

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Scott Wilk
Senator Dave Cortese
Senator Josh Newman



Thursday, February 4, 2021
10 a.m. or upon adjournment of Session
State Capitol - Room 3191

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Public Comment

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ITEMS TO BE HEARD

VARIOUS DEPARTMENTS

Issue 1: COVID-19 Direct Spending

Governor’s Budget. The Administration proposes \$1.8 billion one-time General Fund in fiscal year 2021-22 for various departments related to the estimated direct response expenditure costs to continue responding to and mitigating the impacts of the COVID-19 Pandemic. In addition, it is requested that budget bill language be added to address the remaining uncertainties as the state continues its response to the COVID-19 Pandemic. Specific to the public safety and corrections areas, two department proposals are included:

Department	Amount Requested	Purpose
CDCR	\$281.3 million General Fund	<p>To continue the CDCR and the California Correctional Health Care Services’ (CCHCS) efforts to treat COVID-19, and minimize exposure to inmates and staff.</p> <p>The funding will be utilized to test the department’s employees and incarcerated individuals; administer medical treatment, medications, and vaccines; prepare for medical surges; and to procure a supply of PPE. The funding is as follows:</p> <ul style="list-style-type: none"> • \$108.6 million will primarily be used for tent and equipment rental contracts, custody overtime, cleaning, and purchasing of PPE. • \$172.7 million will be used by CCHCS funding is mainly for inmate and staff testing, medical staffing registry and overtime, medical treatment, and purchasing PPE.
Board of State and Community Corrections (BSCC)	\$12.1 million General Fund	To support county probation departments with the increased numbers of individuals released from state prison on to Post-Release Community Supervision (PRCS) to reduce institution populations in response to the pandemic. These individuals fall into several categories, including eligible inmates with 180 days or less to serve on their sentence and individuals determined to be medically “high-risk”. This request is for the six-month period between July 1, 2021 and December 31, 2021.

Background. On March 24, 2020, the Governor issued Executive Order N-36-20, to mitigate the spread of COVID-19 in the state's adult institutions by stopping intake for 30 days, which was subsequently extended to 60 days. In addition, CDCR initiated the release of inmates who were within 60 days of

release at the beginning of April 2020, and who were not serving a current term for domestic violence, a violent felony, or required to register as a sex offender. These actions have contributed to a significant decline in the prison population. Beginning July 1, 2020, CDCR implemented a community supervision program to enable CDCR to increase physical distancing as well as limit the introduction and spread of COVID-19 within its facilities. Inmates are eligible if they are within 180 days of release; are not serving a current term for domestic violence, a violent crime, or are required to register as a sex offender; and do not have a risk assessment score that indicates a high risk for violence. About two-thirds of these incarcerated people were released to Post Release Community Supervision (county probation) and one-third were released to state parole. CDCR continues to release eligible inmates within 180 days of their natural release. CDCR also previously reviewed and released people deemed at high risk for COVID-19 as part of case-by-case reviews. Similar reviews are ongoing with a focus on determinately sentenced cases within 12 months of release. Additionally, on July 9, 2020, CDCR applied a one-time 12-week positive programming credit to all eligible inmates to recognize the impact the COVID-19 Pandemic has had on inmates' access to programs and credit earnings.

Adult Institution Population. The adult inmate average daily population is projected to decrease by 20 percent from 122,536 in spring 2020 to 97,750 in 2021-22. The overall current projections, show that the adult inmate population is trending downward and is expected to decrease by another 2,626 incarcerated people between 2019-20 and 2020-21.

Parolee Population. The average daily parolee population is projected to decrease by four percent from 47,929 in spring 2020 to 45,924 in 2021-22.

LAO Assessment. Withhold Action on Funding for COVID-19 Related Releases. The Governor proposes \$12.1 million (General Fund) one-time for county probation workload caused by COVID-19 related releases of state prison inmates. Because there is significant uncertainty that these releases will continue in 2021-22, the LAO recommends withholding action until there is greater clarity on the need for this funding.

Staff Recommendation. Hold open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 2: COVID-19 Workers' Compensation-- SB 1159 (Hill), Chapter 85, Statutes of 2020

Governor's Budget. The budget includes \$51 million General Fund in 2021-22, \$59.9 million General Fund in 2022-23, \$68.7 million General Fund in 2023-24, and \$77.6 million General Fund in 2024-25, and 27.0 limited-term positions for workers' compensation costs related to COVID-19. This request also includes Budget Bill Language to provide augmentation authority related to costs associated with SB 1159.

“ Item 5225-005-0001

1. The funds appropriated in this item shall be used only to support workers' compensation claims pursuant to Chapter 85, Statutes of 2020 (Senate Bill 1159). Upon approval of the Department of Finance, the amount available for expenditure in this item may be augmented for necessary workers'

compensation expenditures. Any augmentation shall be authorized not sooner than 30 days after notification in writing to the chairperson of the Joint Legislative Budget Committee. Any unspent funds at the end of the 2021-22 fiscal year shall revert to the General Fund. Notwithstanding Section 26.00, the funds appropriated in this item may be transferred between schedules. Any transfer requires the prior approval of the Department of Finance.”

Background. SB 1159 re-defines “injury” for an employee to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, until January 1, 2023. The bill creates a rebuttable presumption, until January 1, 2023, that an employee’s illness or death resulting from the 2019 novel coronavirus disease (COVID-19), arose out of and in the course of employment and is compensable under workers’ compensation if the employee is a specified front-line employee, or if the place of employment experiences an outbreak of COVID-19. The trigger for the presumption is either a positive test for COVID-19 or a doctor’s diagnosis of COVID19, followed up by a positive COVID-19 test within 30 days of the initial diagnosis.

