learning, offer inmates a variety of programs including general education, humanities, psychology, and business.

To further expand course offerings to inmates throughout the state, the California Community College Chancellor's Office hosted an Inmate and Reentry Education Summit in December 2015 in Northern California. Over 245 participants from non-profit organizations, community colleges and the California Department of Corrections and Rehabilitation attended the event. The Chancellor's Office reports that 10 to 12 additional colleges are interested in creating inmate education programs. The summit provided interested colleges with inmate education program best practices and planning information. Additionally, the summit included information to improve college services for recently released individuals on their campuses. The Chancellor's Office plans to host another summit in Southern California this spring.

To help provide access to these new community college programs, the budget includes \$480,000 for custody staff to oversee evening college courses offered in prisons, similar to the security provided in other educational and career technical education programs. This augmentation will improve the safety of inmates and volunteer professors that provide instruction for in-prison college courses.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Did the shift from written to computerized GED testing result in a reduction in the number of inmates obtaining their certificates? If so, how does the department intend to better prepare students to take a computerized test?
2. Please provide information on any department efforts to recruit and retain teachers and librarians.
3. As the department expands inmate's access to college courses, have you considered any strategies for expanding staff's, especially correctional staff's, access to college courses and degree or certificate programs?

Issue 3: Innovative Programming Grants Update

Governor's Budget. The budget does not contain any funding to continue the innovative programming grants.

Background. In 2014, the Legislature created the innovative programming grants program using the Recidivism Reduction Fund. The program was designed to provide volunteer programming that focuses on offender responsibility and restorative justice principles at underserved, remote prisons. In addition, the program required that the funding be provided to not-for-profit organizations wishing to expand programs that they are currently providing in other California state prisons. Finally, the program required that priority be given to level IV institutions.

Over the last two years, CDCR has awarded approximately \$5.5 million in innovative programming grants to non-profit organizations or individuals to increase the volunteer base at underserved institutions. This funding included \$2.5 million in grants funded from fiscal year 2014-15, and an additional \$3 million awarded in fiscal year 2015-16.

During the last two years, over 80 grants of varying sizes have been provided to non-profit organizations providing volunteer program's in the state prisons. Through these grants, innovative programming has been significantly expanded at 17 underserved institutions. Among the institutions that have benefited from these programs are Pelican Bay State Prison, High Desert State Prison, Chuckawalla Valley State Prison, and Ironwood State Prison, which are among the state's most geographically-remote institutions.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Given the Administration's finding that the innovative grants have successfully expanding programming to underserved prisons, why didn't the budget include funding to continue the program?
2. Every prison has a community resource manager (CRM) who serves as a liaison with the community and plans and directs major programs. As part of their role, they facilitate volunteer programs within the prisons, including those organizations that receive innovative programming grants. Concern has been raised that, at some institutions, the CRMs have either not been supportive of the innovative programs or have been unable to assist with their implementation due to other priorities. How does the department ensure that the grant recipients are adequately supported in their efforts to expand their programs to institutions that have not traditionally worked with outside, volunteer organizations? Was any training or guidance specifically provided to the CRMs to help them understand their role in facilitating the programs?

Issue 4: Expansion of Programs and Services for Lifer Population

Governor's Budget. The budget proposes an increase of \$10.5 million General Fund for the expansion of several programs for life-term and long-term offenders. The budget proposes using the funds toward increasing services, as follows:

- \$3.1 million for 136 additional beds in Parolee Service Center Program.
- \$3.4 million to expand the In-Prison Longer-Term Offender Program to level III and IV facilities, increasing the number of program slots by 1,700.
- \$3.1 million to expand the Pre-Employment Transitions Program to all prisons. In addition, the Governor proposes discontinuing the use of contractors for the program and instead hiring teachers. The program will serve approximately 23,000 inmates per year.
- \$423,000 to expand the Offender Mentor Certification Program which trains long-term and life-term inmates to become drug and alcohol counseling mentors. Once the mentors obtain 4,000 hours of work experience in treatment programs, they will be eligible to obtain a substance abuse counselor certification. This expansion will train an additional 64 inmates annually.
- \$480,000 for increased custody staff to oversee evening college courses offered in prisons.

Background. Long-term offenders are individuals who have been sentenced to a life term in prison with the possibility of parole, with the Board of Parole Hearings (BPH) making the determination whether parole is ultimately granted. In part due to significant changes in state law regarding inmates serving life sentences who are now eligible for parole, there has been an increase in the rate at which BPH grants parole in recent years, the number of long-term offenders granted parole increased from 541 in 2009 to 902 in 2014.

SB 260 and SB 261. As required by SB 260 (Hancock) Chapter 312, Statutes of 2013, the Board of Parole Hearings implemented the Youth Offender Parole Program, which provides youth offender parole hearings for specified offenders who were convicted of a crime prior to their 18th birthday and sentenced to state prison. This program was further expanded by SB 261 (Hancock) Chapter 471, Statutes of 2015, by increasing eligibility to those convicted of a crime committed before the age of 23. An inmate is eligible for a youth offender parole hearing during the 15th year of their sentence if they received a determinate sentence; 20th year if their controlling offense was less than 25 years to life; and during the 25th year if their controlling offense was 25 years to life. Inmates who were immediately eligible for a youth offender hearing when SB 260 took effect on January 1, 2014, were required to have their hearing by July 1, 2015. Those with an indeterminate sentence who were immediately eligible for a youth offender parole hearing on January 1, 2016, as a result of SB 261, are required to have their hearing completed by January 1, 2018. Determinately-sentenced offenders immediately eligible as a result of SB 261 are required to have their hearing before December 31, 2021.

Elderly Parole. The three-judge court order established the elderly parole program which allows inmates who are age 60 or older and who have served 25 years of continuous incarceration to be

considered for parole at a parole suitability hearing. Offenders who are eligible for elderly parole are eligible for parole consideration regardless of whether they are serving an indeterminate or determinate sentence. The number of inmates who will be eligible for a hearing under the elderly parole program will increase significantly over the next ten years.

In 2015, BPH scheduled 5,300 hearings, 959 of which were for youthful offenders and 1,012 were for inmates eligible for elderly parole. Offenders sentenced to life without the possibility of parole or condemned inmates are not eligible to apply for youthful offender or elderly parole.

Passage of Proposition 36. The passage of Proposition 36 in 2012 resulted in reduced prison sentences served under the three strikes law for certain third strikers whose current offenses were non-serious, non-violent felonies. The measure also allowed resentencing of certain third strikers who were serving life sentences for specified non-serious, non-violent felonies. The measure, however, provides for some exceptions to these shorter sentences. Specifically, the measure required that if the offender has committed certain new or prior offenses, including some drug, sex, and gun-related felonies, he or she would still be subject to a life sentence under the three strikes law.

According to the Governor's budget, it is estimated that approximately 2,800 inmates will be eligible for resentencing under Proposition 36. The most recent Three-Judge Panel status report on the reduction of the prison population shows that as of December 23, 2015, 2,168 of those eligible have been resentenced and released from prison.

SB 230 (Hancock) Chapter 470, Statutes of 2015. On October 3, 2015, the state also enacted SB 230, which requires that once a person is found suitable for parole he or she be released, rather than being given a future parole date. Prior to the passage of SB 230, a person could be found suitable for parole by BPH and still not be released for years because of the various enhancements that have been added to the person's term.

Rehabilitation for Long-Term Offenders. All of the recent changes discussed above have provided inmates serving life sentences, who previously may not have had an opportunity to leave prison, with an opportunity to leave and return to their communities, if BPH determines that it is safe for them to do so. According to the department, due to the nature of their commitment offenses, long-term offenders spend a significant amount of time in prison and thus may have challenges adjusting to life outside of prison. In order to alleviate these challenges, CDCR has established rehabilitative programs that specifically target long-term offenders:

Long-Term Offender Program (LTOP). The LTOP provides rehabilitative programming (such as substance use disorder treatment, anger management, and employment readiness) on a voluntary basis to long-term offenders at three state prisons—Central California Women's Facility in Chowchilla, California Men's Colony in San Luis Obispo, and California State Prison, Solano.

Offender Mentorship Certification Program (OMCP). The OMCP trains long-term offenders as substance use disorder counselors while they are incarcerated. Upon graduation from the training program, participants are employed by CDCR to deliver counseling services to their fellow inmates. There are currently two sessions offered annually, allowing up to 64 offenders to be certified as mentors each year.

In addition, CDCR offers various other rehabilitative programs that are generally available to inmates and parolees, including long-term offenders. However, those programs are not necessarily widely available to all inmates at all prisons and may have long waiting lists, at those prisons where they are offered.

Legislative Analyst's Office (LAO).

Approve Proposed Expansion of Programming for Higher-Risk Offenders. The LAO recommends that the Legislature approve the portion of the proposal—totaling \$4 million—that would expand rehabilitative programming opportunities for higher-risk offenders that are consistent with programs shown to be cost-effective methods for reducing recidivism. Specifically, the LAO recommends providing the requested funding to support (1) the expansion of the OMCP, (2) the expansion and modification of the Transitions Program, and (3) custody overtime needed to operate community college programs.

Reject Remainder of Proposal. The LAO recommends that the Legislature reject the remainder of the Governor's proposal to expand programs for long-term offenders. While they acknowledge that these programs may provide some benefit to long-term offenders, research suggests that the department could achieve greater benefits to public safety by instead targeting higher-risk offenders. To the extent that the Legislature is interested in further expanding rehabilitative programming, the LAO recommends that it direct the department to come back with a proposal that targets higher-risk offenders and reduces the number of such offenders who are released from prison without receiving any programming targeted toward their identified needs.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. The LAO has noted that as high as 40 percent of high-risk offenders are being released without being provided any rehabilitative programming. Do you agree with that estimate? In addition, please provide the committee with the department's plan for expanding the availability of programming to include the majority of, if not all, high-risk offenders to ensure that they are adequately prepared to leave prison and return to their communities?
2. Given the studies that show that maintaining strong family relationships help to significantly reduce the likelihood of an individual returning to jail or prison once they are released, has the department considered revising its family visit policy to allow inmates serving longer terms or life terms to receive extended family visits as a way of helping them prepare for their return to their families and communities upon their release?
3. Given the demonstrated success of restorative justice programs in reducing recidivism, especially for those inmates serving long terms, has the department considered contracting with non-profit organizations currently providing those programs as volunteers to allow them to expand to become a formal part of your long-term offender programming?

