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*Senate Budget and Fiscal Review—Nancy Skinner, Chair*

## **SUBCOMMITTEE NO. 5**

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## **Agenda**

**Senator Maria Elena Durazo, Chair**  
**Senator Shannon Grove**  
**Senator Dave Cortese**  
**Senator Josh Newman**



### *Public Safety, the Judiciary, Labor and Transportation*

**Thursday, May 20, 2021**  
**State Capitol - Room 3191**  
**10:00 a.m. or upon adjournment of session**  
**PART A**

Consultants: Christopher Francis, Ph.D. & Yong Salas

***OUTCOMES: ALL ITEMS HELD OPEN, NO VOTES TAKEN***

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## ITEMS FOR DISCUSSION

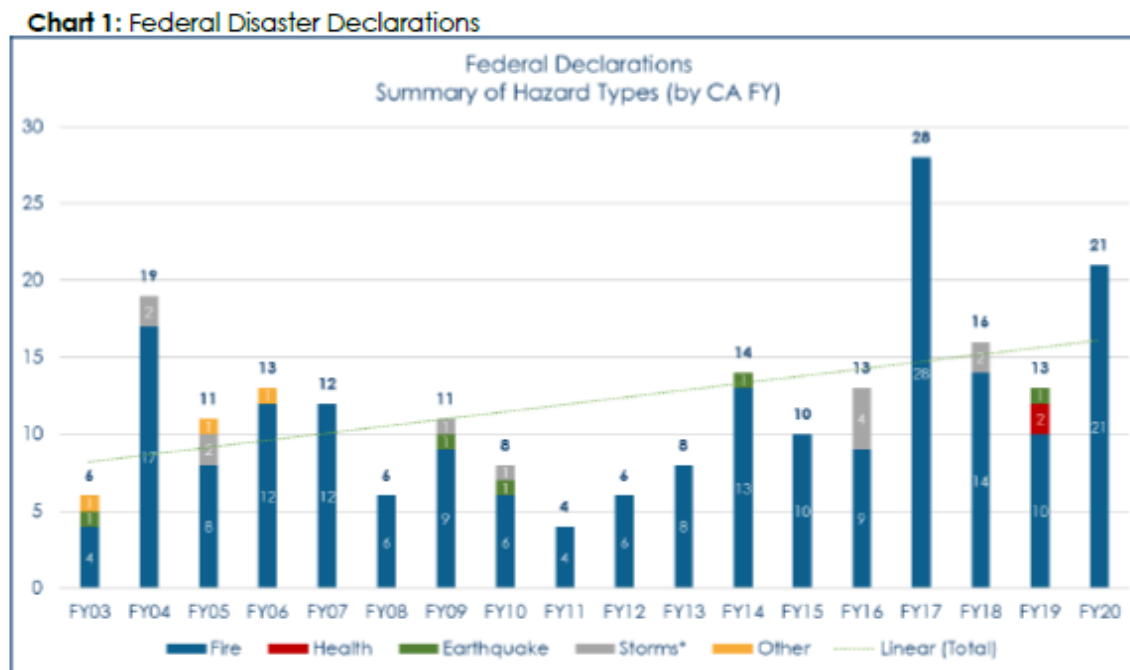
### 0690 OFFICE OF EMERGENCY SERVICES

#### Issue 1: Staffing Augmentations

**Request.** The May Revision includes the following:

- **Reducing Reliance on Redirected and Temporary Staff for Emergency Response and Recovery**—\$16.5 million General Fund and 73 positions ongoing to establish a permanent Incident Support Team, a deployable Incident Management Assistance Team, and needed support to operate California’s State Operations Center or Regional Emergency Operations Centers to respond to the all-hazard events.
- **Long-Term Recovery Support**—\$37.8 million (\$15.7 million General Fund) ongoing to provide permanent funding for 104 permanent recovery positions provided in 2018 with three year limited-term funding, and 110 new positions to better support California’s recovery efforts and recoupment of eligible federal disaster cost reimbursements for state and local governments, and to maximize the hazard mitigation program to mitigate the impacts of future disasters on the state and local jurisdictions.
- **Office of Equity and Listos**—\$29.9 million General Fund ongoing and 13 positions to establish a new Office of Equity and make permanent the Listos grant program. The Listos program would include an on-going \$25 million General Fund grant program and expand its focus from emergency preparedness to also include emergency response and recovery.
- **Modernizing Technology and Data Analytics**—\$10.2 million General Fund and 14 positions to modernize the Department’s technology and data capabilities through new technology and updating outdated systems.
- **Strengthening Tracking and Reporting of Disaster Costs and Funding**—\$4 million General Fund and 14 positions to establish a new unit within Cal OES to better coordinate and lead the state’s disaster cost tracking and public facing reporting efforts in coordination with all state agencies. In addition, this new unit would serve as a liaison with the Department of Finance to better align cost tracking and federal cost recovery efforts, as this work is currently being done across agencies.