SB 1159 also makes a claim relating to a COVID-19 illness presumptively compensable after 30 or 45 days, rather than 90 days, which means the claim is presumed to be work-related unless evidence is presented to the contrary within the first 30 or 45 days. This means, that unless CDCR or CCHCS can prove within 30 or 45 days an employee did not become infected with COVID-19 while on the job, the employee would be eligible for workers’ compensation benefits. SB 1159, Section 3212.88, which creates a requirement for CDCR to report to State Fund data relevant to whether an outbreak of COVID-19 has occurred in a particular CDCR work location.

Between CDCR and CCHCS, there are several entities which facilitate and monitor workers’ compensation claims, including Legal Affairs and Human Resources offices. All worker’s compensation claims are processed by CDCR and return-to-work functions are processed by both CDCR and CCHCS for respective employees.

As of December 14, 2020, CDCR has reported 1,951 COVID-19 workers’ compensation claims to the State’s claims administrator, the State Compensation Insurance Fund (State Fund). This equates to about 56 COVID-19 claims per each of the 35 adult institutions or about 217 COVID-19 claims per month system-wide. The quantity of COVID-19 specific claims have increased the number of workers’ compensation claims processed by CDCR, which typically averages approximately 1,000 new claims per month statewide. Claims for COVID-19 require Return to Work Coordinators (RTWC) to gather a substantial amount of background evidence within a shortened timeframe to provide to State Fund, in order for State Fund to make an informed compensability (accept/deny) decision on each COVID-19 claim. The referenced timeline has been shortened to a 30 or 45 day requirement per the language in SB 1159, whereas previously a 90-day timeline was used. The increase in cases as a result of COVID-19 as well as the shortened timelines has exacerbated workload at RTWC offices which process these claims.

CDCR Justification for resources. CDCR anticipates submitting approximately 2,250 claims for COVID-19 each fiscal year for 2020-21 and 2021-22, and 1,100 claims for the partial fiscal year 2022-23, for a total of 5,500 COVID-19 claims through the applicable reporting period under SB 1159. This assumption is based on the average number of COVID-19 claims continuing annually, with a slight reduction based on increased awareness and access to protective measures, and potential vaccine distribution. Based on current reporting and COVID-19 claims acceptance rates, CDCR anticipates approximately 95 percent of future COVID-19 claims submitted to State Fund will be accepted.

In total for claims costs, CDCR projects between \$47.6 million and \$74.2 million will be paid out for the above referenced cases annually. Included in the projected annual costs are medical costs and fees, projected to total \$24.1 million, as well as \$6.0 million for Death Benefits each year. Additionally, there are other costs associated with each claim, such as temporary disability, industrial disability liability, discovery/deposition costs, and other legal expenses, which are projected to total \$7.9 million annually.

Staff Recommendation. Hold open.

Issue 3: Closure of Deuel Vocational Institute (DVI)

Governor's Budget. The budget includes a reduction of \$95.4 million and 660.9 positions General Fund and \$390,000 and 4.6 positions Inmate Welfare Fund in 2021-22 and \$126.4 million and 871.6 positions General Fund and \$517,000 and six positions Inmate Welfare Fund in 2022-23 and ongoing to reflect the closure of DVI.

Background. The Budget Act of 2018 included statutory changes, outlined in Penal Code section 2067, which identified a variety of factors CDCR must consider for its prison closure plans.

- (a) As outlined in the Budget Act of 2018, it is anticipated that all California inmates will be returned from out-of-state contract correctional facilities by February 2019. To the extent that the adult offender population continues to decline, the Department of Corrections and Rehabilitation shall begin reducing private in-state male contract correctional facilities in a manner that maintains sufficient flexibility to comply with the federal court order to maintain the prison population at or below 137.5 percent of design capacity. The private in-state male contract correctional facilities that are primarily staffed by non-Department of Corrections and Rehabilitation personnel shall be prioritized for reduction over other in-state contract correctional facilities.
- (b) As the population of offenders in private in-state male contract correctional facilities identified in subdivision (a) is reduced, and to the extent that the adult offender population continues to decline, the Department of Corrections and Rehabilitation shall accommodate the projected population decline by reducing the capacity of state-owned and operated prisons or in-state leased or contract correctional facilities, in a manner that maximizes long-term state facility savings, leverages long-term investments, and maintains sufficient flexibility to comply with the federal court order to maintain the prison population at or below 137.5 percent of design capacity. In reducing this additional capacity, the department shall take into consideration the following factors, including, but not limited to:
 - (1) The cost to operate at the capacity.
 - (2) Workforce impacts.
 - (3) Subpopulation and gender-specific housing needs.
 - (4) Long-term investment in state-owned and operated correctional facilities, including previous investments.
 - (5) Public safety and rehabilitation.
 - (6) The durability of the state's solution to prison overcrowding.

The prison population has decreased significantly over the last several years due to various reforms and other public safety measures—including expedited releases related to COVID-19. As a result, the 2020

Budget Act outlined the closure of two prisons within the next three years. The adult inmate average daily population is projected to decrease by 20 percent from 122,536 in spring 2020 to 97,750 in 2021-22. The overall current projections, show that the adult inmate population is trending downward and is expected to decrease by another 2,626 incarcerated people between 2019-20 and 2020-21. DVI has been identified for closure during the 2021-22 fiscal year pursuant to the above factors.