Issue 5: Enhanced Drug and Contraband Interdiction

Governor’s Budget. The budget proposes \$7.9 million General Fund to continue the existing 11 institution pilot program and expand the enhanced efforts at three intensive institutions.

The Governor’s budget for 2016–17 requests \$7.9 million in one–time funding from the General Fund and 51 positions to extend the enhanced drug interdiction pilot program for an additional year, as well as expand the level of services provided through the pilot program. According to CDCR, the continuation of the existing pilot program for one more year would allow the department to collect additional data to analyze its effectiveness. In addition, CDCR intends to expand certain interdiction efforts to (1) increase the frequency of random screening of staff and visitors at intensive interdiction prisons and (2) lease three additional full body X–ray machines to screen visitors. The department states that these additional resources are necessary to assess the efficacy of increased screening.

The department has indicated that it intends to issue a preliminary evaluation report on the pilot program but has not provided an estimate of when that report will be released. In addition, the department intends to issue a final evaluation report in the spring of 2017.

Background. Data provided by CDCR indicate that drug use is prevalent in prison. For example, in June 2013, 23 percent of randomly selected inmates tested positive for drug use. In addition, another 30 percent refused to submit to testing, which suggests that the actual percentage of inmates using drugs is likely considerable.

Drug use in prison is problematic for several reasons. For example, according to the department, the prison drug trade strengthens prison gangs and leads to disputes among inmates that can escalate into violence. Such violence often leads to security lock–downs which interfere with rehabilitation by restricting inmate access to programming. In addition, the presence of drugs in prison allows inmates to continue using them, thereby reducing the effectiveness of drug treatment programs.

The Legislature provided CDCR with \$5.2 million (General Fund) in both 2014–15 and 2015–16 to implement a two–year pilot program intended to reduce the amount of drugs and contraband in state prisons. Of this amount, \$750,000 annually was used for random drug testing of 10 percent of inmates per month at all 34 state prisons and the California City prison, which are all operated by CDCR. In addition, CDCR had redirected resources in 2013–14 to begin random drug testing 10 percent of the inmate population each month beginning January 2014. The remaining amount was used to implement enhanced interdiction strategies at 11 institutions, with eight prisons receiving a “moderate” level of interdiction and three prisons receiving an “intensive” level.

According to CDCR, each of the moderate institutions received the following: (1) at least two (and in some cases three) canine drug detection teams; (2) two ion scanners to detect drugs possessed by inmates, staff, or visitors; (3) X–ray machines for scanning inmate mail, packages, and property as well as the property of staff and visitors entering the prison; and (4) one drug interdiction officer. In addition to the above resources, each of the intensive institutions received: (1) one additional canine team, (2) one additional ion scanner, (3) one full body scanner at each entrance and one full body X–ray scanner for inmates, and (4) video cameras to surveil inmate visiting rooms. In 2015, the

Legislature passed legislation requiring the department to evaluate the pilot drug testing and interdiction program within two years of its implementation.

Legislative Analyst's Office (LAO).

Approve Temporary Extension of Drug Testing. The LAO recommends that the Legislature approve the portion of this request—\$750,000 from the General Fund—associated with continuing the random drug testing for one additional year. The drug testing program appears to have increased the rate at which CDCR is identifying inmates who use illegal drugs. In addition, the collection of additional drug test results should help the department to assess whether the removal of drug interdiction resources, as recommended below, affects the rate of drug use in prisons. Based on the result of the department's final evaluation, the Legislature could determine whether to permanently extend the drug testing program.

Reject Remainder of Proposal to Extend Drug Interdiction Pilot Program. The LAO recommends that the Legislature reject the remainder of the Governor's proposal to extend and expand the drug interdiction pilot program. Extending the program now would be premature given that (1) preliminary data suggest that it is not achieving its intended outcomes and (2) CDCR has not yet fully evaluated its effectiveness. The LAO also recommends that the Legislature direct the department to accelerate its timeline for evaluating the program so that it is completed in time to inform legislative deliberations on the 2017–18 budget, such as whether any of the interdiction strategies should be permanently adopted.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Please provide the most recent data on how much contraband has been seized specifically as a result of the pilot and who was found with the contraband (i.e. visitors, staff, inmates).
2. In exchange for approving the enhanced drug interdiction pilot, including increased drug testing, the Administration assured the Legislature that those individuals testing positive for illegal substances would receive treatment, rather than punishment. Given the very limited availability of treatment, have you been able to keep that agreement?
3. Please provide updated data on the number of inmates testing positive for illegal substances, how many received treatment, and how many received a rules violation.

Issue 6: Substance Use Disorder Treatment Expansion

Governor's Budget. The budget proposes \$15.2 million General Fund and 51.6 additional positions to continue the expansion of substance abuse treatment programs to the 11 remaining adult institutions. Of the requested positions, 15.6 are correctional officers, 11 are parole services associates, 11 are correctional counselor III positions, and 11 are office technicians.

In addition, the budget includes \$70 million General Fund in the current year and \$68 million General Fund in 2016-17 for funding substance use disorder treatment for parolees through the Specialized Treatment for Optimized Programming (STOP) program.

Background. Providing offenders with access to substance use disorder treatment has a meaningful impact on reducing recidivism, and is a critical aspect of an inmate's rehabilitation. Without addressing this need, all other aspects of the inmate's rehabilitation are impacted. According to the 2014 Outcome Evaluation Report by CDCR's Office of Research, offenders who were assigned to an in-prison substance use disorder treatment and completed treatment while in the community had a recidivism rate of 20.9 percent compared to 55.6 percent for those who did not receive any substance use disorder treatment. The department currently offers evidence-based substance use disorder treatment programs for inmates as part of their reentry programming. Currently, treatment is offered in the 13 reentry hubs, four in-state contract facilities, the California City Correctional Facility and in 10 non-reentry institutions. The treatment programs are generally 150 days in length.

CDCR Automated Risk and Needs Assessment Tool data demonstrates that approximately 70 percent of the inmate population has a moderate to high criminogenic need for substance use disorder treatment. There are currently approximately 117,000 inmates in the state's institutions. Based on CDCR's data, over 80,000 of them need some level of treatment. Currently, CDCR provides some level of treatment at 23 prisons (the 13 reentry hubs and 10 additional prisons), generally at the end of an inmate's term. Despite the significant need and the proven value of treatment in reducing recidivism, CDCR currently only has the capacity to treat less than 2,500 inmates per year. The proposed expansion will result in a total capacity of 3,168 treatment slots.

Office of the Inspector General. According to the Inspector General's *California Rehabilitation Oversight Board Annual Report* from September 2015, as of June 30, 2015, the capacity for substance abuse treatment (SAT) programming is 3,036, not including 88 enhanced outpatient program slots. This is an increase of 1,218 from June 30, 2014, where the SAT capacity was 1,818. Although the department's contracted capacity is 3,036, the department reports it currently has an operational capacity of 1,374 programming slots with an annual capacity of 2,748. The department reports that the difference in contracted capacity and operational capacity is due to space limitations pending the arrival of program modular buildings, construction, and space repurposing to accommodate the contracted capacity.

Specialized Treatment for Optimized Programming (STOP). STOP contractors provide comprehensive, evidence-based programming and services to parolees during their transition into the community. Priority is given to parolees who are within their first year of release and who have demonstrated a moderate to high risk to reoffend, as identified by the California Static Risk Assessment (CSRA), and have a medium to high need, as identified by the Correctional Offender

Management Profiling for Alternative Sanctions (COMPAS) reentry assessment tool. STOP services include (but are not limited to):

- Substance Use Disorder Treatment
- Detoxification Services
- Preventive and Primary Health Care Services
- General Health Education Services
- Motivational Incentives
- Anger Management
- Criminal Thinking
- Life Skills Programs
- Community and Family Reunification Services
- Employment and Educational Services
- and Referrals
- Individual, Family and Group Counseling
- Sober Living Housing
- Faith-Based Services

Medication-Assisted Substance Use Disorder Treatment. Generally, CDCR does not provide medication-assisted treatment in their institutions. Medication-assisted treatment (MAT), including opioid treatment programs (OTPs), combines behavioral therapy and medications to treat substance use disorders. Generally, MAT includes the use of buprenorphine, methadone, naltrexone and naloxone (for opioid overdose). According to a report from the federal Substance Abuse and Mental Health Services Administration (SAMHSA):

Medication-assisted treatment is treatment for addiction that includes the use of medication along with counseling and other support. Treatment that includes medication is often the best choice for opioid addiction. If a person is addicted, medication allows him or her to regain a normal state of mind, free of drug-induced highs and lows. It frees the person from thinking all the time about the drug. It can reduce problems of withdrawal and craving. These changes can give the person the chance to focus on the lifestyle changes that lead back to healthy living.

Taking medication for opioid addiction is like taking medication to control heart disease or diabetes. It is NOT the same as substituting one addictive drug for another. Used properly, the medication does NOT create a new addiction. It helps people manage their addiction so that the benefits of recovery can be maintained. There are three main choices for medication.

The most common medications used in treatment of opioid addiction are methadone and buprenorphine. Sometimes another medication, called naltrexone, is used. Cost varies for the different medications. This may need to be taken into account when considering treatment options. Methadone and buprenorphine trick the brain into thinking it is still getting the problem opioid. The person taking the medication feels normal, not high, and withdrawal does not occur. Methadone and buprenorphine also reduce cravings. Naltrexone helps overcome addiction in a different way. It blocks the effect of opioid drugs. This takes away the feeling of getting high if the problem drug is used again. This feature makes naltrexone a good choice to

prevent relapse (falling back into problem drug use). All of these medications have the same positive effect: they reduce problem addiction behavior.⁵

Since December 2014, naltrexone has been made available in California through an expedited process to all alcohol or opioid dependent patients who are Medi-Cal beneficiaries with a felony or misdemeanor charge or conviction who are under supervision by the county or state. In 2015, San Mateo provided \$2 million in funding to create naltrexone programs in emergency rooms and clinics.

