

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk



Thursday, March 15, 2012
9:30 a.m. or Upon Adjournment of Session
Room 113

Consultant: Joe Stephenshaw

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Panel for Alternative Custody Expansion/Female Offender Overview Discussion

Panel 1

Elizabeth Siggins, Director of Adult Programs (A)

Kathleen Allison, Associate Director, Female Offender Program

Aaron Edwards, Legislative Analyst's Office

Drew Soderborg, Legislative Analyst's Office

Department of Finance

Panel 2

Barry Krisberg, Director of Research and Policy, and Lecturer in Residence Chief
Justice Earl Warren Institute on Law and Social Policy University of California, Berkeley
School of Law

Wendy S. Still, Chief Adult Probation Officer, Adult Probation Department , City and
County of San Francisco

Panel 3

Emily Harris, Californians United for a Responsible Budget

Cynthia Chandler, Executive Director, Justice Now

Edwina Perez-Santiago, Re-entry-Reunite Project

CA Department of Corrections and Rehabilitation (5225)

Departmental Overview. Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan No. 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections (now the Corrections Standards Authority (CSA)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST). Effective July 1, 2012, Chapter 36, Statutes of 2011(SB 92, Committee on Budget and Fiscal Review) creates the Board of State and Community Corrections ("BSCC"). At that time, the BSCC will supersede the CSA.

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

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

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

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

(dollars in thousands)

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

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

Key Features of Public Safety Realignment

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

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

Female Offenders: Expansion of Alternative Custody Program

Governor's Proposal. The Governor's budget proposes trailer bill language that provides for the expansion of the Alternative Custody Program (ACP) for Women to include women who have a prior serious or violent conviction. The goal is to allow CDCR to place these offenders in community-based treatment programs in an effort to achieve successful outcomes and reduce recidivism among this population. Savings resulting from the reduction in the female inmate population will be used to cover the cost of treatment programs in the community. The anticipated population decline in future years is expected to generate long-term savings of \$2.5 million beginning in 2014-15 and \$5 million annually thereafter.

Background. Senate Bill 1266 (Liu, 2010) established an ACP within the CDCR under which eligible female inmates, including pregnant inmates or inmates who were the primary caregivers of dependent children, would be allowed to participate in lieu of their confinement in state prison. Under the 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.

Current eligibility criteria for participation:

- Female inmate (including pregnant females)
- Inmate who, immediately prior to incarceration, was the primary caregiver of a dependent child
- Must have 24 months or less to serve in state prison
- Must volunteer for the program

Current exclusionary criteria:

- Current or prior serious or violent felony, as defined by the Penal Code
- Current or prior sex-offense conviction or PC 290 registration requirement
- An escape in the last 10 years
- Specific in-prison misconduct or custody levels
- Active restraining order
- Gang membership/affiliation
- Felony, or Immigration and Customs Enforcement hold

Additional case-by-case eligibility determination:

- Current or prior sexual convictions not requiring PC 290 registration
- Current or prior child-abuse arrests or convictions in which the offense was related to abuse or neglect of a child

- Current or prior convictions for stalking

The principles of ACP's programs and services include:

- Deliver programs and services that are evidence-based
- Address why the inmate engages in criminal behavior
- Deliver programs at varying levels of intensity
- Use both incentives and sanctions
- Be conducted by adequately-trained staff
- Measure performance and provide feedback

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. However, the CDCR reports that, currently, there are no programs provided for ACP. In addition, housing availability has been an unforeseen obstacle since the implementation of ACP.

According to the CDCR, the current Average Daily Population (ADP) for non-violent, non-serious female offenders that have the potential to meet ACP requirements is 1,023. If non-violent, non-serious female offenders with prior serious and violent crimes are not excluded, the current ADP would be 1,327.

CDCR implemented ACP on September 12, 2011. As of January 17, 2012, CDCR had released 24 female offenders to the ACP.

Female Offender Programs and Services/Female Offender Master Plan. In July 2005, the California correctional system reorganized to address directly the rehabilitative and re-entry needs of all inmates and parolees. As part of this reorganization, the CDCR established the Female Offender Programs and Services (FOPS) office, to manage and provide oversight to adult female programs, including prisons, conservation camps, and community programs. FOPS developed a gender-responsive, culturally sensitive approach to program and policy development to improve recidivism outcomes for the adult incarcerated and paroled female offenders under the supervision of the CDCR.

In addition, the CDCR established a Gender-Responsive Strategies Commission (GRSC) to assist in the development of a master plan for female offenders. This advisory commission was comprised of representatives of the various disciplines within CDCR, community partners, nationally recognized experts on female offenders, previously incarcerated individuals, family members of women offenders and other external stakeholders, including labor, the California Commission on the Status of Women, the Little Hoover Commission (LHC) and legislative representatives. Several subcommittees provide input to the CDCR on institutional operational practice and policy, treatment programs, community re-entry, medical and mental health, and parole.