- **Details of main proposed reductions. Custody Staffing:** \$54.4 million General Fund and 360.8 custody positions to reflect the closure of all housing units within DVI, effective October 1, 2021. The 2022-23 reduction increases to \$72.6 million General Fund and 479.5 positions.
- **Non-Custody Staffing:** \$34.2 million General Fund and 289.3 positions and \$390,000 Inmate Welfare Fund and 4.6 positions to reflect the reduction of CDCR and CCHCS non-custody staffing directly supporting DVI, effective October 1, 2021. The 2022-23 reduction increases to \$45.1 million General Fund and 378.1 positions and \$517,000 Inmate Welfare Fund and six positions.
- **Operating Expenses and Equipment:** \$3.8 million General Fund to reflect the elimination of Operating Expenses and Equipment costs related to institution operations. The 2022-23 reduction increases to \$5.1 million General Fund.
- **Facility Maintenance Funding:** \$1.6 million General Fund for facility maintenance funding to reflect the elimination of approximately 1.2 million square feet of space. The 2022-23 reduction increases to \$2.1 million General Fund.
- **Division of Rehabilitative Programs:** \$3 million General Fund and 20.1 positions for rehabilitative programs.

Additional Costs and Realignments:

- **Warm Shutdown:** \$1.6 million General Fund and 9.3 positions to support the warm shutdown of DVI until disposition of the property is determined. This amount increases to \$2.2 million and 12 positions in 2022-23.
- **Division of Rehabilitative Programs:** This request retains and realigns \$0.5 million General Fund and 3 positions to support academic and career and vocational programs at other institutions. Specifically, two teachers and one vocational instructor (auto body and fender repair) will be relocated to other institutions along with funding to support 162 academic and 27 Career Technical Education vocational daily slots. The positions and dollars are already included in CDCR's budget, therefore no adjustment is needed.
- **Medical Guarding Unit:** The redirection of responsibility for the Medical Guarding Unit located at the San Joaquin General Hospital from DVI to the California Health Care Facility. Net zero adjustment totaling approximately \$10.1 million General Fund and 68.9 positions.
- **Transportation:** The relocation of the Northern Transportation hub functions to another institution. Costs and location to be determined.
- **Equipment Disposition and Site Preparation:** Unknown, one-time cost for movement of vehicles, equipment, supplies, and other non-permanent or semi-permanent items (medical and non-medical) to other institutions, as needed. Unknown, one-time costs for disposal

LAO Assessments. State Could Close Up to Five Prisons. Given that the prison population is projected to decline by a couple tens of thousands of inmates over the next few years, the administration plans to close the Deuel Vocational Institution (DVI) in Tracy by September 30, 2021 and a second, unnamed,

prison in 2022-23. The LAO finds the state would likely be able to close three additional prisons by 2024-25.

Plan Needed on Disposition of Closed Prisons. The disposition of the prisons to be closed is currently unclear. Given the need to provide maintenance and security resources while prisons are closed, it is important for the state to have a long-term plan for each closed prison. Accordingly, the LAO recommend the Legislature require CDCR to report on what options it is considering for the ultimate disposition of the two prisons it plans to close.

Staff Recommendation. Hold Open.

Issue 4: Correctional Staff Training and Job Shadowing

Governor's Budget. The budget includes \$19.9 million General Fund and 59 positions in 2021-22, \$16.2 million General Fund in 2022-23, \$23.2 million General Fund in 2023-24 \$14.7 million General Fund in 2024-25 and ongoing to improve departmental training of institution-based custody staff. The budget also includes trailer bill language containing statutory changes to implement the proposal.

Background. CDCR operates a 13 week Basic Correctional Officer Academy (BCOA) at the Richard A. McGee Correctional Training Center in Galt. At the academy, cadets learn the basic practices of a correctional officer—such as how to search inmate property—in a largely classroom-based setting. Afterward, graduates are assigned to prisons and begin work as correctional officers.

In practice, after graduation from the BCOA and completion of a one-week new employee orientation, new officers are immediately assigned to an independent post and are expected to perform at the level of an experienced Correctional Officer (CO). They learn local policy through trial and error experiences while relying upon informal assistance from other staff who are often new themselves. Moreover, the current BCOA lacks reality-based trainings necessary to carry out essential daily functions, such as communicating effectively with inmates, methods for encouraging programming compliance, operating a control booth, transporting an inmate, and adhering to court and medical compliance mandates.

These new officers are prone to mistakes, and can over-or under-react to inmate behavior. This is a safety and security risk to inmates and staff, and can lead to unnecessary stress, poor morale, staff complaints, compliance issues, discipline issues, litigation, and unnecessary use of force. Historically, new COs fill some of the more high-risk posts through the post-and-bid process as senior officers tend to forego jobs with a higher incident or staff injury rate.

Following graduation from the BCOA, COs participate in the CO Apprenticeship Program (AP), which administers operational procedures and standards for the entry-level CO apprentices, integrates high quality related supplemental instruction, and provides professional competence through structured on-the-job training in a variety of work assignments. The AP is facilitated through the in-service training (IST) office and the IST Sergeant is required to track and reconcile apprentice timesheets, work with new officers to ensure completion of identified work process hours, monitor the rotation of posts for apprentices, coordinate apprentice appeals/grievances, provide supervision and feedback to new staff, and evaluate new staff performance. These AP duties are in addition to all other training and tracking responsibilities, which include providing the rotating weeklong, annual off-post training, on-the-job training, and any other ongoing institutional training needs.

The Commission on Correctional Peace Officer Standards and Training (CPOST). CPOST is statutorily responsible for developing, approving, and monitoring standards for the selection and training of correctional officers and supervisory staff, as well as monitoring and validating CDCR's design and delivery of staff training. CPOST is comprised of six members, three appointed by CDCR to represent the department's management and three appointed by the Governor to represent the members of the California Correctional Peace Officers' Association (the union representing CDCR correctional staff). Per Penal Code 13601, subdivisions (d) – (h), CPOST is responsible for establishing training standards and reviewing existing training for advanced rank-and-file and supervisory classifications. The CPOST must also monitor validation studies and the delivery of such supervisory/leadership courses and provide leadership and oversight of existing CPOST staff to direct the work needed to develop training standards and audit existing training. This type of high-level decision-making and oversight is inappropriate for rank-and-file and lower supervisory classifications because they lack both experience and authority.

