

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk



Thursday, March 22, 2012
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Room 113

Consultant: Joe Stephenshaw

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Panel for Division of Juvenile Justice

Panel 1

Amy Jarvis, Department of Finance
Mike Minor, Chief Deputy Secretary, Division of Juvenile Justice
Tor Tarantola, Legislative Analyst's Office

Panel 2

Daniel Macallair, MPA, Executive Director, Center on Juvenile and Criminal Justice
David Steinhart, Director of the Commonweal Juvenile Justice Program
Linda Penner, Chief Probation Officer, Fresno County

Panel for the Board of State and Community Corrections

Panel 1

Andrea Scharffer, Department of Finance
Robert Takeshta, Executive Director (A), Corrections Standards Authority
Tor Tarantola, Legislative Analyst's Office

Panel 2

Sharon Aungst, Director, The Partnership for Community Excellence, California Forward
Kathy Jett, Consultant, The Partnership for Community Excellence, California Forward
Elizabeth Howard Espinosa, Legislative Representative, California State Association of Counties
Karen Pank, Executive Director Chief Probation Officers of California

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.

Division of Juvenile Justice Realignment

Background. The Division of Juvenile Justice (DJJ), originally known as the California Youth Authority (CYA), was created by statute in 1941 and began operating in 1943, providing training and parole supervision for juvenile and young adult offenders.

In a reorganization of the California corrections agencies in 2005, the CYA became the DJJ within the Department of Corrections and Rehabilitation. Currently, the DJJ receives its youthful offender population from both juvenile and adult court referrals.

The DJJ carries out its responsibilities through three divisions: the Division of Juvenile Facilities, the Division of Juvenile Programs, and the Division of Juvenile Parole Operations. The Juvenile Parole Board, an administrative body separate from DJJ, determines a youth's parole readiness.

Youths committed directly to the DJJ do not receive determinate sentences. A youth's length of stay is determined by the severity of the committing offense and their progress toward parole readiness; however, the DJJ is authorized to house youths until age 21 or 25, depending upon their commitment offense.

The DJJ also provides housing for youths under the age of 18 who have been sentenced to state prison. Youths sentenced to state prison may remain at DJJ until age 18, or if the youth can complete his or her sentence prior to age 21, the DJJ may house him or her until released to parole.

The vast majority of youthful offenders are now directed to county programs, enabling direct access and closer proximity to their homes, families, social programs and services, and other support systems. Those youths directed to the DJJ have been convicted of the most serious and violent crimes and/or are most in need of the specialized treatment services necessary for their success. DJJ youth represent approximately one percent of the 225,000 youth arrests each year.

Governor's Proposal. The Governor proposes that DJJ will stop intake of new juvenile offenders effective January 1, 2013, eventually transferring the responsibility for managing all youthful offenders to local jurisdictions. The Governor's proposal includes \$10 million in 2011-12 to support local governments in planning for the realignment of the remaining DJJ population. Absent realignment, DJJ's proposed budget is \$199 million for 2012-13.

The Governor has delayed charging counties \$125,000 per juvenile offenders committed to DJJ, pursuant to the current-year trigger.

Staff Comment. Previous efforts to realign the state’s juvenile justice responsibilities to local jurisdictions have been successful. Since reaching a high of 10,122 in 1996, the number of youths committed to the DJJ by juvenile and superior courts has steadily declined. The budget reports that DJJ’s average daily population will be 1,149 in 2012-13. This reduction in population has led to the closing of the majority of DJJ facilities. Today the DJJ operates three facilities (two in Stockton and one in Ventura) and one fire camp.

The drastic decline in population began in the mid to late 1990s and continued through the last decade due to the following factors:

- Counties received increased federal funding to build additional treatment facilities.
- *Chapter 6, Statutes of 1996, (SB 681, Hurtt)*, enacted changes in fees counties paid to house youths in DJJ facilities based upon the classification of a youths commitment offense.
- *Chapter 175, Statutes of 2007, (SB 81, Committee on Budget and Fiscal Review) and Chapter 257, Statutes of 2007, (AB 191, Committee on Budget)*, restricted juvenile court commitments to cases that were violent offenses as specified in Section 707(b) of the Welfare and Institutions Code, or sex offenses as specified in Section 290 of the Penal Code.
- *Chapter 729, Statutes of 2010, (AB 1628, Blumenfield)*, transferred youth parole responsibilities to county probation, eliminating DJJ parole by June 30, 2014.

Along with the increased responsibility, the state has provided locals with resources to house and treat juvenile offenders, including the following sources that are all ongoing, except the local jail construction funds:

(dollars in millions)

Source	Amount
Juvenile Justice Crime Prevention Grants	\$107.1
Juvenile Probation Funding	151.8
Juvenile Camp Funding	29.4
SB 81/AB 191 and AB 1628 Realignment	104.1
Local Jail Construction	\$300

A recent report by the Center on Juvenile and Criminal Justice notes that several counties, such as San Bernardino, Napa, Santa Clara, Alameda, San Francisco and Santa Cruz, have implemented innovative local practices for rehabilitation of serious youth offenders. The report further notes that some of these counties are seeing reductions in recidivism rates. Additionally, according to the California Department of Justice’s most recent report on crime statistics, juvenile arrest rates have decreased from 2005-2010.