**Background.** Emergencies and disasters are more frequent, more complicated, often involving multiple counties and regions of the state, and the resulting recovery for communities is much longer. Over the past five years, the state has experienced an unprecedented number of emergencies and disasters—including severe drought, catastrophic wildfires, power grid/outage challenges, earthquakes, intensive storms with severe flooding, civil unrest, and COVID-19. In fact, 15 of the most destructive fires in the state’s history have occurred since 2015 and five of the top six most destructive fires in state history occurred in August and September of 2020. California will be recovering from these complex disasters for at least the next decade, while continuing to respond to future disasters. Below is a chart provided by Cal OES that displays the increase of federally declared disasters over the past 18 years.



**Legislative Analyst’s Office.** The LAO’s comments on these proposals are below.

**Permeant State Operations Center Team (\$16.5 Million).** OES coordinates and leads the state’s emergency response through the SOC. When activated to responds to an emergency, the SOC is staffed by an 18 member Incident Support Team that is supported by Operational Readiness Teams that can consist of as many as 180 staff. OES does not currently have positions dedicated to staffing the SOC

and instead redirects employees away from their the normal duties when the SOC is activated. OES reports that the recent increase in disasters and days of SOC activation have resulted in its employees being unable to attend to their normal workload. To address this problem, the May Revision proposes \$16.5 million and 73 positions to establish a permanent SOC Team. In principal, we find the proposal to be reasonable. However, OES has not provided data on the extent to which staff are unable to complete their normal workloads due to SOC activations. As such, it is difficult to assess whether the amount of resources proposed are appropriate.

**Office of Equity and Listos California Grant Program (\$29.9 Million).** The May Revision proposes (1) \$4.9 million and 13 positions to establish a new Office of Equity and (2) \$25 million in ongoing funding for the Listos California grant program. Staff in the Office of Equity would be responsible for expanding OESs current access and equity programs as well as ensuring the department’s emergency-related activities incorporate principles of equity. The grant funding would provide permanent support for the Listos California grant, which has been supported by limited-term funding since its inception in August 2019. Under the proposal OES would allocate grant funds to community based organizations to provide support for marginalized and underserved communities across the state.

We find the proposal to create an Office of Equity to be reasonable and recommend the Legislature approve it. While we find the proposal to provide ongoing funding for the Listos California grant program promising, there are key questions about the program that remain unanswered including

- What services would be supported

- How funding would be prioritized between supported services

- How OES would identify communities that could benefit from the services

- How OES would prioritize funding between communities

- Whether outcome data would be collected and used to inform future grant awards

**Disaster Cost Tracking and Recovery Unit and Modernizing Technology and Data Analytics (\$14.2 Million).** The May Revision proposes (1) \$4 million and 14 positions to establish a Disaster Cost Tracking and Recovery Unit to improve the tracking of emergency-related costs and the recovery of federal disaster assistance funds and (2) \$10.2 million and 14 positions (declining to \$9.6 million in 2022-23 and ongoing) to update the department’s technology and data analytic capabilities. We find this proposal reasonable and note that its approval would allow the administration to provide monthly reports on state emergency expenditures—something our office has recommended to improve legislative oversight of state emergency response activities.

**Staff Comment.** This Administration has proposed various equity positions in different agencies and departments, without a standard framework of what defines equity or what metrics equity positions or offices should reach.

For example, Government Operations Agency proposed three positions, including a Chief Equity Officer, dedicated to addressing social, economic, and racial disparities in government operations. The new Department of Cannabis Control is also proposing a Deputy Director of Equity and Inclusion to focus on issues of equity and those that the War on Drugs impacted in the cannabis space.

Additionally, at least 27 state agencies or departments have engaged in equity work through the Strategic Growth Council's Capitol Collaborative on Race & Equity (CCORE) program. These departments have already, or in the process of, developed, posted and implemented equity plans or established formal offices of equity.