Proposal Details. The CDCR is requesting to convert the Northern California Women's Facility (NCWF), a formerly operational institution closed in 2003, into an advanced departmental training facility, implement a four-week job shadowing and New Employee Orientation program for newly graduated cadets. The Governor's budget proposal includes the following:

- a) *Re-Activation of Closed Facility for Hands-On Training (\$9 Million in 2021-22).* Under the Governor's proposal, CDCR would convert a former prison located in Stockton into a facility to provide hands-on training to cadets on topics such as transportation of inmates, contraband surveillance, and escape prevention. The CDCR will use NCWF to provide a hands-on, reality-based training during the BCOA for new COs—essentially expanding the BCOA. Year one costs include hiring of staff and establishment of the reality-based training classes; year two costs include plan development for the electrical work and facility repair as well as IT infrastructure requirements; and year three costs include the necessary facility work and code upgrades to open all sections of NCWF for training.
- b) *Job Shadowing Program for New Correctional Officers (\$11.7 Million in 2021-22 and ongoing).* As a part of the proposed training plan, after graduation from the BCOA and upon arrival at their assigned institutions, new COs will enter a transitional phase where they will learn job-specific procedures through a formalized training program. The training includes New Employee Orientation, which currently exists as a one-week program, and new job shadowing phase with experienced COs and staff for an additional three weeks. The highly structured four-week orientation will pair new COs with experienced COs on a variety of post assignments, preparing new officers to assume these posts independently after orientation.

The Governor's budget provides 1) \$6.2 million in additional funding is required to backfill CO posts and ensure guarding coverage since the new COs will undergo additional three weeks in training and 2) \$5.5 million to support 33 correctional sergeant positions (one per prison). These sergeants would coordinate the new job shadowing program and perform various other duties related to staff training that the department indicates have grown in recent years beyond a level that can be accommodated by existing staff.

- c) *Additional CPOST Staff (\$492,000 in 2021-22).* The Governor's budget provides \$492,000 in 2021-22 (decreasing to \$430,000 annually beginning in 2022-23) for CPOST for additional

managerial and supervisory positions to provide oversight to custody and non-custody staff, relieving the Executive Director of daily supervisory duties such as assigning and delegating workload; setting priorities; and training, developing, and evaluating staff.

Positions	FY21 Current Year	FY21 Budget Year	FY21 BY+1	FY21 BY+2	FY21 BY+3	FY21 BY+4
5393 - Assoc Govtl Program Analyst (Eff. 07-01-2021)	0.0	1.0	1.0	1.0	1.0	1.0
6713 - Stationary Engr - CF (Eff. 07-01-2021)	0.0	1.0	1.0	1.0	1.0	1.0
6940 - Maint Mechanic (Eff. 07-01-2021)	0.0	1.0	1.0	1.0	1.0	1.0
9646 - Capt (Adult Institution) (Eff. 07-01-2021)	0.0	2.0	2.0	2.0	2.0	2.0
9656 - Corr Lieut (Eff. 07-01-2021)	0.0	1.0	1.0	1.0	1.0	1.0
9659 - Corr Sgt (Eff. 07-01-2021)	0.0	53.0	53.0	53.0	53.0	53.0
OT00 - Overtime (Eff. 07-01-2021)	0.0	0.0	0.0	0.0	0.0	0.0
Total Positions	0.0	59.0	59.0	59.0	59.0	59.0

Staff Recommendation. Hold Open.

Issue 5: Technology for Inmates Participating in Academic Programs

Governor's Budget. The budget includes \$23.2 million General Fund and 43.0 positions in 2021-22, and \$18.4 million General Fund and 38.0 positions in 2022-23 and ongoing to create a cloud network for rehabilitative programming support and deploy approximately 37,000 Thin Client laptops to enhance efficiency in providing rehabilitative programming.

Background. Under current state law, CDCR is required to improve literacy and educational attainment. Improving literacy and educational attainment is important because research shows that education programs, when appropriately implemented, are a cost-effective method of reducing recidivism. Moreover, it is often necessary for the incarcerated to improve their literacy in order to be able to effectively participate in other rehabilitation programs while in prison, such as vocational or cognitive behavioral therapy programs.

CDCR Provides Both Classroom- and Non-classroom-Based Education. The 2019 Budget Act provided about \$172 million (mostly from the General Fund) to CDCR for various academic education programs. Most of this funding is used to support classroom based education. However, the department has also taken steps to provide educational opportunities outside of traditional classroom instruction. For example, the department operates the Voluntary Education Program, which is designed to supplement classroom-based education or to provide access to education when a classroom-based option is not available. Instructors in this program work with incarcerated students offering in-person support at least twice a week. In addition, CDCR provides technology-based education such as computer software designed to help the incarcerated prepare for the high school equivalency exam, as well as peer mentors to help the incarcerated develop basic literacy skills.

Current Issues. According to the CDCR, there are several barriers to expanding programming to incarcerated people interested in programming. One barrier to providing more programming is physical space limitations within the institutions. Managing space between academic education, vocational education, substance use disorder treatment programs, and other cognitive behavioral interventions, activity groups, mental health groups, and California Prison Industry Authority activities continues to remain a challenge.

Another challenge concerns the necessary educational staff to efficiently provide programming. Many institutions are in remote locations. Highly specialized teachers or college professors may not be able to make the significant travel commitments, or work the needed alternate-schedule hours required to teach programs in prison. As an example, many current face-to-face college instructors are required to drive 1-2 hours to reach remote institution locations to teach college. This often limits CDCR's ability to attract college professors to travel or teach, especially because they are not reimbursed by CDCR.