Collaboratively, FOPS and GRSC developed a master plan, a gender-responsive, culturally sensitive approach to program and policy development to improve recidivism outcomes for the adult incarcerated and paroled female offenders under the supervision of the CDCR. The plan provides a blueprint for CDCR to incorporate national standards in operational practice, program development, medical and mental health care, substance abuse treatment, family reunification, and community re-entry.

Female Offender Population. On June 30, 2011, CDCR's female population was 9,565. The Governor's Budget projects that CDCR's female population will decline to 6,641 on June 30, 2012, and will decrease further to 5,767 by June 30, 2013.

CDCR currently houses female offenders at three institutions; California Institute for Women in Corona, and Valley State Prison for Women and Central California Women's Facility both in Chowchilla. The Governor's budget anticipates the conversion of Valley State Prison for Women to a male facility by July 2013.

As of the Corrections Standards Authority's County Jail Populations Profile, 3rd Quarter Reporting for 2011 (July - September), there were 8,915 female offenders in county jails, 5,575 of which were non-sentenced.

Gender Responsive Planning. Following is background to gender-responsive planning included in a letter to probation officers and Community Corrections Partnership members from Barbara Owen, Professor, Criminology, CSU-Fresno and Barbara Bloom, Professor and Chair, Criminology & Criminal Justice Studies, Sonoma State University:

In 2003, the National Institute of Corrections (NIC) published the report, *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders*, authored by Bloom, Owen, and Covington. This report has been incorporated into strategic plans and state and national standards in multiple jurisdictions throughout the country. This approach can be defined as:

Gender-responsive means creating an environment through site selection, staff selection, program development, content, and material that reflects an understanding of the realities of women's lives and addresses the issues of the participants. Gender-responsive approaches are multidimensional and are based on theoretical perspectives that acknowledge women's pathways into the criminal justice system. These approaches address social (e.g., poverty, race, class and gender inequality) and cultural factors, as well as therapeutic interventions. These interventions address issues such as abuse, violence, family relationships, substance abuse and co-occurring disorders. They provide a strength-based approach to treatment and skill building. The emphasis is on self-efficacy.

Six guiding principles frame this approach:

| | |
|---------------------------|---|
| Gender: | Acknowledge that gender makes a difference. |
| Environment: | Create an environment based on safety, respect, and dignity. |
| Relationships: | Develop policies, practices, and programs that are relational and promote healthy connections to children, family, significant others, and the community. |
| Services and Supervision: | Address substance abuse, trauma, and mental health issues through comprehensive, integrated, culturally relevant services, and appropriate supervision. |
| Socioeconomic Status: | Provide women with opportunities to improve their socioeconomic conditions. |
| Community: | Establish a system of community supervision and re-entry with comprehensive, collaborative services. |

The gender-responsive approach is built on empirical research that has found that female offenders' pathways to criminality to be significantly different from those of their male counterparts. In addition, the types of crimes committed by female offenders, their level of violence, their responses to custody and supervision, and their family situations and responsibilities have also been shown to be very different than those of male offenders. Among women, the most common pathways to crime are based on survival (of abuse and poverty) and substance abuse. Research on female offenders has established that women enter the criminal justice system in ways different from those of male offenders. California's female offenders have a specific profile that mirrors national findings. They are less likely than men to have committed violent offenses and more likely to have been convicted of crimes involving property or drugs—posing a lesser risk to the community.

Women in community-based, family-focused settings face fewer obstacles to visitation and maintaining family connections. Community-based settings can emphasize treatment, service provision, and community reentry. Addressing the risk and needs of the female offender requires an appropriate assessment. There are multiple instruments that provide assessments, but counties should consider using gender-responsive risk and needs assessment instruments that incorporate women's pathways and recommend gender-appropriate placements, treatment, and supervision.

As part of community programming, this system of supervision and support in communities should include: housing, education, job training, employment, family counseling, child care and parenting education, drug and alcohol treatment, health and mental health care, peer support, and aftercare. Wraparound services and other integrated approaches can also be very effective because they address multiple needs in a coordinated way and facilitate access to services.

In addition, several research studies have found that gender responsive approaches are more effective in reducing recidivism and improving outcomes for female offenders when implemented according to these principles.

Therefore, to make a significant impact on California's female offenders, we propose that the Public Safety Realignment efforts develop innovative and focused interventions that address these differences and target the specific risks and needs of female offenders.