What is an appropriate level of state juvenile justice responsibility. If the Governor's proposal to realign responsibility for all juvenile offenders in California is adopted, California may be the only state without state sanctions for juvenile offenders. DJJ's current population, although small in numbers, is comprised of our state's highest risk juvenile offender population. Representatives of probation officers have noted that they do not have the capacity to treat many of the youth that are sent to DJJ because of the severity of their treatment need (many have acute mental health or sexual behavioral symptoms) nor do they want to house these youth with the population that is currently kept locally due to management concerns.

On the other hand, some have questioned the state's ability to house and provide adequate services for juvenile offenders. DJJ is currently under a consent decree as a result of the *Farrell v. Cate* lawsuit, which was initiated with a complaint surrounding conditions in the juvenile justice system that was filed in state court in January 2003. Six remedial plans were developed and have guided improvements (a Special Master in the *Farrell* case has filed periodic reports detailing the changes in conditions). However, there is continuing debate as to whether the DJJ can ever reach full *Farrell* compliance.

Counties are currently implementing changes to absorb the impact of the 2011 public safety realignment. Per the 2011 Public Safety Realignment, which requires that certain low-level felony offenders serve their time locally and shifts the majority of the state's parole population to local jurisdictions, counties are currently dealing with a significant increase in public safety responsibilities. Probation departments are in the process of creating and implementing new supervision strategies and adjusting workforces accordingly. Given this huge shift in responsibility that local probation departments are currently dealing with, the Legislature must consider impacts that realigning the state's juvenile population at this time may have on the implementation of the 2011 public safety realignment.

Potential hurdles. Stakeholders and the Administration have acknowledged issues related to realigning DJJ's population, including statutory issues, that remain unresolved. These include; 1) age of jurisdiction, counties can only retain wards up to the age of 21, while DJJ retains wards to the age of 25, 2) court commitment changes, establishing a process for changes in commitment status, 3) the potential increase in Direct Files of juveniles in adult court, and 4) potential sight and sound barriers required for inmates under the age of 18, if they are housed in adult institutions. Until resolution to many of these issues becomes clearer, it may be premature to provide locals with \$10 million in planning funding, as the budget proposes.

Recommendation. No action. The Administration is expected to update the proposal for May Revise.

Board of State and Community Corrections (5227)

Issue 1 – Establishment of the Board of State and Community Corrections

Background. 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 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.

The CSA 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 CSA 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.

The CSA currently operates using a four divisional structure:

- **Facilities Standards and Operations Division.** The Facilities Standards and Operations Division works in collaboration with local corrections agencies to maintain and enhance the safety, security, and efficiency of local jails and juvenile detention facilities.
- **Corrections Planning and Programs Division.** The Corrections Planning and Programs Division plans, develops, and administers programs in collaboration with local and State corrections agencies to enhance the effectiveness of correctional systems and improve public safety.
- **Standards and Training for Corrections Division.** The Standards and Training for Corrections Division works in collaboration with State and local corrections and public/private training providers in developing and administering programs designed to ensure the competency of State and local corrections professionals.
- **County Facilities Construction Division.** The County Facilities Construction Division works in collaboration with State and local government agencies in administering funding for county detention facility construction projects, for the purpose of enhancing public safety and conditions of confinement.

Legislation associated with the 2011 Budget Act abolished the CSA and established the new Board of State and Community Corrections (Board) as an independent entity, effective July 1, 2012. The Board will absorb 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 include:

- Abolish the CSA within CDCR and established the Board as an independent entity.
- Transfer the powers and duties of the CSA to the Board.
- Transfer certain powers and duties that currently reside with CalEMA to the Board.
- Eliminate the California Council on Criminal Justice and assigned its powers and duties to the Board.
- Reestablish CPOST within CDCR.

The Board will provide 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 important in the next several years will be coordinating with and assisting local governments as they implement the realignment of many adult offenders to local government jurisdictions that began in 2011. The Board will 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 new Board will be an entity independent from CDCR. The Board will continue to be chaired by the Secretary of CDCR, and its vice-chair will be a local law enforcement representative. The Board will have 12 members, streamlined from both its immediate predecessor (CSA), with 19 members, and its former predecessor (BOC), which had 15 members. Members will reflect state, local, judicial, and public stakeholders.

Governor’s Proposal. The Governor’s Budget proposes \$109.2 million (\$16.9 million General Fund and \$92.2 million other funds) for the state operations and local assistance programs included under the Board. The funding is comprised of resources transferred from the CSA and CalEMA and will allow the Board to operate as an independent entity. Below is a chart summarizes the proposed funding and program structure of the Board, including resources transferred from CDCR and Cal EMA.