Other States' Medication Assisted Treatment Programs. Several states have begun expanding their in-prison treatment to provide medication-assisted treatment when appropriate. For example, in 2015 Pennsylvania expanded their treatment to include naltrexone as part of their reentry program at eight of their correctional institutions for inmates with opioid and alcohol dependence. The state of Colorado provides comprehensive treatment, including naltrexone, to parolees. Finally, Massachusetts has implemented a statewide prison reentry program that includes the use of naltrexone for people with alcohol and opioid dependence. Kentucky, as well, provides naltrexone to treat opioid dependence. In addition to those states, Florida, Illinois, Indiana, Maryland, Missouri, New Jersey, Ohio, Tennessee, Utah, West Virginia, and Wisconsin have all begun using a medication assisted treatment model for individuals involved in the criminal justice system as a way of treating opioid dependence.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Under what circumstances, if any, does CDCR use medication-assisted treatment? If none, why not?
2. Given the large number of inmates needing treatment, why is the Administration only proposing 3,000 additional treatment slots?
3. Providers for the STOP program recently submitted a letter stating that they believe the program has a funding shortfall of over \$8 million in the current year and that the problem will increase to over \$13 million in 2016-17. Has the Administration reviewed their claims and do you agree that there is a shortfall? If not, please explain why not. If you agree that the caseload projections have resulted in a funding shortfall, what is the Administration's plan for providing adequate funding for parolees in need of substance use disorder treatment?

⁵ United State Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *Medication Assisted Treatment for Opioid Addiction: Facts for Families and Friends*, 2011.

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, April 7, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 113

Consultant: Julie Salley-Gray

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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) 651-1505. Requests should be made one week in advance whenever possible.

PROPOSED FOR VOTE ONLY**Board of State and Community Corrections**

- 1. Funding Reduction for Standards and Training for Corrections** – The budget proposes a reduction of \$489,000 in spending authority from the Corrections Training Fund. The requested reduction is due to lower than anticipated program costs.

California Department of Corrections and Rehabilitation

- 2. Sex Offender Management Board** – The proposed budget includes \$212,000 General Fund and two permanent analyst positions beginning in 2016-17 due to increased workload for the California Sex Offender Management Board and the State Authorized Risk Assessment Tools for Sex Offenders Task Force, primarily related to an anticipated increase in the need for certified treatment providers and programs as required by Chelsea’s Law.

Subcommittee Action: Approve as Budgeted**Vote: 3 – 0**

ITEMS TO BE HEARD

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS
0250 JUDICIAL BRANCH
Issue 1: Proposition 47

Governor’s Budget. The Governor’s budget includes \$21.4 million to address increased trial court workload associated with voter approval of Proposition 47 (the Safe Neighborhoods and Schools Act), which reduced many possessory drug offenses and low-value property thefts to misdemeanors (described in detail below). This second year of proposed new funding is \$13.8 million more than originally estimated for 2016–2017.

In addition, the budget assumes an initial Proposition 47 savings in 2016-17 of \$29.3 million, growing to an annual on-going savings of \$57 million per year. Proposition 47 requires the Department of Finance to provide their first official estimate by July 31, 2016, and on July 31 each year thereafter.

Background. In November 2014, the voters approved Proposition 47, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing.

Reduction in Existing Penalties Under Proposition 47

Crime	Description
Drug Possession	Prior to the passage of Proposition 47, possession for personal use of most illegal drugs (such as cocaine or heroin) was a misdemeanor, a wobbler, ¹ or a felony—depending on the amount and type of drug. Under current law, such crimes are now misdemeanors. The measure would not change the penalty for possession of marijuana, which was already either an infraction or a misdemeanor.
Grand Theft	Prior to the passage of Proposition 47, theft of property worth \$950 or less was often charged as petty theft, which is a misdemeanor or an infraction. However, such crimes could sometimes be charged as grand theft, which is generally a wobbler. For example, a wobbler charge can occur if the crime involves the theft of certain property (such as cars) or if the offender has previously committed certain theft-related crimes. Proposition 47 limited when theft of property of \$950 or less could be charged as grand theft. Specifically, such crimes can no longer be charged as grand theft solely because of the type of property involved or because the defendant had previously committed certain theft-related crimes.
Shoplifting	Prior to the passage of Proposition 47, shoplifting property worth \$950 or less (a type of petty theft) was often a misdemeanor. However, such crimes could also be charged as burglary, which is a wobbler. Under the new law, shoplifting property worth \$950 or less will always be a misdemeanor and cannot be charged as burglary.
Receiving Stolen Property	Prior to the passage of Proposition 47, individuals found with stolen property could be charged with receiving stolen property, which was a wobbler crime. Under current law, receiving stolen property worth \$950 or less would always be a misdemeanor.

¹ “A wobbler” refers to a crime that can either be charged as a misdemeanor or a felony.

Writing Bad Checks	Prior to the passage of Proposition 47, writing a bad check was generally a misdemeanor. However, if the check was worth more than \$450, or if the offender had previously committed a crime related to forgery, it was a wobbler crime. Under the new law, it is a misdemeanor to write a bad check unless the check is worth more than \$950 or the offender had previously committed three forgery-related crimes, in which case they would remain wobbler crimes.
Check Forgery	Prior to the passage of Proposition 47, it was a wobbler crime to forge a check of any amount. Under the new law, forging a check worth \$950 or less is always a misdemeanor, except that it remains a wobbler crime if the offender commits identity theft in connection with forging a check.

Source: Legislative Analyst's Office, "Proposition 47 – Criminal Sentences. Misdemeanor Penalties. Initiative Statute." November 4, 2014.

Proposition 47 requires that state savings resulting from the proposition be transferred into a new fund, the Safe Neighborhoods and Schools Fund (SNSF). The new fund will be used to reduce truancy and support drop-out prevention programs in K-12 schools (25 percent of fund revenue), increase funding for trauma recovery centers (10 percent of fund revenue), and support mental health and substance use disorder treatment services and diversion programs for people in the criminal justice system (65 percent of fund revenue).

Role of the Legislature in Determining Proposition 47 Savings. The proposition does not provide for legislative input on the calculation of the savings. The Administration and the State Controller have sole discretion over determining the amount of the state savings. Specifically, the statute requires that Director of Finance, on or before July 31, 2016, and on or before July 31 of each fiscal year thereafter, calculate the state savings for the previous fiscal year compared to 2013-14. Actual data or best estimates are to be used and the calculation is final and must be certified by the State Controller's Office no later than August 1 of each fiscal year. The first transfer of state savings to the Safe Neighborhoods and Schools Fund will occur in 2016-17, after the Department of Finance (DOF) calculates savings pursuant to the proposition.²

AB 1056 (Atkins) Chapter 438, Statutes of 2015. AB 1056 was enacted to establish a grant program and process for the Proposition 47 savings – the "Safe Neighborhoods and Schools Fund" – to be allocated by the BSCC. The key features of AB 1056 enumerate a number of prioritized proposal criteria, such as those proposals that include mental health services, substance use disorder treatment services, misdemeanor diversion programs; housing-related assistance that utilizes evidence-based models; other community-based supportive services, such as job skills training, case management, and civil legal services; and proposals that advance principles of restorative justice while demonstrating a capacity to reduce recidivism. In addition, the bill codifies characteristics for the executive steering community (discussed in more detail in the next item).

Legislative Analyst's Office (LAO). The LAO plays a key role in the initiative process. They work with DOF to prepare an impartial assessment of each statewide initiative submitted by the public before it can be circulated for signature gathering. State law requires that this analysis provide an estimate of the measure's impact on state and local government revenues and costs. The analysis typically also includes relevant background information and a summary of the measure's provisions. The LAO does not take a position on proposed initiatives, nor does it advise proponents on what

² 2015-16 Governor's Budget Summary

changes they should make during the public review period. The Attorney General incorporates a summary of the fiscal estimate developed jointly by the LAO and DOF into the summary that is included on the petitions circulated by signature gatherers.

LAO Independent Ballot Analysis for Proposition 47. Following is the independent fiscal analysis provided by the LAO for proposition 47:

This measure would have a number of fiscal effects on the state and local governments. The size of these effects would depend on several key factors. In particular, it would depend on the way individuals are currently being sentenced for the felony crimes changed by this measure. Currently, there is limited data available on this, particularly at the county level. The fiscal effects would also depend on how certain provisions in the measure are implemented, including how offenders would be sentenced for crimes changed by the measure. For example, it is uncertain whether such offenders would be sentenced to jail or community supervision and for how long. In addition, the fiscal effects would depend heavily on the number of crimes affected by the measure that are committed in the future. Thus, the fiscal effects of the measure described below are subject to significant uncertainty.

State Effects of Reduced Penalties

The proposed reduction in penalties would affect state prison, parole, and court costs.

State Prison and Parole. This measure makes two changes that would reduce the state prison population and associated costs. First, changing future crimes from felonies and wobblers to misdemeanors would make fewer offenders eligible for state prison sentences. We estimate that this could result in an ongoing reduction to the state prison population of several thousand inmates within a few years. Second, the resentencing of inmates currently in state prison could result in the release of several thousand inmates, temporarily reducing the state prison population for a few years after the measure becomes law.

In addition, the resentencing of individuals currently serving sentences for felonies that are changed to misdemeanors would temporarily increase the state parole population by a couple thousand parolees over a three-year period. The costs associated with this increase in the parole population would temporarily offset a portion of the above prison savings.

State Courts. Under the measure, the courts would experience a one-time increase in costs resulting from the resentencing of offenders and from changing the sentences of those who have already completed their sentences. However, the above costs to the courts would be partly offset by savings in other areas. First, because misdemeanors generally take less court time to process than felonies, the proposed reduction in penalties would reduce the amount of resources needed for such cases. Second, the measure would reduce the amount of time offenders spend on county community supervision, resulting in fewer offenders being supervised at any given time. This would likely reduce the number of court hearings for offenders who break the rules that they are required to follow while supervised in the community. Overall, we estimate that the measure could result in a net increase in court costs for a few years with net annual savings thereafter.

Summary of State Fiscal Effects. *In total, we estimate that the effects described above could eventually result in net state criminal justice system savings in the low hundreds of millions of dollars annually, primarily from an ongoing reduction in the prison population of several thousand inmates. As noted earlier, any state savings would be deposited in the Safe Neighborhoods and Schools Fund to support various purposes.*

County Effects of Reduced Penalties

The proposed reduction in penalties would also affect county jail and community supervision operations, as well as those of various other county agencies (such as public defenders and district attorneys' offices).