Additionally, as incarcerated people have access to more programs and educational opportunities throughout the day, they require additional flexibility in their schedule for studying and completing program assignments, or potentially working part-time. Limited downtime is available if an incarcerated people attends morning classroom instruction, early afternoon cognitive behavioral interventions, and works part-time in the afternoon/early evening. Students will need flexibility in non-core hours to finish in-class work, study, research, and/or write papers away from the traditional classroom.

Proposal Details according to CDCR. CDCR requests funding to provide a total of 37,000 "thin" client laptops at \$300 per laptop and an academic cloud network to support programming, while leveraging current technology, to better prepare incarcerated people for release. Thin client laptops are simple computers with little to no software residing on the local hard drive. Most or all content is accessible only through a private and secure cloud network. An academic cloud network is an online portal where students are able to access educational material in a formal academic environment/classroom and download applicable information. Thin client laptops may be checked out to continue the incarcerated people's education outside of the formal classroom setting. This check out system will allow incarcerated people to continue engaging in rehabilitation outside of the classroom and inside of the dayroom or in their dormitory or cell.

Education and rehabilitative services that would be available on the laptops include adult literacy instruction, high school equivalency, college, and cognitive behavioral interventions, including substance use disorder treatment and education. Although not a part of this funding request, CDCR anticipates that career technical education programs will also be available on the cloud network as part of a holistic application of technology for the incarcerated person. This technology intends to supplement face-to-face instruction, providing educational programming beyond physical classrooms and expanding opportunities for learning and rehabilitation. The program will leverage wireless services for the following purposes:

- Supplement face-to-face instruction and educational materials and provide access to programs beyond physical classrooms.
- Students enrolled in academic education programs will check out laptops to support their programming and access support services in an electronic Learning Management System. Students will be able to download needed information from the academic cloud network while in an academic setting to later utilize on their thin client laptop during non-classroom hours in the dayroom or in their dormitory or cell.
- Migration from desktop computers to laptop computers (where appropriate), will allow for learning outside the classroom and increases the flexibility of existing facility space. All existing computer labs would eventually migrate to portable laptop devices, creating more traditional spaces for other rehabilitative uses during non-school hours.
- CDCR plans to use current video conferencing equipment in classrooms to extend instructors' reach to more students, potentially allowing them to teach in multiple classrooms statewide at

one time, while having the assistance of an in-classroom facilitator to assist students with the material.

- Deliver self-driven digital learning tools, such as electronic books and media.
- The requested technology infrastructure will provide students with the capability to access their completed program work, along with current program materials, from any designated wireless area and from alternate institutions in case of transfer. A student losing completed program content when they transfer inhibits their ability to show employers evidence of work they completed while incarcerated.
- This proposal allows incarcerated people the opportunity to extend their educational hours through effective self-study in instructional libraries and their dormitory or cell. The ability to study during third watch, weekends, and institution lockdowns, will increase the speed of educational progress, allowing for earlier educational advancement and more program seats to be available to incarcerated people on waiting lists.
- CDCR also plans to leverage the capability to provide access to job resources through the Prison to Employment initiative and DRP's Automated Rehabilitation Catalog and Information Discovery system.

Staff Recommendation. Hold open.

Issue 6: Cellular Interdiction Program

Governor's Budget. The budget includes \$1.8 million General Fund in 202122 and ongoing to maintain the existing Managed Access System (MAS) at 18 institutions.

Background. CDCR proposes to continue use of the existing MAS implementation at 18 institutions which requires entering into a new contract. The MAS solution prevents the cell phone from connecting to cellular service effectively neutralizing communication capabilities inside the prison. Numerous investigations have shown contraband cell phones are a critical factor enabling the successful introduction of contraband into institutions and the continuing operations of criminal contraband distribution networks. It is expected that the disruption of contraband cell phone communications will interfere with these distribution channels. The following table represents data of major drug and contraband discoveries over the past three years.

Table 1: CDCR Major Drug and Contraband Discoveries

	2017	2018	2019
Cell Phones	16,175	16,091	13,450
Heroin (lbs)	30.5	34.8	37.5
Marijuana (lbs)	104.9	147.7	73.3
Methamphetamine (lbs)	45.4	51.3	54.0
Tobacco (lbs)	730.1	649.5	481.2

Staff Recommendation. Hold open.

Issue 7: Increased Canteen Resources and Healthy Menu Options
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Governor’s Budget. The budget includes two proposals dedicated to the well-being and health of incarcerated people:

Title	Amount and Purpose
Increased Canteen Resources	\$2 million Inmate Welfare Fund (IWF) and 7.0 positions in 2021-22 and \$1.8 million IWF and 7.0 positions in 2022-23 and ongoing to meet growing demand for canteen items and provide increased and equal access to canteen for the incarcerated population.
Increased Healthy Menu Options	Increase the statewide feeding rate by \$0.22, per inmate per day for food and supplies to update the food menu for all inmates to provide healthy food options consistent with the <i>2015-2020 Dietary Guidelines for Americans</i> . In future years, funding for this proposal would be made through the standard unallocated population adjustment, which is currently estimated at approximately \$7.5 million annually.

Background. Increased Canteen Resources. The IWF was created in section 5006 of the California Penal Code and is considered a trust held by the Secretary of CDCR for the benefit and welfare of inmates under the jurisdiction of CDCR. Section 5005 authorizes CDCR to establish and maintain prison canteens for sale of toiletries, candy, canned goods, notions and other sundries to inmates. It also states, “The sale prices of the articles offered for sale shall be fixed by the Director at the amounts that will, as far as possible, render each canteen self-supporting.” Canteens operate in all 35 correctional institutions and provide the IWF’s primary source of revenue. Any funds not required for the operation of the fund provide benefits for the inmates. These benefits include, but are not limited to, the purchase of publications, rental of movies, support of family visiting, recreational programs, photo program activities and work opportunities for inmates.