Staff Comment. As an increased number of female offenders are supervised locally due to realignment, the state should explore ways to improve tracking and evaluation of service and programs specific to this population such as including this information when reporting to the new Board of State and Community Corrections. In addition, the CDCR must continue and improve upon efforts to meet the goals of the Female Offender Master Plan in delivering services and programs for female offenders who remain in CDCR institutions.

In relation to the ACP, questions have been raised as to whether certain barriers to qualifying should be removed. In addition, whether administering the program as currently authorized or under expanded authority, the efforts must be made to ensure participants are placed in settings and receive services that are consistent with the program's intent. Specifically, the CDCR should utilize evidenced based programs for women when they are placed in alternative custody, ensure women are able to access health services on ACP, and ensure savings from the ACP actually go to treatment programs in the community.

Recommendation. Approve trailer bill language to expand the Alternative Custody Program.

Office of the Inspector General (0552)

The Office of the Inspector General (OIG) oversees the state's correctional system through contemporaneous monitoring and special reviews of the policies, practices, and procedures of the CDCR. Although the duties required of the OIG's Office are complex, its mission is clear: to protect public safety by safeguarding the integrity of California's correctional system.

The OIG is responsible for contemporaneous oversight of the CDCR's internal affairs investigations and employee disciplinary process, as well as contemporaneous oversight monitoring of all deadly force incidents, certain custodial death incidents, and other significant critical incidents. In addition, the OIG is statutorily responsible for conducting use of force monitoring, policy and performance reviews, the vetting of wardens and superintendents, sexual abuse in detention reviews, retaliation complaint reviews, independent intake (complaint) processing, and medical inspections. As required by statute, the OIG's monitoring and oversight activities are reported publicly several times per year.

The Governor's Budget proposes \$14.6 million General Fund and 86.4 positions. This reflects a decrease of \$2.1 million General Fund and 13.6 positions as compared to the 2011 Budget Act.

Issue 1 – Reorganization of the Office of the Inspector General

Governor's Proposal. Consistent with previous Legislative and Administrative actions, the Governor's budget includes a proposal to restructure and downsize the OIG to meet reductions of \$4.9 million in the current year and \$7.3 million in the budget year. This includes a reduction of positions totaling 39 positions in the current year and 48.5 positions in the budget year.

Background. A series of budget actions in 2011 reduced the OIG's operating budget from \$26.1 million in 2010-11 down to \$16.7 million in 2011-12 and \$14.6 million in 2012-13 and ongoing. This is a total reduction of \$11.6 million, or 44 percent. Simultaneously, the Administration and the Legislature revisited the mission of the OIG and deliberated on ways to improve its efficiencies and operations.

The culmination of these efforts resulted in legislation that codified the OIG's medical inspection program; requires the OIG to conduct policy and performance reviews of the CDCR (at the request of the Governor, the Senate Rules Committee, or the Speaker of the Assembly); removed the peace officer status of OIG employees; removed the mandate that the OIG conduct audits and investigations of the CDCR; and removed the requirement that the OIG conduct quadrennial facility operation reviews and one-year warden follow-up audits. Additionally, 2011 Budget Act Control Sections 3.91(a) and 3.91(b) specified that agencies were to meet predetermined budget reduction targets

through reorganizations, consolidations, eliminations, and by improving operational efficiencies.

Subsequent to these actions, the OIG abolished its bureaus and restructured its operations into three regions (northern, central, and southern) to reduce travel and overtime costs and improve efficiencies. This regional approach also allows staff to respond more quickly to issues arising at California's prisons, youth facilities, and parole regions, which are located throughout California from the Oregon border, down to the Mexican border.

Deputy Inspector Generals are being cross trained in the eight primary disciplines that our statutory mandates require: including use of force monitoring, policy and performance reviews, warden and superintendent vetting, retaliation complaint reviews, Sexual Abuse in Detention Elimination Act (SADEA) reviews, independent intake (complaint) processing, medical inspections, and critical incident monitoring. Additionally, the OIG is in the process of consolidating its building leases, has reduced its cell phone and equipment inventory, reduced its vehicle fleet, reduced its temp-help usage, and will be abolishing vacant positions. Even with these mitigating actions, the OIG continues to identify a necessity to lay-off staff.