County Jail and Community Supervision. *The proposed reduction in penalties would have various effects on the number of individuals in county jails. Most significantly, the measure would reduce the jail population as most offenders whose sentence currently includes a jail term would stay in jail for a shorter time period. In addition, some offenders currently serving sentences in jail for certain felonies could be eligible for release. These reductions would be slightly offset by an increase in the jail population as offenders who would otherwise have been sentenced to state prison would now be placed in jail. On balance, we estimate that the total number of statewide county jail beds freed up by these changes could reach into the low tens of thousands annually within a few years. We note, however, that this would not necessarily result in a reduction in the county jail population of a similar size. This is because many county jails are currently overcrowded and therefore release inmates early. Such jails could use the available jail space created by the measure to reduce such early releases.*

We also estimate that county community supervision populations would decline. This is because offenders would likely spend less time under such supervision if they were sentenced for a misdemeanor instead of a felony. Thus, county probation departments could experience a reduction in their caseloads of tens of thousands of offenders within a few years after the measure becomes law.

Other County Criminal Justice System Effects. *As discussed above, the reduction in penalties would increase workload associated with resentencing in the short run. However, the changes would reduce workload associated with both felony filings and other court hearings (such as for offenders who break the rules of their community supervision) in the long run. As a result, while county district attorneys' and public defenders' offices (who participate in these hearings) and county sheriffs (who provide court security) could experience an increase in workload in the first few years, their workload would be reduced on an ongoing basis in the long run.*

Summary of County Fiscal Effects. *We estimate that the effects described above could result in net criminal justice system savings to the counties of several hundred million dollars annually, primarily from freeing jail capacity.³*

³ Legislative Analyst's Office. *Proposition 47: Criminal Sentences, Misdemeanor Penalties, Initiative Statute*. July 17, 2014. LAO.CA.GOV.

As noted above, currently, the Administration estimates that \$29.3 million from the General Fund would be deposited into the SNSF on July 31, 2016 for expenditure in 2016–17, based on its estimates of the savings and costs resulting from the implementation of Proposition 47. This amount is significantly different from the low hundreds of millions noted in the LAO’s ballot initiative estimate.

On February 16, 2016, the LAO released a report on the fiscal impact of Proposition 47. Generally, the report found that the Administration significantly underestimated the savings associated with Proposition 47 and overestimated the costs. Specifically, the LAO noted:

How Much Money Should Be Deposited to SNSF in 2016–17. Based on its estimates of the savings and costs resulting from the implementation of Proposition 47, the Administration currently estimates that it will deposit \$29.3 million from the General Fund into the SNSF for expenditure in 2016–17. The LAO finds that the Administration likely underestimates the savings and overestimates the costs resulting from the measure. For example, the LAO estimates that the actual level of prison savings due to Proposition 47 could be \$83 million, higher compared to the Administration’s estimate. Overall, the LAO estimates that the SNSF deposit in 2016–17 could be around \$100 million higher than the Administration’s figure.

How to Pay for SNSF Deposit in 2016–17. The Administration proposes to allow both the state courts and the Department of State Hospitals (DSH) to keep savings they are estimated to realize as a result of Proposition 47. The LAO finds that this would reduce legislative oversight by allowing these agencies to redirect their savings to other programs and services without legislative review or approval. The LAO recommends that the Legislature reduce the budgets for the courts and DSH to account for the savings resulting from this measure.

Allocation of Funds Deposited Into SNSF. Under the measure, funds deposited in the SNSF are required to be annually allocated as follows: (1) 65 percent for the Board of State and Community Corrections (BSCC) to support mental health and substance use services, (2) 25 percent for the California Department of Education (CDE) to support truancy and dropout prevention, and (3) 10 percent for the Victim Compensation and Government Claims Board (VCGCB) for grants to trauma recovery centers (TRCs). The LAO finds that the Administration’s proposal to allocate the funds provided to BSCC based on recently passed legislation to be reasonable. In addition, the LAO recommends that the funds provided to CDE be allocated to schools with the highest concentrations of at-risk students and that schools be given flexibility in deciding how to best use the funds. Finally, the LAO also recommends that the VCGCB be given more guidance on how to manage the grants to TRCs. Specifically, the LAO recommends that the Legislature (1) structure the grants to ensure the funds are spent in an effective manner, (2) ensure that the state receives federal reimbursement funds for all eligible services provided by TRCs, (3) expand TRCs to additional regions of the state, and (4) evaluate grant recipients based on outcomes.

Subcommittee Action: Held open and directed the LAO to work with DOF and the Judicial Council to provided updated costs and savings estimates taking into account the LAO’s findings.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

Originally, the Board of Corrections (BOC) was established in 1944 as part of the state prison system. Effective July 1, 2005, as part of the corrections agency consolidation, the Corrections Standards Authority (CSA) was created within the California Department of Corrections and Rehabilitation (CDCR) by bringing together the BOC and the Correctional Peace Officers Standards and Training (CPOST) Commission. The reorganization consolidated the duties and functions of the BOC and CPOST and entrusted the CSA with new responsibilities.

Legislation associated with the 2011 budget act abolished the CSA and established the Board of State and Community Corrections (BSCC or board) as an independent entity, effective July 1, 2012. The BSCC absorbed the previous functions of the CSA as well as other public safety programs previously administered by the California Emergency Management Agency (CalEMA). Specific statutory changes included:

- Abolishing the CSA within CDCR and established the BSCC as an independent entity.
- Transferring the powers and duties of the CSA to the BSCC.
- Transferring certain powers and duties from the California Emergency Management Agency (CalEMA) to the BSCC.
- Eliminating the California Council on Criminal Justice and assigning its powers and duties to the board.

Assuming the responsibilities of the CSA, the BSCC works in partnership with city and county officials to develop and maintain standards for the construction and operation of local jails and juvenile detention facilities and for the employment and training of local corrections and probation personnel. The BSCC also inspects local adult and juvenile detention facilities, administers funding programs for local facility construction, administers grant programs that address crime and delinquency, and conducts special studies relative to the public safety of California's communities.

As part of the 2011 budget act legislation, the BSCC was tasked with providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system. Particularly, the BSCC coordinates with, and assists local governments, as they implement the realignment of many adult offenders to local government jurisdictions that began in 2011. The intent is for the BSCC to guide statewide public safety policies and ensure that all available resources are maximized and directed to programs that are proven to reduce crime and recidivism among all offenders.

The BSCC is an entity independent from CDCR. However, although a local law enforcement representative chairs the BSCC, the Secretary of the CDCR serves as its vice chair. The BSCC consists of 13 members, streamlined from both its immediate predecessor (CSA), which had 19 members, and its former predecessor (BOC), which had 15 members. Members reflect state, local, judicial, and public stakeholders. The current members of the BSCC are:

Linda Penner	Chair
Scott Kernan	Secretary of CDCR
Bobby Haase	Director of Adult Parole Operations, CDCR
Dean Growdon	Sheriff of Lassen County
Geoff Dean	Sheriff of Ventura County
Leticia Perez	County Supervisor, Kern County
Michelle Scray Brown	Chief Probation Officer, San Bernardino County
Michael Ertola	Chief Probation Officer, Nevada County
Ramona Garrett	Retired Judge, Solano County
David Bejarano	Chief of Police, City of Chula Vista
Scott Budnick	Founder of the Anti-Recidivism Coalition
David Steinhart	Director of Juvenile Justice Program Commonweal
Mimi H. Silbert	Chief Executive Officer and President of Delancey Street Foundation

The Governor's budget proposes total funding of \$417.6 million (\$328.7 million General Fund) and 86.5 positions for the BSCC.

(dollars in millions)

	Funding	Positions
Administration, Research and Program Support	\$ 4.8	24.8
Corrections Planning and Grant Programs	137.5	30.0
Local Facilities Standards, Operations, and Construction	253.9	19.2
Standards and Training for Local Corrections	21.4	13.0
BSCC Total	\$417.6	86.5

Issue 2: BSCC Grant Programs and the Grant Making Process

Governor’s Budget. The proposed budget contains multiple items that will require the Board of State and Community Corrections (BSCC) to use their executive steering committee (ESC) process. Among those programs included in the budget are \$250 million General Fund for jail construction grants and \$6 million General Fund for on-going funding for grants designed to improve the relationship between local law enforcement and the communities they serve.

Background. The BSCC’s work involves collaboration with stakeholders, primarily local probation departments, sheriffs, county administrative offices, justice system partners, community-based organizations, and others. The BSCC sets standards and provides training for local adult and juvenile corrections and probation officers. It is also the administering agency for multiple federal and state public safety grants, including the Edward Byrne Memorial Justice Assistance Grants, several juvenile justice grants, Mentally Ill Offender Crime Reduction Grants, and jail construction grants.

Executive Steering Committees (ESC). In 2011, a longstanding practice of the BSCC and its predecessor entities (the Corrections Standards Authority and the Board of Corrections) to seek the input of outside experts and stakeholders through executive steering committees (ESC) was codified. Penal Code section 6024 now provides:

The board shall regularly seek advice from a balanced range of stakeholders and subject matter experts on issues pertaining to adult corrections, juvenile justice, and gang problems relevant to its mission. Toward this end, the board shall seek to ensure that its efforts (1) are systematically informed by experts and stakeholders with the most specific knowledge concerning the subject matter, (2) include the participation of those who must implement a board decision and are impacted by a board decision, and (3) promote collaboration and innovative problem solving consistent with the mission of the board. The board may create special committees, with the authority to establish working subgroups as necessary, in furtherance of this subdivision to carry out specified tasks and to submit its findings and recommendations from that effort to the board.

The BSCC (and its predecessors) has employed this process in numerous contexts, including the promulgation of regulations and the development of requests for proposals for grant programs. In addition, in 2013 AB 1050 (Dickinson; Chapter 2070, Statutes of 2013) was enacted to require the BSCC to develop definitions of certain key terms, including recidivism and, in doing that work, to “consult with” specified stakeholders and experts. (Penal Code Sec. 6027.)

As discussed in the previous item, AB 1056 was enacted to establish a grant program and process for the Proposition 47 savings – the “Safe Neighborhoods and Schools Fund” -- to be allocated by the BSCC. The key features of AB 1056 enumerate a number of prioritized proposal criteria, and codify characteristics for an ESC reflecting a “balanced and diverse membership from relevant state and local government entities, community-based treatment and

service providers, and the formerly incarcerated community.” This ESC is tasked by law with developing specified guidelines for the program.

Recently, BSCC staff advised prospective Proposition 47 ESC members that employees of nongovernmental entities or service providers that “might receive Prop 47 funding” are “financially interested” individuals for purposes of Government Code section 1090 and, as a result, are prohibited from participating in the ESC process. In addition, nongovernmental stakeholders were advised that they would be regarded as “financially interested” and ineligible for ESC participation if they “serve with an organization that might make a contribution” to the Proposition 47 fund. Prospective Proposition 47 ESC members were “encouraged to consider these points carefully, and consult with an attorney if necessary.”