Canteens have increasingly become a resource for the delivery of programs which benefit inmates. In collaboration with the California Correctional Health Care System (CCHCS), the canteens are now the distribution point for over-the-counter (OTC) medications; a program piloted in 2014 and rolled out to all institutions in 2016. Canteens also added the distribution of reading glasses beginning September 2019. A third program offers healthier canteen food choices.

Due to varying designs and missions of institutions, the number of canteens and canteen operations at each location vary. Open-line (walk-up) service using pre-filled forms is available at 23 institutions. Partial bag-out service, which consists of inmate-workers filling pre-orders with canteen staff delivering them to housing units throughout the institution, is available at 12 institutions. Walk up canteen services are also available at those 12 institutions. Lockdowns, program shutdowns and/or isolations/quarantines prevent inmates from working in the canteen. As CDCR continues to expand its rehabilitative programming and inmates are eligible for lower security levels, inmate access to canteens is increasing.

With the implementation of Proposition 57, inmates are incentivized to participate in rehabilitative programs to reduce their sentence. When inmate participation in programming increases, inmates are moved into the highest privilege group.

The combination of a shortage of staff and an increase in workload has become problematic in several of institutions. CDCR's canteens are not performing effectively because of the increasing demand, enabled by more inmates in privilege groups with higher spending limits. This has led to increased wait times for inmates to purchase canteen items. Requested additional staff will allow CDCR to provide full service to the incarcerated population without closing the canteen to redirect staff to restock inventory during canteen operation hours, or pull staff from canteen sales and redirect to bag-out delivery. Additional positions will also alleviate the increased workload of canteen and warehouse. The position funding will allow some canteens to operate for extended hours creating increased access for inmates, regardless of their work/program schedule without increasing overtime or affecting weekday canteen services.

Increased Healthy Menu Options. CDCR is responsible for ensuring meals provided to inmates meet nutritional guidelines and promote better health. To meet the dietary guidelines, CDCR uses a standard menu for all institutions and facilities (with the exception of the California Health Care Facility [CHCF], which provides specific meals required for their unique medical mission). CDCR also accommodates religious and vegetarian dietary restrictions, as well as other special dietary needs, such as providing higher-calorie meals for inmates while serving in fire camps.

In recent years, CDCR has relied on high-calorie, shelf-stable foods which did not provide adequate nutritional benefits to the inmate population. The Centers for Disease Control notes it is common for people to gain weight upon incarceration, and obesity is more prevalent among people living in prison than the community.

Recognizing the need to provide a healthy menu to a population with specific health-related dietary needs, CDCR and CCHCS developed a new menu, as well as healthy diet education programs and healthy canteen food options. The new menu provides the necessary nutrients and quantity required to meet several nutritional guidelines and standards, including: Dietary Reference Intake; Recommended Daily Allowance; Dietary Guidelines for Americans; and the Healthy US-Style eating pattern, which is a healthy, nutrient-rich diet based on the types and proportions of foods Americans typically consume.

The new menu is based on the average age, height, and weight for inmates within CDCR, and the recommended daily caloric intake based on those factors:

Men: 40 years old, height 5 feet 9 inches, weight 197 pounds -requires 2,400 calories/day
Women: 38 years old, height 5 feet 4 inches, weight 183 pounds -requires 2,000 calories/day

The new menu for the general population is lower in sodium and fat, is diabetic-friendly, and provides a fresh variety of items. In addition to the updated regular menu, the CDCR provides a plant-based/common fare diet to all 35 institutions. All inmates are eligible for this diet by requesting it via the institution Community Resource Manager. The diet consists of vegetables, starches, fruits, but does not contain meat or meat byproducts. This menu option is cost neutral with the Healthy Menu and meets all the dietary requirements. Additionally, CDCR provides Kosher and Halal diets to inmates with religious dietary restrictions, which are more expensive than standard fare meals.

In 2018-19, prior to implementing the Healthy Menu, CDCR spent approximately \$3.52 per inmate per day for feeding, but was funded at \$3.18 per inmate per day. Improvements to create a healthier menu were implemented July 1, 2019 at a cost of \$3.78 per inmate per day in 2019-20, an increase of \$0.26 per inmate per day in comparison to \$3.52, the amount spent per inmate prior to the menu change. CDCR has absorbed the cost increase from the \$3.18 funded amount to the \$3.52 spent in 2018-19 by redirecting savings from other areas. This request would fund a rate increase of \$0.22 from \$3.18 to \$3.40 per inmate per day to provide a healthy menu that is compliant with 2015-2020 Dietary Guidelines for Americans.

Staff Recommendation. Hold open.

Issue 8: Receiver-Quality Management and Patient Safety

Governor's Budget. The budget includes \$4.0 million General Fund and 23.0 positions in fiscal year 2021-22, \$7.5 million General Fund and 45.0 positions in fiscal year 2022-23, and \$11.7 million General Fund and 75.0 positions in fiscal year 2023-24 and ongoing in order to expand the Quality Management System to better address patient safety risks.

Background. The Quality Management System at California Correctional Health Care Services (CCHCS) comprises two major interrelated programs: Quality Management (QM) and Patient Safety (PS).

The QM program continuously evaluates and improves performance of the health care delivery system by applying nationally-recognized principles, concepts, and models. Specifically, this program helps: establish strategic performance priorities, plans, and objectives; achieves strategic alignment between statewide policies and operationalization of those policies at individual institutions; organizes and manages priority improvement work through a quality committee structure; provides expertise and technical support for process redesign and change management techniques; maintains a performance evaluation program that includes the Health Care Services Dashboard, patient registries, data analytics, and health care informatics.