The remaining eight mandated functions of the IOG are as follows:

1. California Rehabilitation Oversight Board - The OIG supplies the Chair of the Board (Inspector General), the counsel for the Board (Chief Counsel), the Executive Director for the Board (CEA), the Board Secretary (Brown Act adherence), plus other staffing support as needed for publications/meetings.
2. Retaliation complaints - Legislation requires the OIG to review any complaints of whistleblower retaliation within the CDCR that the OIG receives. The OIG's Intake Unit processes all such complaints which are then screened by the Chief Counsel, and those deemed legally sufficient are assigned out to the regional units for action.
3. Intake Unit – The Intake Unit receives and processes hundreds of complaints from multiple sources regarding CDCR activities. The OIG maintains a toll-free public telephone number to allow reporting of administrative wrongdoing, poor management practices, criminal conduct, fraud, and other abuses in CDCR.
4. PREA - Pursuant to statute, the OIG reviews the mishandling of sexual abuse incidents within correctional institutions, maintains the confidentiality of sexual abuse victims, and ensures impartial resolution of inmate and ward sexual abuse complaints through the Sexual Abuse in Detention Elimination Ombudsperson. The CDCR notifies the OIG of all PREA complaints via their AOD process. These are then monitored by the Discipline Monitoring Unit to ensure compliance with PREA policies and any resulting staff allegations are automatically monitored. The Intake Unit also processes complaints regarding the handling of any PREA investigations and these are sent out to the regional DMU units to monitor and follow up.

5. Warden and Superintendent Vetting - The OIG reviews the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions and as superintendents for the state's juvenile facilities. Currently, it is anticipated that CDCR will have a minimum of 12 new wardens, and likely more, in the 2012 calendar year that will require vetting.

6. Authorized Reviews - Under the revised statute, the OIG is mandated to conduct a review of any policy/practice/procedure of the CDCR when requested by either the Governor, the Senate Rules Committee, or the Speaker of the Assembly.

7. Discipline Monitoring Unit (formerly the BIR) - As discussed above, this unit has been re-titled from the "BIR" to the "DMU" within the OIG. Each Region (North, Central and South) has a team of attorneys and DIGs who are assigned to the monitoring of CDCR internal affairs cases. In addition to the monitoring of the CDCR's Central Intake process and actual internal affairs investigations, the SAIGs (Special Assistant Inspector Generals – attorneys) also monitor the discipline process from the time the hiring authority receives the investigative report through the completion of the adverse action process/hearing at the State Personnel Board and the performance of CDCR's EAPT (Employee Advocate Prosecution Team). In addition to the monitoring of internal affairs matters, the DMU monitors CDCR 's Use of Force Review process and Critical Incidents.

8. Medical Inspection Unit (MIU) - The OIG is required to conduct an objective, clinically appropriate, and metric-oriented medical inspection program to periodically review delivery of medical care at each state prison. This program has completed its second cycle of inspections at all 33 prisons. In an effort to improve efficiencies, we have regionalized our operations and as a result, our plan for Cycle III of our medical inspection program (commencing in February) will see a more streamlined process and we anticipate that our reports will be issued in less time than they were for Cycles I and II.

Staff Comment. The Legislative Analyst's Office has recommended that the OIG's budget be reduced by an additional \$496,000 in 2011-12 and \$665,000 in 2012-13 because the salaries of positions being eliminated were not reduced at mid-step, which is standard practice. Staff finds that such reductions would likely result in the need for the OIG to also reduce additional personnel. Further, the OIG aligned its personnel with budget authority based on the numerous reductions outlined above. Staff finds that the OIG did an appropriate job of restructuring its budget in a manner consistent with previous Legislative actions.

Recommendation. Approve as Budgeted.

Issue 2 – California Rehabilitation Oversight Board Update

California Rehabilitation Oversight Board. AB 900 (Solario, 2007) established the California Rehabilitation Oversight Board (C-ROB) within the Office of the Inspector General. C-ROB is made up of state and local law enforcement, education, treatment, and rehabilitation professionals who are mandated to examine and report biannually on rehabilitative programming provided by the CDCR. In performing its duties, C-ROB is required by statute to use the work of the Expert Panel on Adult Offender Reentry and Recidivism Reduction Programs.

C-ROB uses the California Logic Model as the framework by which to evaluate CDCR's progress in implementing rehabilitative programming. The California Logic Model is eight evidence-based principles and practices, identified by the expert panel, that show what effective rehabilitation programming could look like as an offender moves through the state's correctional system. The eight areas are: (a) assess high risk; (b) assess need; (c) develop behavior management plan; (d) deliver programs; (e) measure progress; (f) preparation for reentry; (g) reintegrate; and (h) follow-up.

Today (March 15, 2012) C-ROB is releasing the tenth biannual report, which examines the progress the CDCR made in providing and implementing rehabilitative programming between July and December 2011.

Staff Comment. This Subcommittee has held two oversight hearings on CDCR rehabilitative programs in the past year. C-ROB's biannual reports have been helpful in providing information regarding the types of programs and program utilization within CDCR. However, given the changes, including realignment, that have impacted the department since C-ROB was established, the subcommittee may wish to assess whether some of C-ROB's statutory requirements should be revisited.