These limitations have been applied by the BSCC only to persons who are employees of nongovernmental entities. A 2013 trailer bill provision (SB 74 (Committee on Budget and Fiscal Review) Chapter 30, Statutes of 2013)) sought by the Administration expressly provided that for purposes of Government Code section 1090 – the conflict of interest law noted above – “members of a committee created by the board, including a member of the board in his or her capacity as a member of a committee created by the board, have no financial interest in any contract made by the board, including a grant or bond financing transaction, based upon the receipt of compensation for *holding public office or public employment.*” (emphasis added.) BSCC has applied these provisions to impose different conflict rules for government employees and nonprofit employees.

In addition to the Proposition 47 ESC, which has yet to be formed, the BSCC recently advised persons already serving on the ESC for the \$6 million “Strengthening Law Enforcement and Community Relations” grants, that “the board cannot approve funding to the agencies in which the community-based organizations that participated in drafting the RFP were financially interested.” This appears to be a retroactive application of the BSCC’s recent conflict determination on an ESC which already has completed some of its recommendations to the board. The BSCC consequently has extended the due date for these applications, although that extension does not appear to affect the application disqualification impact of these recent conflict decisions on persons who served on this ESC.

Current Governor’s Budget BSCC Grant Proposals

Strengthening Law Enforcement and Community Relations Grants. The 2015 budget act include a new \$6 million grant program designed to provide local law enforcement entities with funding for programs and initiatives intended to strengthen the relationship between law enforcement and the communities they serve. The initiatives could include training for front-line peace officers on issues such as implicit bias; assessing the state of law enforcement-community relations; supporting problem-oriented initiatives such as Operation Ceasefire; and restorative justice programs that address the needs of victims, offenders, and the community. The Legislature proposed the funds following a hearing in early 2015 that was prompted by several controversial officer-involved shootings and other racially charged incidents across the country. The Governor has proposed \$6 million in ongoing funding in the Budget Act of 2016, which, if approved, would allow the BSCC to finance additional qualifying proposals.

The request for proposal (RFP) requires that 30 percent of the grant funding must be passed through to the community groups and organizations with which the law enforcement agency is partnering. The BSCC intends to judge and rate the proposals based on the strength of collaborations and how well they meet criteria spelled out in the RFP. The maximum grant for a single law enforcement agency will be \$600,000. Joint agency applications are eligible for up to \$850,000. A 20 percent match is required. The grants are payable over two years. Law enforcement agencies were required to notify the BSCC of their intent to apply by March 18, 2016. Proposals are due on April 15, 2016.

As mentioned above, after the grant request for proposal had been developed by the ESC, BSCC sent out a notice to their ESC members on March 15th telling them that if they were a nongovernmental agency, they would not be allowed to participate in the grant program as a contract or subcontractor. The same prohibition did not apply the governmental entities participating in the ESC process

Jail Construction Grants. 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 \$2.2 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.

Questions for the Administration. The Administration should be prepared to address the following:

1. Please tell the committee which of your grant programs currently, or as proposed in the Governor's budget, use the ESC process.
2. Will the recent communications from the BSCC to its ESC members and prospective members have a chilling effect on the willingness of nongovernmental stakeholders and experts to participate on ESCs? Will these recent communications and the approach taken by the BSCC foster trust between the BSCC and its non-governmental community stakeholders?
3. The policy value of the BSCC being informed by advice from a broad range of stakeholders and experts has long been recognized. Providing protections against self-interest or the appearance of self-interest in the decisions of the BSCC is equally important. Is the law as interpreted by the BSCC general counsel – applying different standards to government employees and non-profit employees – the best way to promote these two important values? Recognizing that BSCC staff is following what it believes to be the law on conflicts of interest, is there a way we can fix the law, so that all stakeholders, government and nongovernment alike, can be equally engaged in advising the board without exposing these stakeholders either to real conflicts, or potential appearances of conflict?
4. The Governor's Office of Emergency Services (OES) administers a number of grants, including the recent additional \$233 million from the federal Victims of Crime Act (VOCA) Formula Grant Program. In administering these funds, OES has a steering committee comprised of a number of stakeholders, including nonprofits which receive grant awards under this program. Why do the nonprofits which served on the Cal OES VOCA Steering Committee not have the same conflict problems identified by the BSCC for its ESCs? How does OES handle conflict issues? Can the OES approach be used by BSCC?
5. In terms of the request for additional jail construction funding, the Administration has provided no justification. Please explain the need for funding and why this is an appropriate use of one-time General Fund over other state funding priorities.

Legislative Analyst's Office (LAO).

Reject Proposed Jail Funding. The LAO Advises that while it is possible that there may be some need for additional state funding for county jail construction, the Administration has not been able to provide a detailed assessment of the current need. Absent such justification, we recommend that the Legislature reject the Governor's proposal to provide \$250 million from the General Fund for jail construction.

Subcommittee Action: Held open and directed staff to develop trailer bill language that allows for a broad array of governmental and non-governmental entity participation while protecting both groups from potential conflicts of interest.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**Issue 1: Arts in Corrections Update**

Governor’s Budget. The budget includes on-going funding of \$2 million General Fund for the Arts in Corrections program administered by the California Arts Council.

Background. Prior to the most recent recession, California had pioneered the concept of art-as-rehabilitation. In 1977, artist Eloise Smith, then the director of the California Arts Council, proposed the idea of art in prison as a way to “provide an opportunity where a man can gain the satisfaction of creation rather than destruction.” She found private funding to launch an arts program in one prison, and it grew to six prisons. In 1980, California became the first state to fund a professional arts program – named Arts in Corrections – throughout its prison system. “It was recognized as an international model for arts in corrections,” says Craig Watson, director of the California Arts Council, which again is administering the program.

In 1983, University of San Francisco professor Larry Brewster performed a financial analysis at four prisons that found benefits from the program was more than double the costs. He also found that inmates in the arts program were 75 percent less likely than others to face disciplinary actions. “It’s critically important,” Brewster says of the program he’s now studied for three decades. He went on to note, “It instills a work ethic and self-confidence. “People in the arts programs don’t cause problems because they don’t want to lose the privilege of being in the program.”

By 2000, state budget cuts began to squeeze prison arts dry. In 2003, the program lost most of its funding, and by 2010 it had lapsed altogether. Some arts programs continued to work with inmates – the Prison Arts Project, the Marin Shakespeare Company and the Actors’ Gang – but they were privately funded.⁴

Studies have shown that arts programs in prisons reduce behavioral incidents, improve relationships not only between various populations housed within the prison but with guards and supervisory staff, and reduce recidivism. Specifically, a 1987 state Department of Corrections study showed that recidivism among inmates in the arts programs, two years after their release, dropped by nearly 40 percent. In addition, studies have demonstrated that arts in corrections programs can have a positive impact on inmate behavior, provide incentives for participation in other rehabilitative programs, and increase critical thinking, positive relationship building, and healthy behaviors.

The New Arts in Corrections program. The state’s Arts in Corrections program began as a one-time, two-year pilot program in 2014, using \$2.5 million unspent CDCR rehabilitation funds and administered by the California Arts Council. The Arts Council worked closely with the Department of General Services to develop an RFP over a very short period of several months. Organizations were then given three weeks in which to draft their proposals and submit them. Under this expedited time frame, the Arts Council, over a three to four month period beginning in February 2014, was able to develop an RFP, solicit applications, review applications, award funding and begin the pilot program

⁴ The Orange County Register. “The state is reviving an arts program for inmates. Can it help?” August 17, 2015.

by June 2014. The renewed program offers arts to offenders in many forms such as literacy, visual arts, performing arts, and media arts as well as drawing, painting, and sculpting.

Despite one year remaining in the pilot project, the 2015-16 budget included \$2 million General Fund to expand the pilot into an on-going program, which is currently available at 18 institutions. The Arts Council intends to use the \$1.5 million in remaining funding to conduct research in the value of arts programs, fund special projects, including arts in corrections pilots, that partner with universities, provide arts programming for inmates with mental illnesses, provide art programming as support for inmates approaching reentry, and provide specialized programming focused on job training.

Current service providers. In partnership with CDCR, the California Arts Council has contracted with the following organizations to provide rehabilitative arts services in state correctional facilities.

Actors' Gang - Los Angeles, CA
Alliance for California Traditional Arts (ACTA) - Fresno, CA
Dance Kaiso - San Francisco, CA
Fresno Arts Council – Fresno, CA
Inside Out Writers – Los Angeles, CA
Marin Shakespeare Company - San Rafael, CA
Muckenthaler Cultural Center - Fullerton, CA
Red Ladder Theatre Company / Silicon Valley Creates - San Jose, CA
Strindberg Laboratory - Los Angeles, CA
William James Association- Santa Cruz, CA

Legislative Analyst's Office (LAO). When the Legislature heard the 2015 May Revise proposal to provide \$2 million for an Arts in Corrections program, the LAO noted while such training could have some benefits, based on their review of existing research, they found little evidence to suggest that it is the most cost-effective approach to reducing recidivism. As such, the LAO recommended that the Legislature instead allocate these funds to support the expansion of existing programs that have been demonstrated through research to be cost-effective at reducing recidivism, such as cognitive behavioral therapy or correctional education programs.

Issue 2: Educational Opportunities Update

Governor's Budget. The proposed budget includes a total of \$186 million (\$180 million GF/Prop 98) for the current year and \$197 million (\$190 million GF/Prop 98) for 2016-17 for education programming.

The budget includes \$480,000 General Fund for increased security staff in order to allow community college courses to be taught in the evenings in prison.

Background. Inmate Education, both academic and career technical education, are key to giving inmates the skills and social support they need in finding employment upon release from prison. While some higher education and community organizations have traditionally provided career skills development opportunities to inmates, until recently, few collaborations had resulted in the hands-on sequences of courses leading to industry or state certifications known to be key in seeking subsequent employment. As discussed in more detail below, the passage of SB 1391 (Hancock) Chapter 695, Statutes of 2014, has allowed CDCR to expand their voluntary education programs to include in-person community college courses for inmates, thus allowing CDCR to expand their range of educational programs.