The Governor’s Budget also includes trailer bill language to clarify the Board’s authority for administration of certain federal funds.

(dollars in millions)

	Funding	Positions
Program 10 - Board Administration and Program Support	\$1.99	19.0
Program 15 - Corrections Planning and Grant Programs	\$81.26	23.5
Program 20 - Local Facilities Standards and Operations	\$3.81	20.0

Program 25 - Standards and Training for Local Corrections	\$22.19	13.0
Board Total	\$109.16	75.5
From CDCR	- \$63,191	-68.5
From CalEMA	- \$45,970	-8.5
Net Total of the Establishment of the Board	\$0	-1.5

Beside the core CSA functions, outlined above, the proposal includes \$253,000 from CDCR for administrative functions and the transfer of \$8.9 million from CDCR to assist counties with the implementation of the 2011 public safety realignment. The Board is to administer these funds, in consultation with the Department of Finance. Of the \$8.9 million, \$7.9 million is to be distributed to counties for the Community Corrections Partnership to develop realignment implementation plans and the remaining \$1 million is to provide state-wide training to counties.

Programs that will transfer from CalEMA include:

- **Edward Byrne Justice Assistance Grant (JAG) Program** - The U.S. Congress established the JAG program in the 2005 Omnibus Appropriations package. California's JAG program recipients include local criminal justice agencies, which utilize the grant to address apprehension, prosecution, adjudication, detention, and rehabilitation of offenders who violate state and local laws. California's JAG program also funds the California Counter Drug Procurement Program.
- **Residential Substance Abuse Treatment (RSAT) Program** - The RSAT Program is designed to assist state and local government agencies in developing and implementing substance abuse treatment programs in correctional and detention facilities and to provide community-based aftercare services for offenders.
- **California Gang Reduction, Intervention, and Prevention (CalGRIP) Initiative** - The CalGRIP Initiative provides Restitution Fund grants to cities using a local collaborative effort for anti-gang activities.

Lastly, CSA and Cal EMA provided grants directly to local public safety agencies, including: Citizen's Option for Public Safety (COPS); Juvenile Justice Crime Prevention Act Grants; Booking Fees, Small and Rural Sheriffs Grants; Juvenile Probation Funding; California Multi-Jurisdictional Methamphetamine Enforcement Team; California Gang Violence Suppression Program; Multi-Agency Enforcement Consortium; Rural Crime Prevention; Sexual Assault Felony Enforcement; and the High Technology Theft Apprehension and Prosecution Program. Funding for these programs was realigned to locals as part of the 2011 public safety realignment. However, if it is determined that state level administration requirements remain for any of these programs, the Board would fulfill those responsibilities.

Staff Comment. The Board will be critical to the implementation and success of the 2011 public safety realignment. One of the key drivers in establishing the Board was the need for a state/local body that could serve as the backbone of California’s public safety continuum. To facilitate local success, California needs to strategically coordinate support, foster local leadership, target resources and provide technical assistance. Per statute, the Board will be charged 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, including addressing gang problems. This mission shall reflect the principle of aligning fiscal policy and correctional practices, including, but not limited to prevention, intervention, suppression, supervision, and incapacitation, to promote a justice investment strategy that fits each county and is consistent with the integrated statewide goal of improved public safety through cost-effective, promising, and evidence-based strategies for managing criminal justice populations.”

The Board also will have the duty to “collect and maintain available information and data about state and community correctional policies, practices, capacities, and needs, including, but not limited to, prevention, intervention, suppression, supervision, and incapacitation, as they relate to both adult corrections, juvenile justice, and gang problems. The Board shall seek to collect and make publicly available up-to-date data and information reflecting the impact of state and community correctional, juvenile justice, and gang-related policies and practices enacted in the state, as well as information and data concerning promising and evidence-based practices from other jurisdictions.”

Within these responsibilities, the Board will play a key role in collecting, maintaining, and reporting data regarding the 2011 public safety realignment. Such data will be critical in understanding how resources should be allocated and how program success is ultimately measured.

It is worth noting that there is significant interest in researching and reporting on aspects of the 2011 public safety realignment from within academic and private foundation communities. One project of note, The Partnership for Community Excellence (The Partnership) established by California Forward, seeks to develop a “hub” to coordinate efforts to assist local governments in implementing public safety realignment. The Partnership notes that the state has not provided any direction or assistance to counties in developing integrated strategies to reduce costs and improve outcomes. This effort highlights the urgency for the Board to assume its responsibilities in ensuring that California has an efficient and effective approach to public safety in a time of such momentous change.

Recommendation. Approve the Board of State and Community Corrections proposal and trailer bill language. Adopt budget bill language requiring the Board to report quarterly on progress of the transition, including; workload analysis, backlogs and/or gaps, and staff vacancies.