On a related note, SB 17 (Pan, 2021), which establishes an Office of Racial Equity, would centralize and standardize an equity framework from which all these efforts could be measured by and also require state agencies to develop and adopt equity plans.

The subcommittee may wish to require the new Office of Equity to develop an equity plan to post on its website, to be consistent with other departments and agencies doing similar equity work.

The 2018 Budget provided \$50 million for Listos, which currently has four existing positions, to grant to community-based organizations to provide information on disaster preparedness and what to do when a disaster occurs. It is unclear what type of outcomes this investment has provided, and by what measure the funding was disbursed. An advisory group comprised of diverse perspectives with legislative appointees that publicly develop the guidelines for which these investments are disbursed, along with requiring reporting on outcomes, could be helpful for the Legislature to understand these investments and the outcomes it helps produce.

**Staff Recommendation.** Hold open.

## **Issue 2: Victims of Crime Act Supplemental Funding**

**Request.** The California Governor's Office of Emergency Services requests \$100 million one-time General Fund to provide one-time supplemental funding for various programs that provide services to victims of crime, including rape crisis centers, domestic violence shelters, housing first, victim witness, and child advocacy centers programs.

**Background.** California's share of the federal Victims of Crime Act (VOCA) funding has experienced a significant decrease in the last two years, as displayed in the chart below:

VOCA Funding per Fiscal Year					
2015	2016	2017	2018	2019	2020
232,722,931	264,297,285	218,943,281	396,642,276	266,680,824	195,905,619

The federal Crime Victims Fund (CVF) is funded from criminal fines arising from federal convictions, and Congress releases VOCA funding from the CVF annually through the Appropriations process. However, VOCA funds have begun to decline because of shrinking deposits and subsequent declines in the CVF balance. The declines are due to prosecutorial decisions to use deferred and non-prosecution agreements, which are not technically criminal convictions. As a result, the large monetary penalties from the agreements are not deposited into the CVF. There currently is federal legislation that would direct these penalties into the CVF, and would thus increase VOCA funds for states.

However, the timing of any potential shortfall for California's share of the VOCA funds is unknown due to the uncertainty of the federal legislation and appropriations bills currently moving in Congress. Cal OES' request would allow the state to continue providing resources for service providers for an additional year.

**Legislative Analyst's Office.** The May Revision proposes \$100 million in one-time General Fund support to offset recent and expected declines in the level of federal Victim of Crime Act (VOCA) funds available for various programs, such as rape crisis centers and domestic violence shelters. However, there are currently efforts to secure additional funding at the federal level through the VOCA Fix Act that could result in increased federal funding in the future. Accordingly, the Legislature could consider adopting budget bill language requiring any funds not necessary to maintain existing service level to revert at the end of the year.

**Staff Comment.** Advocates are requesting \$315 million to provide funding for three years due to the uncertainty of what will happen on the federal level as well as uncertainty to the availability of state funds in the future.

**Staff Recommendation.** Hold open.

### Issue 3: Community Hardening to Build Disaster Resilient Communities

**Request.** The Governor’s Office of Emergency Services requests \$250 million one-time General Fund for an initiative to strengthen California’s resiliency to all hazard disasters through community hardening programs building resilient communities.

**Background.** The initiative will be structured to target disadvantaged communities, which are impacted disproportionately by these disasters and experience longer and more challenging economic and structural recoveries. This initiative establishes the following:

- A new program—“Prepare California” Building a Disaster Resilient California—modeled after a federal community hardening and resiliency program; and
- Pays all or part of the local government’s cost share for participation in the federal Hazard Mitigation program.

*California’s participation in the federal hazard mitigation program.*

Over the past decade, California has received \$757 million from the federal government for the Hazard Mitigation program. These funds are used for sustainable projects across California communities that reduce or eliminate long-term risk to people and property from future natural hazard events or disasters. Under this program, local governments apply through Cal OES as the state’s liaison with FEMA. The local government is required to provide a 25 percent match, which often proves to be a barrier to community participation.

Hazard mitigation is any sustainable action that reduces or eliminates long-term risk to people and property from future disasters. Mitigation planning breaks the cycle of disaster damage, reconstruction and repeated damage. Hazard mitigation includes long-term solutions that reduce the impact of disasters in the future. It is well documented that an investment in mitigation saves up to six times that amount in post-disaster losses. FEMA’s hazard mitigation assistance provides funding for eligible mitigation measures that reduce disaster losses.