As part of CDCR's Division of Rehabilitative Programs, the Office of Correctional Education (OCE) offers various academic and education programs at each of California's adult state prisons. The goal of OCE is to provide offenders with needed education and career training as part of a broader CDCR effort to increase public safety and reduce recidivism. CDCR currently gives priority to those inmates with a criminogenic need for education. The department's main academic focus is on increasing an inmate's reading ability to at least a ninth-grade level.

All adult schools in the CDCR prisons are fully accredited by the Western Association of Schools and Colleges (WASC) to ensure the highest level of education, and some Career Technical Education programs offer industry standard certification.

The Office of Correctional Education focuses on the following programs:

- **Adult Basic Education (ABE) I, II, and III.** The Office of Correctional Education (OCE) manages Educational Programs for inmates/students. Inmates/students with reading skills below the ninth grade level may attend Adult Basic Education. Adult Basic Education (ABE) is divided into class levels I, II, and III. These ABE programs are targeted to serve the academic needs of the inmate/student population. ABE provides opportunities for acquiring academic skills through an emphasis on language arts and mathematics. The Test of Adult Basic Education (TABE) assessment is used to determine the initial placement of each inmate/student into an appropriate ABE level.

ABE I includes inmates/students who have scored between 0.0 and 3.9 on the reading portion of the TABE assessment. ABE II includes inmates/students with a reading score between 4.0 and 6.9. ABE III includes inmates/students with reading scores between 7.0 and 8.9. To advance or promote from one level to the next, inmates/students must show curriculum competence, completion or

achieve a higher TABE score through the TABE matrix testing process. As inmates/students progress through the ABE program levels, increasingly difficult language and mathematical concepts are introduced.

The ABE classes are designed to prepare the inmates/students for entry into a high school equivalency program or a high school diploma program, if certain criteria are met. ABE programs are available to all populations through class assignments and as a voluntary education program that may include tutorial support.

- **Career Technical Education (CTE) Programs.** CTE training is provided in six different career sectors that include the building trade and construction sector, the energy and utilities sector, the finance and business sector, the public service sector, manufacturing and product development sector, and the transportation sector.

Each of the 19 CTE programs is aligned with a positive employment outlook within the State of California, providing an employment pathway to a livable wage. Each of the CTE programs is also aligned to industry recognized certification.

- **General Education Development (GED).** The General Education Development (GED) program is offered to inmates/students who possess neither a high school diploma nor a high school equivalency certificate. Inmates/students receive instruction in language arts, mathematical reasoning, science, and social studies. To achieve the GED certificate, inmates/students must achieve a minimum score of 150 in each section and a total score of 600. Inmates/students must meet test requirements based upon their Tests of Adult Basic Education (TABE) results.

In January 2015, all CDCR institutions began delivering the GED 2014 test. Currently that test is computer-based. Due to custody constraints, some inmates may be allowed to take a paper and pencil version, on a case-by-case determination. The GED 2014 test is taken on a computer which delivers test data directly to the scoring site. The test is scored and results are returned immediately. A passing score on the GED 2014 test ensures that an adult's high school equivalency credential signifies he or she has the skills and knowledge necessary to take the next critical steps, whether entering the job market or obtaining additional education.

Inmates/students are placed into the GED program after completing Adult Basic Education (ABE) III or achieving the required TABE score and do not possess a high school diploma or a high school equivalency certificate. Inmates/students who are accepted into the GED program are provided educational support in completing the specific subject matter that will allow them to successfully pass the GED 2014 exam.

- **High School Diploma (HD) Program.** To be eligible for the HD program, designated Office of Correctional Education (OCE) staff review high school transcript information from the last high school the inmate/student attended. Based upon an analysis of the transcript, the inmate/student receives instruction in the areas needed for graduation.

Areas of high school instruction include life science, economics, U.S. history, U.S. government, English, and math. After completing instruction and successfully passing each required course and

exit examination, inmates/students may receive a high school diploma. For placement purposes, inmates/students need to be able to function at a high school grade level (9-12).

Inmates/students accepted into the HD program are provided support in completing targeted subject matter that will allow them to fulfill their graduation requirements.

- ***Voluntary Education Program (VEP)***. The purpose of the VEP is to offer inmates access to educational programming when an educational assignment is not available and/or to supplement traditional educational programming with opportunities for improvement in literacy and academic skills. Inmates are not assigned, but rather enrolled, and have no assigned hourly attendance requirements. The program is open entry/open exit.

The VEP includes literacy, adult secondary education, and/or college services. It offers participants the opportunity to continue progressing toward academic advancement and the attainment of a General Educational Development (GED) certificate, high school diploma, or college degree.

The program is designed to provide inmates/students support, as needed, in order for them to be able to succeed in their academic program. This support may begin at the very basic level for some inmates/students and may last throughout their academic program, while other inmates/students may enroll in VEP for assistance in a college course and only use the program for a very short time.

- ***Voluntary Education Program (VEP) – College***. Access to college courses is available to inmates/students through the VEP. Senate Bill 1391 (discussed below) will have significant impact on incarcerated students, allowing colleges to offer classes inside prisons. Currently CDCR works with 27 different college institutions, teaching close to 7,000 inmates. This bill will allow California Department of Corrections and Rehabilitation's Office of Correctional Education (OCE) to expand college programs.

OCE is currently working with the leaders of our existing college partners to create a list of minimum standards, as well as proper training for new colleges. Training will include topics as follows: safety/security, working with custody, the criminal personality, academic rigor, and providing degrees with transferable credits.

Inmates/students who participate in college courses through VEP receive academic support as needed. This support includes teacher-assisted tutoring, peer tutoring at some institutions, test-proctoring, and limited access to used textbooks in some institutions. Inmate/student progress is monitored, and course completions are verified and reported. Inmates may earn milestone credits for college course participation.

- ***Library Services***. Law and recreational Library Services are offered at all institutions, providing inmates with an extensive collection of recreational fiction and non-fiction books, as well as reference reading materials; e.g. selected periodicals, encyclopedias, selected Career Technical Education and college level textbooks, and basic literacy materials recommended by the American Library Association and the American Correctional Association. Additionally, the legal research materials in all of the libraries are offered in digital format and provide meaningful access to the

courts in accord with all current court requirements. The libraries also offer materials to support inmate rehabilitation, and include resources on employment, community reentry, and life skills.

- ***Institutional Television Services (ITVS)***. Television programming is provided to inmates at all CDCR institutions. Each institution has a television specialist and television communication center that produces, schedules, and delivers a mixture of television network programming, movies, and a compliment of rehabilitation television programs. ITVS interactive television programming also supports a variety of educational programming from basic literacy to GED preparation courses, as well as pre-recorded college courses.

Infrastructure improvement through Internet Protocol Television Integration (IPTV) is underway. It will provide central streaming, centralized programming content, improved delivery of content, create the ability to add channel capacity, provide television transmissions to all institutions, increase the number of areas served in the institutions, update the technology and improve the reliability of Institutional Programming.

- ***Recreation***. The Recreation Program offers various activities for the inmate population. Activities include intramural leagues and tournaments in both team and individual sports, board games, courses on personal fitness, and a selection of institutional movies.

Approximately 45,000 inmates participate in recreation-sponsored tournaments and activities on a monthly basis.

The department notes that, in order to continue improving education in prison, additional issues need to be addressed such as providing individually tailored education programming, reducing interruptions in learning due to movement between facilities, and improving offenders' familiarity with computer technology.

Retention and Recruitment of Teachers and Librarians. CDCR has been successful over the last two years in hiring approximately 160 additional academic teachers to expand CDCR's educational services in prison. However, in several key areas, CDCR continues to struggle with filling vacant teaching and librarian positions. Based on recent data provided by the department, as of January, CDCR had a vacancy rate of 33.3 percent for science teachers, 28.2 percent for math teachers, and 24.1 percent for librarians. In addition, unlike public school systems that can access a pool of substitute teachers to fill interim vacancies or teach during the absence of a permanent teacher, prisons generally cannot hold classes or provide access to the libraries unless the teacher or librarian is present. Therefore, having a successful strategy for recruiting and retaining skilled educators who are willing to work in a prison setting is critical to meeting the educational needs of inmates.

SB 1391 (Hancock) Chapter 695, Statutes of 2014. College-level academics have been shown to have positive impacts on recidivism and improve offender reentry. However, until the passage of SB 1391, state law prevented community colleges from receiving payment for any courses not available to the general public, including for incarcerated individuals. Specifically, SB 1391 allowed community colleges to receive payment for courses offered in prisons. After its passage, CDCR entered into an agreement with the California Community College Chancellor's Office to develop four pilot programs to provide inmate access to community college courses that lead to either careers or transfer to a four-year university.

The pilot districts of Antelope Valley, Chaffey, Los Rios, and Lassen were awarded \$2 million to develop their inmate education programs with an emphasis on face-to-face instruction. Classes in these pilot districts began in late January 2016, and will each serve 21 to 30 inmates per semester. Business and business entrepreneurship programs will be offered at Lancaster State Prison, California Institution for Women, Folsom's Women's Facility, and High Desert State Prison.

In addition to the pilot colleges, the change in state law made it easier for other local colleges to offer courses for inmates. Currently, 14 community colleges offer inmate courses to approximately 7,500 inmates throughout the state. These programs, including distance learning, offer inmates a variety of programs including general education, humanities, psychology, and business.

To further expand course offerings to inmates throughout the state, the California Community College Chancellor's Office hosted an Inmate and Reentry Education Summit in December 2015 in Northern California. Over 245 participants from non-profit organizations, community colleges and the California Department of Corrections and Rehabilitation attended the event. The Chancellor's Office reports that 10 to 12 additional colleges are interested in creating inmate education programs. The summit provided interested colleges with inmate education program best practices and planning information. Additionally, the summit included information to improve college services for recently released individuals on their campuses. The Chancellor's Office plans to host another summit in Southern California this spring.

To help provide access to these new community college programs, the budget includes \$480,000 for custody staff to oversee evening college courses offered in prisons, similar to the security provided in other educational and career technical education programs. This augmentation will improve the safety of inmates and volunteer professors that provide instruction for in-prison college courses.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Did the shift from written to computerized GED testing result in a reduction in the number of inmates obtaining their certificates? If so, how does the department intend to better prepare students to take a computerized test?
2. Please provide information on any department efforts to recruit and retain teachers and librarians.
3. As the department expands inmate's access to college courses, have you considered any strategies for expanding staff's, especially correctional staff's, access to college courses and degree or certificate programs?

Issue 3: Innovative Programming Grants Update

Governor's Budget. The budget does not contain any funding to continue the innovative programming grants.