The PS program, established at the end of 2012, is responsible for identifying, redesigning, and improving health care processes that specifically may place patients at risk for serious or fatal harm. The PS program identifies problematic systems using data and information from performance evaluation reports, management tools, and self-reported health care incidents (e.g., near misses, sentinel events, or adverse medication events).

Staffing and responsibilities. In July 2014, CCHCS redirected health care staff within each of the 35 adult institutions to form a Quality Management Support Unit (QMSU) to support local implementation of the QM and PS programs. Later, in the 2015 Budget Act, CCHCS received additional QM positions as part of the *Quality Management Expansion BCP*. Presently, CCHCS has 179.5 authorized positions that support QM functions as part of their duties (not fully devoted to QM) at institutions and 74.0 authorized headquarters QM positions in support of the overall program.

Positions at the headquarters level define and manage the overall program, and work with statewide leaders in all major program areas to identify the most significant PS risks causing immediate harm to the patient population and implement statewide improvement initiatives to mitigate risks. In addition, headquarters staff triage individual Health Care Incident Reports submitted to headquarters and determine which incidents meet the criteria for RCA, and oversee the RCA process in accordance with criteria for thoroughness and credibility.

Independent Assessment of PS program. As part of an approach for identifying and resolving remaining issues in the *Plata v. Newsom* litigation, the Federal Receiver brought in experts from the University of California, San Francisco (UCSF) in order to conduct an independent assessment of the PS program and provide recommendations to bring CCHCS into alignment with broader health care industry and community best practices. Broadly defining PS as “freedom from accidental or preventable injuries produced by medical care”, UCSF prepared 18 recommendations. According to CCHCS, current QMS staffing is not sufficient to effectively implement all of these recommendations to develop local PS programs.

COVID-19 Impacts. The QM BCP was withdrawn in FY 2020-2021 due to the severe impacts of the COVID-19 pandemic on daily operations and program functions, including those of the QM/PS Program. By the time COVID-19 reached patients and staff at institutions, significant staff resources were being diverted to crisis management activities to reduce the spread of the disease and as part of the COVID-19 response, many institutions suspended quality management planning, governance, and improvement project work. Root cause analyses stemming from sentinel events were delayed to allow institutions the bandwidth to respond to COVID-19; and those patient safety risks are going unaddressed while institutions face the more urgent risk to patients presented by COVID-19.

Workload justification. In a 2017 assessment of each institutions’ QM and PS program (the most recent one) CCHCS determined that the current model of QMSU support yields an average of 56 percent adherence to statewide standards as described in the Health Care Department Operations Manual, Chapter 1, Article 2, Sections 1.2.3 through 1.2.7. This figure is 34 percentage points below the CCHCS established goal of 90 percent for a fully implemented QM System.

In April 2017, CCHCS implemented a web-based electronic Health Care Incident Reporting (eHCIR) System, which provided health care staff with a faster and more reliable way to report health care incidents. In addition, the eHCIR was launched with a Reporting Registry that enabled institutions to mine data on reported incidents to identify problematic trends and broken processes to intervene before adverse or sentinel events occur. Due to the ease of reporting using the eHCIR System, in 2018 alone, institutions reported more than 24,000 health care incidents. The number of health care incident reports reached 26,478 reports in 2019 and reached 22,557 at the time of this writing. This number is projected to continue rising in the future.

This reporting system drives heavy review workload. Headquarters staff triage all newly received reports to identify potential sentinel events or otherwise unusual cases. Due to the high volume of incoming reports, the eHCIR System maintains a daily backlog that can range from 700-800 reports. This backlog poses a significant risk to system surveillance and local PS mitigation efforts, especially if high severity cases are embedded within the backlog. To address this ongoing issue, cases are prioritized for triage and addressed accordingly.

At present, all except one QMSU member are consistently redirected to support operations of their originating program, thus limiting QMSU's ability to support activities required for QM or PS program implementation. QM and PS program functions and capabilities have expanded in recent years, and the initial establishment of the QMSU did not contemplate major system changes, such as implementation of the Electronic Health Record System (EHRS), expansion of the organization's data analytics and informatics capabilities, and support for statewide improvement initiatives such as the Scheduling Process Improvement Initiative, Crisis Intervention Team Initiative, and the Hand Hygiene Campaign.

Staff Recommendation. Hold open.

Issue 9: Transgender, Nonbinary, and Intersex Inmate Housing and Search Preferences- SB 132 (Wiener), Chapter 182, Statutes of 2020

Governor's Budget. The budget includes \$2.8 million General Fund and 5.5 positions in 2021-22, \$1.8 million General Fund in 2022-23, and \$1.2 million General Fund in 2023-24 and ongoing to develop and implement policies and procedures in response to Senate Bill 132.

Background. Research shows that the lesbian, gay, bisexual, transgender and intersex (LGBTI+) population faces a higher risk of sexual victimization in confinement than the general prison population. Recent studies sponsored by the federal Department of Justice (DOJ) have found that transgender inmates are more vulnerable to sexual victimization.

The Prison Rape Elimination Act (PREA) is the national standard for combating sexual violence, sexual harassment, and staff sexual misconduct within correctional institutions. PREA was passed in 2003 with unanimous support in Congress, and the national PREA standards became effective on August 20, 2012. PREA was enacted to detect and eliminate sexual assault and harassment in confinement settings and to provide protection for all inmates including the transgender population. PREA standards require each agency to implement a number of measures to prevent and detect sexual violence, sexual harassment, and staff sexual misconduct in correctional institutions.

PREA Informs Transgender Accommodation Policies. The PREA standards account in various ways for the particular vulnerabilities of inmates who identify as LGBTI or whose appearance or manner does not conform to traditional gender expectations. (*Id.* at pp. 37149-37154.) The standards require training in effective and professional communication with LGBTI and gender nonconforming inmates and require the screening process to consider whether the inmate is, or is perceived to be, LGBTI or gender nonconforming. The standards also require that post-incident reviews consider whether the incident was motivated by the inmate's LGBTI identification, status, or perceived status.