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This proposal is modeled after a FEMA program called “Project Impact”, designed to build disaster resistant communities through state, local, federal, and private sector partnerships. Implemented by Cal OES, grants would be awarded to communities which demonstrate a whole-of-community approach to building resiliency. Community buy-in would be a key factor in determining eligibility and leveraging private and CBO partnerships. Awards would be made on a community basis, rather than an individual structure. The program would be designed in a manner that targets underserved communities.



These hazard mitigations included long-term actions, such as earthquake retrofits and home hardening in communities at risk of fires that can lower incidents of death and destruction. The program builds partnerships among first responders, businesses and nonprofits, to identify opportunities to build safer, stronger communities.

**Legislative Analyst’s Office.** The May Revision proposes \$250 million one-time from the General Fund to support community-hardening related activities in disadvantaged communities. Specifically, the funds would be used to assist disadvantaged communities in accessing federal hazard mitigation funding by offsetting some or all of the 25 percent local match required by the federal program and providing technical assistance in developing community hardening plans. OES indicates that the state would prioritize grant funds for projects that are able to demonstrate widespread community participation. While community hardening activities can achieve notable benefits, there are key questions about the program that remain unanswered, including:

How funds would be prioritized between different types of hazards, such as wildfires, earthquakes and floods.

How funds would be divided between offsetting federal matching requirements and technical assistance.

The extent to which federal matching requirements would be offset.

How disadvantaged communities would be identified.

How funds would be prioritized between disadvantaged communities

If the Legislature chooses to approve this funding, it could structure the program to be consistent with its priorities. For example, to the extent the Legislature would like to direct these funds to address a specific type of hazard, such as wildfires, it could do so by adopting provisional or trailer bill language.

**Staff Recommendation.** Hold open.

## 0250 JUDICIAL BRANCH

### Issue 4: May Revision Proposals and Adjustments

The May Revision includes total funding of \$4.6 billion (\$2.7 billion General Fund and \$1.9 billion other funds) in 2021-22 for the Judicial Branch, of which \$1.2 billion General Fund is provided to support trial court operations.

**Judicial Branch proposals within May Revision.** The May Revision includes the following proposals and adjustments for the Judicial Branch:

- 1. Trial Court Operations.** The May Revision provides two additional proposals to further address the case backlog. First, it includes \$30 million one-time General Fund to support the Early Disposition Readiness Conference Program. This proposal builds on a program, initiated by the Chief Justice, in response to the significant COVID-19 related processing delays in criminal cases, by making temporary assigned judges available to complete readiness conferences to resolve low-level misdemeanors or felony cases before going to trial. Second, it proposes language in the budget that would allow the Judicial Council to request additional funding, up to \$60 million, in the event that the augmentations included in the budget earlier this year are insufficient to address the courts' case backlogs. This funding, which would be subject to approval by the Department of Finance upon review of data demonstrating a persistent case backlog, could be used to procure resources such as additional staff or space to process cases.

Earlier this year, the Governor and the Legislature agreed to restore \$176.9 million for the trial courts and \$23.1 million for the state-level judiciary. In addition, the Governor's January Budget included \$72.2 million General Fund in 2021-22 and ongoing for trial courts to address inflationary cost increases and \$53.5 million General Fund in 2021-22 and ongoing for maintenance, utility, and lease costs for trial court and Courts of Appeal facilities.

- 2. Fine and Fees Amnesty for Traffic and Non-Traffic Infractions.** The May Revision includes \$300 million one-time federal American Rescue Plan Act of 2021 (ARPA) funds to support a debt forgiveness program to eliminate debt owed on existing fines and fees for traffic and non-traffic infraction tickets issued between January 1, 2015 and June 30, 2021. Under this program an individual could apply to have 100 percent of their debt forgiven upon submission of an application verifying their low-income status.
- 3. Statewide Initiative to Reduce Pretrial Detention.** The 2019 Budget Act included budget bill language outlining a pre-trial decision-making pilot and a \$75 million allocation to the Judicial Council to fund the implementation, operation, or evaluation of programs or efforts in at least ten courts related to pretrial decision-making. The May Revision includes \$140 million General Fund in 2021-22 and \$70 million ongoing to expand a pretrial pilot program funded with one-time resources in the 2019 Budget Act.