Background. In 2014, the Legislature created the innovative programming grants program using the Recidivism Reduction Fund. The program was designed to provide volunteer programming that focuses on offender responsibility and restorative justice principles at underserved, remote prisons. In addition, the program required that the funding be provided to not-for-profit organizations wishing to expand programs that they are currently providing in other California state prisons. Finally, the program required that priority be given to level IV institutions.

Over the last two years, CDCR has awarded approximately \$5.5 million in innovative programming grants to non-profit organizations or individuals to increase the volunteer base at underserved institutions. This funding included \$2.5 million in grants funded from fiscal year 2014-15, and an additional \$3 million awarded in fiscal year 2015-16.

During the last two years, over 80 grants of varying sizes have been provided to non-profit organizations providing volunteer program's in the state prisons. Through these grants, innovative programming has been significantly expanded at 17 underserved institutions. Among the institutions that have benefited from these programs are Pelican Bay State Prison, High Desert State Prison, Chuckawalla Valley State Prison, and Ironwood State Prison, which are among the state's most geographically-remote institutions.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Given the Administration's finding that the innovative grants have successfully expanding programming to underserved prisons, why didn't the budget include funding to continue the program?
2. Every prison has a community resource manager (CRM) who serves as a liaison with the community and plans and directs major programs. As part of their role, they facilitate volunteer programs within the prisons, including those organizations that receive innovative programming grants. Concern has been raised that, at some institutions, the CRMs have either not been supportive of the innovative programs or have been unable to assist with their implementation due to other priorities. How does the department ensure that the grant recipients are adequately supported in their efforts to expand their programs to institutions that have not traditionally worked with outside, volunteer organizations? Was any training or guidance specifically provided to the CRMs to help them understand their role in facilitating the programs?

Issue 4: Expansion of Programs and Services for Lifer Population

Governor's Budget. The budget proposes an increase of \$10.5 million General Fund for the expansion of several programs for life-term and long-term offenders. The budget proposes using the funds toward increasing services, as follows:

- \$3.1 million for 136 additional beds in Parolee Service Center Program.
- \$3.4 million to expand the In-Prison Longer-Term Offender Program to level III and IV facilities, increasing the number of program slots by 1,700.
- \$3.1 million to expand the Pre-Employment Transitions Program to all prisons. In addition, the Governor proposes discontinuing the use of contractors for the program and instead hiring teachers. The program will serve approximately 23,000 inmates per year.
- \$423,000 to expand the Offender Mentor Certification Program which trains long-term and life-term inmates to become drug and alcohol counseling mentors. Once the mentors obtain 4,000 hours of work experience in treatment programs, they will be eligible to obtain a substance abuse counselor certification. This expansion will train an additional 64 inmates annually.
- \$480,000 for increased custody staff to oversee evening college courses offered in prisons.

Background. Long-term offenders are individuals who have been sentenced to a life term in prison with the possibility of parole, with the Board of Parole Hearings (BPH) making the determination whether parole is ultimately granted. In part due to significant changes in state law regarding inmates serving life sentences who are now eligible for parole, there has been an increase in the rate at which BPH grants parole in recent years, the number of long-term offenders granted parole increased from 541 in 2009 to 902 in 2014.

SB 260 and SB 261. As required by SB 260 (Hancock) Chapter 312, Statutes of 2013, the Board of Parole Hearings implemented the Youth Offender Parole Program, which provides youth offender parole hearings for specified offenders who were convicted of a crime prior to their 18th birthday and sentenced to state prison. This program was further expanded by SB 261 (Hancock) Chapter 471, Statutes of 2015, by increasing eligibility to those convicted of a crime committed before the age of 23. An inmate is eligible for a youth offender parole hearing during the 15th year of their sentence if they received a determinate sentence; 20th year if their controlling offense was less than 25 years to life; and during the 25th year if their controlling offense was 25 years to life. Inmates who were immediately eligible for a youth offender hearing when SB 260 took effect on January 1, 2014, were required to have their hearing by July 1, 2015. Those with an indeterminate sentence who were immediately eligible for a youth offender parole hearing on January 1, 2016, as a result of SB 261, are required to have their hearing completed by January 1, 2018. Determinately-sentenced offenders immediately eligible as a result of SB 261 are required to have their hearing before December 31, 2021.

Elderly Parole. The three-judge court order established the elderly parole program which allows inmates who are age 60 or older and who have served 25 years of continuous incarceration to be

considered for parole at a parole suitability hearing. Offenders who are eligible for elderly parole are eligible for parole consideration regardless of whether they are serving an indeterminate or determinate sentence. The number of inmates who will be eligible for a hearing under the elderly parole program will increase significantly over the next ten years.

In 2015, BPH scheduled 5,300 hearings, 959 of which were for youthful offenders and 1,012 were for inmates eligible for elderly parole. Offenders sentenced to life without the possibility of parole or condemned inmates are not eligible to apply for youthful offender or elderly parole.

Passage of Proposition 36. The passage of Proposition 36 in 2012 resulted in reduced prison sentences served under the three strikes law for certain third strikers whose current offenses were non-serious, non-violent felonies. The measure also allowed resentencing of certain third strikers who were serving life sentences for specified non-serious, non-violent felonies. The measure, however, provides for some exceptions to these shorter sentences. Specifically, the measure required that if the offender has committed certain new or prior offenses, including some drug, sex, and gun-related felonies, he or she would still be subject to a life sentence under the three strikes law.

According to the Governor's budget, it is estimated that approximately 2,800 inmates will be eligible for resentencing under Proposition 36. The most recent Three-Judge Panel status report on the reduction of the prison population shows that as of December 23, 2015, 2,168 of those eligible have been resentenced and released from prison.

SB 230 (Hancock) Chapter 470, Statutes of 2015. On October 3, 2015, the state also enacted SB 230, which requires that once a person is found suitable for parole he or she be released, rather than being given a future parole date. Prior to the passage of SB 230, a person could be found suitable for parole by BPH and still not be released for years because of the various enhancements that have been added to the person's term.

Rehabilitation for Long-Term Offenders. All of the recent changes discussed above have provided inmates serving life sentences, who previously may not have had an opportunity to leave prison, with an opportunity to leave and return to their communities, if BPH determines that it is safe for them to do so. According to the department, due to the nature of their commitment offenses, long-term offenders spend a significant amount of time in prison and thus may have challenges adjusting to life outside of prison. In order to alleviate these challenges, CDCR has established rehabilitative programs that specifically target long-term offenders:

Long-Term Offender Program (LTOP). The LTOP provides rehabilitative programming (such as substance use disorder treatment, anger management, and employment readiness) on a voluntary basis to long-term offenders at three state prisons—Central California Women's Facility in Chowchilla, California Men's Colony in San Luis Obispo, and California State Prison, Solano.

Offender Mentorship Certification Program (OMCP). The OMCP trains long-term offenders as substance use disorder counselors while they are incarcerated. Upon graduation from the training program, participants are employed by CDCR to deliver counseling services to their fellow inmates. There are currently two sessions offered annually, allowing up to 64 offenders to be certified as mentors each year.

In addition, CDCR offers various other rehabilitative programs that are generally available to inmates and parolees, including long-term offenders. However, those programs are not necessarily widely available to all inmates at all prisons and may have long waiting lists, at those prisons where they are offered.

Legislative Analyst's Office (LAO).

Approve Proposed Expansion of Programming for Higher-Risk Offenders. The LAO recommends that the Legislature approve the portion of the proposal—totaling \$4 million—that would expand rehabilitative programming opportunities for higher-risk offenders that are consistent with programs shown to be cost-effective methods for reducing recidivism. Specifically, the LAO recommends providing the requested funding to support (1) the expansion of the OMCP, (2) the expansion and modification of the Transitions Program, and (3) custody overtime needed to operate community college programs.

Reject Remainder of Proposal. The LAO recommends that the Legislature reject the remainder of the Governor's proposal to expand programs for long-term offenders. While they acknowledge that these programs may provide some benefit to long-term offenders, research suggests that the department could achieve greater benefits to public safety by instead targeting higher-risk offenders. To the extent that the Legislature is interested in further expanding rehabilitative programming, the LAO recommends that it direct the department to come back with a proposal that targets higher-risk offenders and reduces the number of such offenders who are released from prison without receiving any programming targeted toward their identified needs.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. The LAO has noted that as high as 40 percent of high-risk offenders are being released without being provided any rehabilitative programming. Do you agree with that estimate? In addition, please provide the committee with the department's plan for expanding the availability of programming to include the majority of, if not all, high-risk offenders to ensure that they are adequately prepared to leave prison and return to their communities?
2. Given the studies that show that maintaining strong family relationships help to significantly reduce the likelihood of an individual returning to jail or prison once they are released, has the department considered revising its family visit policy to allow inmates serving longer terms or life terms to receive extended family visits as a way of helping them prepare for their return to their families and communities upon their release?
3. Given the demonstrated success of restorative justice programs in reducing recidivism, especially for those inmates serving long terms, has the department considered contracting with non-profit organizations currently providing those programs as volunteers to allow them to expand to become a formal part of your long-term offender programming?

Subcommittee Action: Held open.

Issue 5: Enhanced Drug and Contraband Interdiction

Governor’s Budget. The budget proposes \$7.9 million General Fund to continue the existing 11 institution pilot program and expand the enhanced efforts at three intensive institutions.

The Governor’s budget for 2016–17 requests \$7.9 million in one–time funding from the General Fund and 51 positions to extend the enhanced drug interdiction pilot program for an additional year, as well as expand the level of services provided through the pilot program. According to CDCR, the continuation of the existing pilot program for one more year would allow the department to collect additional data to analyze its effectiveness. In addition, CDCR intends to expand certain interdiction efforts to (1) increase the frequency of random screening of staff and visitors at intensive interdiction prisons and (2) lease three additional full body X–ray machines to screen visitors. The department states that these additional resources are necessary to assess the efficacy of increased screening.

The department has indicated that it intends to issue a preliminary evaluation report on the pilot program but has not provided an estimate of when that report will be released. In addition, the department intends to issue a final evaluation report in the spring of 2017.

Background. Data provided by CDCR indicate that drug use is prevalent in prison. For example, in June 2013, 23 percent of randomly selected inmates tested positive for drug use. In addition, another 30 percent refused to submit to testing, which suggests that the actual percentage of inmates using drugs is likely considerable.