The PREA Standards expressly prohibit housing decisions based solely on an inmate's external genitalia. PREA Standard 115.42(c) states "*in deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.*" In addition, Standard 115.42(e) states: "*A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration.*" The assessment, therefore, must consider the transgender

or intersex inmate’s gender identity – that is, if the inmate self-identifies as either male or female. A policy may also consider an inmate’s security threat level, criminal and disciplinary history, current gender expression, medical and mental health information, vulnerability to sexual victimization, and likelihood of perpetrating abuse. PREA standards also prohibit segregating transgender inmates by housing them in an area separate from cisgender inmates.

CDCR Standards. AB 550 (Goldberg), Chapter 303, Statutes of 2005 established the Sexual Abuse in Detention Elimination Act. The Act requires CDCR to adopt specified policies, practices, and protocols related to the placement of inmates, physical and mental health care of inmate victims, and investigation of sexual abuse.

CDCR’s PREA policy provides guidelines for the prevention, detection, response, investigation, and tracking of sexual violence, staff sexual misconduct, and sexual harassment against CDCR inmates. (DOM §§ 54040.1-5404.22.) The policy applies to all offenders and persons employed by CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole. With respect to inmates who are at a high risk for sexual victimization, CDCR’s PREA policy provides:

Offenders at high risk for sexual victimization, as identified on the electronic Initial Housing Review, shall not be placed in segregated housing unless an assessment of all available alternatives has been completed, and a determination has been made that there is no available alternative means of separation from likely abusers.

CDCR Transgender Population. CDCR believes that the recent growth in the transgender inmate population is due to agency efforts to implement new procedures and policies to protect inmates from sexual assault during their incarceration, thereby increasing the number of transgender inmates who self-identify as transgender. In 2014, when DAI began tracking gender identity, there were 131 inmates who identified as transgender. On July 31, 2020, more than 1,100 inmates identified as transgender.

CDCR started to collect the gender identity of sexual assault victims in 2017. From 2017 to 2020, allegations of sexual assault targeted towards transgender inmates has doubled as shown below in Table 1.

Table 1: PREA Allegations Reported by Transgender Inmates

*Data is through August 2020	2017	2018	2019	2020
PREA allegations by Transgender Inmates	41	61	89	82*

SB 132 SB 132 requires CDCR to develop policies and practices that facilitate safe housing for the transgender population, and house transgender inmates based on their gender identity. Additionally, SB 132 would prohibit CDCR from consistently failing to use a transgender inmate’s preferred pronoun and honorific. SB 132 also requires transgender inmates be searched by a staff member of the gender to which the inmate identifies.

CDCR Staffing. Current staffing levels for PREA-related tasks include: one Captain, two Correctional Lieutenants, and one Staff Services Manager I-Specialist. These staff conduct internal audits, are on-site

for formal PREA audits, and develop/modify policies and procedures associated with deficiencies identified through formal PREA audits.

Various staff including retired annuitants are being utilized to address transgender issues and to develop draft policy and procedures to meet the needs of the transgender inmate population. In addition to the PREA duties identified herein, PREA staff assist institution staff on resolution of transgender issues at the institutions, and assist institution staff and appeals office staff in the development of appeals responses for transgender issues. PREA staff also participate in a weekly Transgender Inmate Workgroup which includes: development and implementation of policies and procedures for the transgender inmate access card; tracking bi-annual transgender classification reviews; development of policy and procedures for transgender physical search preferences; development of the process for transgender inmates to request to be housed based on their gender identity; development of training materials for staff and offenders regarding policy changes; completing union negotiations for policy changes; and monitoring the outcomes of the Institutional Classification Committee and Departmental Review Board reviews.

Staffing Component in Proposal. To implement SB 132, and further ensure safe housing for transgender and intersex inmates, CDCR states that they are in the process of creating new policies and procedures to accommodate inmate's housing and search preferences based on gender identity. The new housing and search policies will be implemented using the existing classification process to review and approve requests.

CDCR requested five additional staff to address safety concerns and inmate complaints and perform classification workload associated with requests for a change in housing. The newly established Correctional Administrator position will become the CDCR statewide PREA Coordinator. This change will allow the newly established Correctional Administrator to provide supervision to the Correctional Counselor II positions that will coordinate committee case reviews. The Correctional Administrator will conduct on-site audits with an emphasis on transgender and PREA policies, coordinate and provide oversight for modifications of transgender and PREA procedures, coordinate and provide oversight for management of the transgender population, and provide PREA training, and training on transgender inmate policies as needed.

The four Correctional Counselor II positions will be established at CDCR headquarters to ensure consistency in completed Classification Chronos and address and develop ongoing policies and procedures related to transgender inmates.

To accomplish the workload increase to California Correctional Health Care Services, the Department requests 0.5 permanent position, and 2.0 limited terms positions. A 0.5 Physician & Surgeon will provide consultation services to primary care providers by developing medical treatment plans to assist in implementing SB 132.

A limited term Senior Psychologist, and one limited term Senior Psychiatrist will review cases prior to committee meetings, complete trainings, and facilitate interdisciplinary communication between medical, nursing, custody and mental health teams when a transgender inmate is approved for transition to a new institution.

Additional Components. In addition to staffing, CDCR requests one-time funding for the following tasks to ensure successful implementation of SB 132:

- Training costs for all custody staff
- Creation of a gender marker/gender identity questionnaire within CCHCSs Electronic Records Management Systems (ERMS)
- Development of a gender identity field within CDCR's Strategic Offender Management System (SOMS) Electronic Offender Management Information System (eOMIS)
- Updating various downstream applications that interact with SOMS eOMIS.

Staff Recommendation. Hold open.