The Judicial Council states that they will distribute the funds and provide judicial education and technical assistance to the courts on practices and programs related to pretrial decision-making. The Judicial Council plans to evaluate the pretrial programs and practices and provide regular reports to the Legislature.

- 4. One-time Deferred Maintenance adjustment.** The January Governor's budget included \$30.1 million General Fund one-time to support deferred maintenance projects for trial court and Courts of Appeal facilities. The May Revision includes an additional \$158

million one-time General Fund in 2021-22 to support deferred maintenance projects in trial courts and Courts of Appeal. Overall, the total one-time funding for deferred maintenance to \$188 million in 2021-22.

5. **Legal Aid for Renters in Landlord-Tenant Disputes and Homeowners to Avoid Foreclosure.** The May Revision includes \$20 million federal ARPA funds annually for three years (\$60 million total) to provide legal aid services for renters and homeowners to avoid eviction and foreclosure. Specifically, these additional funds will provide free legal services for landlord-tenant issues, including legal assistance for counseling, renter education programs, and preventing evictions and foreclosures as discussed in the Housing and Homelessness Chapter.
6. **Shasta County Superior Court Security.** The budget includes \$330,000 General Fund in 2021-22 and \$660,000 ongoing thereafter to support trial court security costs for a new courthouse scheduled to open in January 2022. Court security is provided by the Shasta County Marshal's Office.
7. **Trial Court Benefit Adjustment.** The budget includes budget bill line item adjustments amounting to a \$7,822,000 ongoing decrease to reflect the updated health benefit and retirement rate changes for trial court employees.
8. **AB 1058 (Speier), Chapter 957, Statutes of 1996 Reimbursement Authority.** Assembly Bill 1058 created the Child Support Commissioner and Family Law Facilitator Program in 1996 to address the problem of overburdened courts and the lack of accessible help for people with child support issues who did not have attorneys. The program is funded by a combination of federal title IV-D funds and state funds, with the federal government paying two-thirds and one-third provided by state non-trial court funds. "Title IV-D" refers to title IV-D of the Social Security Act (42 U.S.C. section 601 et seq.), which requires each state to establish and enforce support orders when public assistance has been spent on behalf of a child. Title IV-D also requires the states to establish and enforce support orders when requested to do so by a parent who is not receiving public assistance. The budget includes increased reimbursement authority of \$5 million ongoing to enable the Judicial Council to receive additional resources from the Department of Child Support Services' contract for the Child Support Commissioner and Family Law Facilitator Program.
9. **Capital Outlay Proposals.**

BCP/Project Name	Proposed Amount and Phase	Comments

<p>Butte County: Juvenile Hall Addition and Renovation</p>	<p>\$604,000 General Fund for Preliminary Plans and Working Drawings</p>	<p>The project will provide an addition of approximately 600 square feet (SF) and renovate approximately 1,300 square feet of court exclusive space in the existing Butte County Juvenile Hall in Oroville. The project will increase the court exclusive space to 1,900 square feet. The total estimated project cost is \$3,385,000. The project will require revisions to the joint occupancy/transfer agreement with the County to construct the project. The project will utilize a construction manager at risk delivery method.</p>
<p>San Bernardino County: Juvenile Dependency Courthouse Addition &amp; Renovation</p>	<p>\$901,000 General Fund for Acquisition and Preliminary Plans</p>	<p>For the San Bernardino Juvenile Dependency Courthouse. The project provides for an approximately 5,000 square feet (SF) addition for two courtrooms, associated clerical space, and a lobby expansion at the current Juvenile Dependency Courthouse in San Bernardino. Due to an increase in caseload, the court has outgrown this facility. The building lacks appropriate space for attorney interview areas, clerk's office space, public service windows, CASA space, interpreter's space, and courtroom support staff space. The public waiting area is insufficient and cannot accommodate the caseload and calendars of this courthouse. In addition, there is no room for growth within the current footprint for additional courtroom(s) and support spaces (i.e., additional staff, filing system, clerk's office desk space, restrooms). There is also no lactation room for the staff or public to use. Lastly, the noise levels in the hallway travel to the courtrooms, disrupting court proceedings.</p>