Drug use in prison is problematic for several reasons. For example, according to the department, the prison drug trade strengthens prison gangs and leads to disputes among inmates that can escalate into violence. Such violence often leads to security lock–downs which interfere with rehabilitation by restricting inmate access to programming. In addition, the presence of drugs in prison allows inmates to continue using them, thereby reducing the effectiveness of drug treatment programs.

The Legislature provided CDCR with \$5.2 million (General Fund) in both 2014–15 and 2015–16 to implement a two–year pilot program intended to reduce the amount of drugs and contraband in state prisons. Of this amount, \$750,000 annually was used for random drug testing of 10 percent of inmates per month at all 34 state prisons and the California City prison, which are all operated by CDCR. In addition, CDCR had redirected resources in 2013–14 to begin random drug testing 10 percent of the inmate population each month beginning January 2014. The remaining amount was used to implement enhanced interdiction strategies at 11 institutions, with eight prisons receiving a “moderate” level of interdiction and three prisons receiving an “intensive” level.

According to CDCR, each of the moderate institutions received the following: (1) at least two (and in some cases three) canine drug detection teams; (2) two ion scanners to detect drugs possessed by inmates, staff, or visitors; (3) X–ray machines for scanning inmate mail, packages, and property as well as the property of staff and visitors entering the prison; and (4) one drug interdiction officer. In addition to the above resources, each of the intensive institutions received: (1) one additional canine team, (2) one additional ion scanner, (3) one full body scanner at each entrance and one full body X–ray scanner for inmates, and (4) video cameras to surveil inmate visiting rooms. In 2015, the

Legislature passed legislation requiring the department to evaluate the pilot drug testing and interdiction program within two years of its implementation.

Legislative Analyst's Office (LAO).

Approve Temporary Extension of Drug Testing. The LAO recommends that the Legislature approve the portion of this request—\$750,000 from the General Fund—associated with continuing the random drug testing for one additional year. The drug testing program appears to have increased the rate at which CDCR is identifying inmates who use illegal drugs. In addition, the collection of additional drug test results should help the department to assess whether the removal of drug interdiction resources, as recommended below, affects the rate of drug use in prisons. Based on the result of the department's final evaluation, the Legislature could determine whether to permanently extend the drug testing program.

Reject Remainder of Proposal to Extend Drug Interdiction Pilot Program. The LAO recommends that the Legislature reject the remainder of the Governor's proposal to extend and expand the drug interdiction pilot program. Extending the program now would be premature given that (1) preliminary data suggest that it is not achieving its intended outcomes and (2) CDCR has not yet fully evaluated its effectiveness. The LAO also recommends that the Legislature direct the department to accelerate its timeline for evaluating the program so that it is completed in time to inform legislative deliberations on the 2017–18 budget, such as whether any of the interdiction strategies should be permanently adopted.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Please provide the most recent data on how much contraband has been seized specifically as a result of the pilot and who was found with the contraband (i.e. visitors, staff, inmates).
2. In exchange for approving the enhanced drug interdiction pilot, including increased drug testing, the Administration assured the Legislature that those individuals testing positive for illegal substances would receive treatment, rather than punishment. Given the very limited availability of treatment, have you been able to keep that agreement?
3. Please provide updated data on the number of inmates testing positive for illegal substances, how many received treatment, and how many received a rules violation.

Subcommittee Action: Adopted the LAO recommendation to fund on-going drug testing and reject the remainder of the request to extend the pilot project for an additional year.

Vote: 2 – 0 (Anderson: absent)

Issue 6: Substance Use Disorder Treatment Expansion

Governor's Budget. The budget proposes \$15.2 million General Fund and 51.6 additional positions to continue the expansion of substance abuse treatment programs to the 11 remaining adult institutions. Of the requested positions, 15.6 are correctional officers, 11 are parole services associates, 11 are correctional counselor III positions, and 11 are office technicians.

In addition, the budget includes \$70 million General Fund in the current year and \$68 million General Fund in 2016-17 for funding substance use disorder treatment for parolees through the Specialized Treatment for Optimized Programming (STOP) program.

Background. Providing offenders with access to substance use disorder treatment has a meaningful impact on reducing recidivism, and is a critical aspect of an inmate's rehabilitation. Without addressing this need, all other aspects of the inmate's rehabilitation are impacted. According to the 2014 Outcome Evaluation Report by CDCR's Office of Research, offenders who were assigned to an in-prison substance use disorder treatment and completed treatment while in the community had a recidivism rate of 20.9 percent compared to 55.6 percent for those who did not receive any substance use disorder treatment. The department currently offers evidence-based substance use disorder treatment programs for inmates as part of their reentry programming. Currently, treatment is offered in the 13 reentry hubs, four in-state contract facilities, the California City Correctional Facility and in 10 non-reentry institutions. The treatment programs are generally 150 days in length.

CDCR Automated Risk and Needs Assessment Tool data demonstrates that approximately 70 percent of the inmate population has a moderate to high criminogenic need for substance use disorder treatment. There are currently approximately 117,000 inmates in the state's institutions. Based on CDCR's data, over 80,000 of them need some level of treatment. Currently, CDCR provides some level of treatment at 23 prisons (the 13 reentry hubs and 10 additional prisons), generally at the end of an inmate's term. Despite the significant need and the proven value of treatment in reducing recidivism, CDCR currently only has the capacity to treat less than 2,500 inmates per year. The proposed expansion will result in a total capacity of 3,168 treatment slots.

Office of the Inspector General. According to the Inspector General's *California Rehabilitation Oversight Board Annual Report* from September 2015, as of June 30, 2015, the capacity for substance abuse treatment (SAT) programming is 3,036, not including 88 enhanced outpatient program slots. This is an increase of 1,218 from June 30, 2014, where the SAT capacity was 1,818. Although the department's contracted capacity is 3,036, the department reports it currently has an operational capacity of 1,374 programming slots with an annual capacity of 2,748. The department reports that the difference in contracted capacity and operational capacity is due to space limitations pending the arrival of program modular buildings, construction, and space repurposing to accommodate the contracted capacity.

Specialized Treatment for Optimized Programming (STOP). STOP contractors provide comprehensive, evidence-based programming and services to parolees during their transition into the community. Priority is given to parolees who are within their first year of release and who have demonstrated a moderate to high risk to reoffend, as identified by the California Static Risk Assessment (CSRA), and have a medium to high need, as identified by the Correctional Offender

Management Profiling for Alternative Sanctions (COMPAS) reentry assessment tool. STOP services include (but are not limited to):

- Substance Use Disorder Treatment
- Detoxification Services
- Preventive and Primary Health Care Services
- General Health Education Services
- Motivational Incentives
- Anger Management
- Criminal Thinking
- Life Skills Programs
- Community and Family Reunification Services
- Employment and Educational Services
- and Referrals
- Individual, Family and Group Counseling
- Sober Living Housing
- Faith-Based Services

Medication-Assisted Substance Use Disorder Treatment. Generally, CDCR does not provide medication-assisted treatment in their institutions. Medication-assisted treatment (MAT), including opioid treatment programs (OTPs), combines behavioral therapy and medications to treat substance use disorders. Generally, MAT includes the use of buprenorphine, methadone, naltrexone and naloxone (for opioid overdose). According to a report from the federal Substance Abuse and Mental Health Services Administration (SAMHSA):

Medication-assisted treatment is treatment for addiction that includes the use of medication along with counseling and other support. Treatment that includes medication is often the best choice for opioid addiction. If a person is addicted, medication allows him or her to regain a normal state of mind, free of drug-induced highs and lows. It frees the person from thinking all the time about the drug. It can reduce problems of withdrawal and craving. These changes can give the person the chance to focus on the lifestyle changes that lead back to healthy living.

Taking medication for opioid addiction is like taking medication to control heart disease or diabetes. It is NOT the same as substituting one addictive drug for another. Used properly, the medication does NOT create a new addiction. It helps people manage their addiction so that the benefits of recovery can be maintained. There are three main choices for medication.

The most common medications used in treatment of opioid addiction are methadone and buprenorphine. Sometimes another medication, called naltrexone, is used. Cost varies for the different medications. This may need to be taken into account when considering treatment options. Methadone and buprenorphine trick the brain into thinking it is still getting the problem opioid. The person taking the medication feels normal, not high, and withdrawal does not occur. Methadone and buprenorphine also reduce cravings. Naltrexone helps overcome addiction in a different way. It blocks the effect of opioid drugs. This takes away the feeling of getting high if the problem drug is used again. This feature makes naltrexone a good choice to

prevent relapse (falling back into problem drug use). All of these medications have the same positive effect: they reduce problem addiction behavior.⁵

Since December 2014, naltrexone has been made available in California through an expedited process to all alcohol or opioid dependent patients who are Medi-Cal beneficiaries with a felony or misdemeanor charge or conviction who are under supervision by the county or state. In 2015, San Mateo provided \$2 million in funding to create naltrexone programs in emergency rooms and clinics.

Other States' Medication Assisted Treatment Programs. Several states have begun expanding their in-prison treatment to provide medication-assisted treatment when appropriate. For example, in 2015 Pennsylvania expanded their treatment to include naltrexone as part of their reentry program at eight of their correctional institutions for inmates with opioid and alcohol dependence. The state of Colorado provides comprehensive treatment, including naltrexone, to parolees. Finally, Massachusetts has implemented a statewide prison reentry program that includes the use of naltrexone for people with alcohol and opioid dependence. Kentucky, as well, provides naltrexone to treat opioid dependence. In addition to those states, Florida, Illinois, Indiana, Maryland, Missouri, New Jersey, Ohio, Tennessee, Utah, West Virginia, and Wisconsin have all begun using a medication assisted treatment model for individuals involved in the criminal justice system as a way of treating opioid dependence.

Questions for the Administration. The Administration should be prepared to address the following questions:

1. Under what circumstances, if any, does CDCR use medication-assisted treatment? If none, why not?
2. Given the large number of inmates needing treatment, why is the Administration only proposing 3,000 additional treatment slots?
3. Providers for the STOP program recently submitted a letter stating that they believe the program has a funding shortfall of over \$8 million in the current year and that the problem will increase to over \$13 million in 2016-17. Has the Administration reviewed their claims and do you agree that there is a shortfall? If not, please explain why not. If you agree that the caseload projections have resulted in a funding shortfall, what is the Administration's plan for providing adequate funding for parolees in need of substance use disorder treatment?

Subcommittee Action: Held open.

⁵ United State Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *Medication Assisted Treatment for Opioid Addiction: Facts for Families and Friends*, 2011.