		Additional courtrooms are critically needed to provide adequate on-site service to the public. In addition, the public lobby needs to be expanded for appropriate seating.
Monterey County: New Fort Ord Courthouse	\$38.7 Million General Fund for the Acquisition and Performance Criteria Phase	The proposed new courthouse project will provide construction of a new 7-courtroom courthouse of approximately 83,000 square feet (SF) at Fort Ord. The project includes secured parking for judicial officers and approximately 280 surface parking spaces with solar power generation capability. The estimated total project cost is \$154,256,000. The project will require acquisition of a site of approximately 3.4 acres. The project will use a design-build delivery method. The project will consolidate operations and replace three existing facilities.
Design-Build Revised Trailer Bill Language	Trailer Bill Language	The May Revision includes new statutory changes to provide Judicial Council the authority to utilize the Design-Build methodology to complete any new capital outlay project. These statutory changes will replace the proposal in the Governor’s Budget.

## LAO COMMENTS ON JUDICIAL BRANCH MAY REVISION PROPOSALS

### Augmentation Authority to Address Trial Court Backlogs for Civil and Criminal Cases

The May Revision proposes budget bill language authorizing the Department of Finance (DOF) to augment the trial court budget by up to \$60 million (General Fund) to address criminal and civil case backlogs and workload delays resulting from the COVID-19 pandemic. We recommend rejecting this proposed language as a process—outlined in Item 9840 of the annual budget—already exists for state programs to request additional funding for unanticipated, necessary expenses.

To the extent the Legislature is interested in creating a separate augmentation process for the trial courts, we recommend modifying the language to increase legislative oversight of the process. Specifically, we recommend that the language be modified to specify:

- Legislative expectations for how the funding may be used—such as limiting use for certain case types or a statewide targeted effort to expedite particular parts of proceeding, similar to the proposed Early Disposition Readiness Conference Program.
- What information must be provided to justify requests for the additional funding. For example, the Legislature could consider requiring information on statewide backlog metrics, the specific actions taken by individual trial courts to mitigate their backlogs, as well as how the provided funding would be allocated and used.

### **One-Time Deferred Maintenance Augmentation**

The May Revision proposes an additional \$158 million one-time General Fund for trial court and Courts of Appeal deferred maintenance—increasing the total amount proposed for 2021-22 to \$188 million. While the judicial branch has identified \$5.2 billion in deferred maintenance projects, it has not identified which of these projects would be funded with the proposed augmentation. (We note that the judicial branch has identified 31 projects that would be funded by the \$30 million proposed in January.) As such, we recommend the Legislature direct Judicial Council provide a list of projects that will be funded by this augmentation before acting on this proposal in order to ensure the selected projects align with legislative priorities.

### **Statewide Initiative to Reduce Pre-trial Detention**

The May Revision proposes \$140 million in 2021-22 (\$70 million ongoing) from the General Fund to support programs and practices statewide that reduce pre-trial detention. (These programs and practices are generally designed to allow individuals to be released from jail pretrial without requiring bail.) Funding would be allocated to trial courts based on each county's share of the state's population of 18-25 year olds. Trial courts could use the funding to support pre-trial decision making activities and/or to contract for the monitoring and provision of services to individuals released pretrial. Trial courts would generally only be able to contract with county probation. Beginning July 1, 2023, Judicial Council would be required to provide an annual report evaluating pretrial programs and practices.

We find this proposal merits consideration as it provides relief to lower-income individuals who may have a difficult time paying bail and given a recent California Supreme Court ruling that could increase the need for pretrial services. However, we recommend the Legislature consider modifying the proposed budget bill language to:

- Allocate funding in 2021-22 through 2023-24 using alternative or additional metrics (such as criminal filings) to ensure funding more closely matches potential workload by each county;

- Require detailed annual reports to the Legislature on expenditures and key outcome data (such as the number of individuals served and how they were served) in 2021-22 through 2023-24 to increase legislative oversight and ensure the funding is used accountably and effectively;
- Specify the intent of the Legislature to modify the allocation formula in the 2024-25 fiscal year based on additional data (such as the percent of people released pretrial relative to filings) and the first required annual Judicial Council evaluation of pretrial programs and practices.
- Provide courts flexibility to contract with the entity that is best-situated to provide services—rather than just probation—provided that the entity does not have arrest responsibilities; and
- Require the evaluation of the impact of race and other factors on release decisions to help inform whether future legislative action is needed.

### **Criminal Fine and Fee Debt Forgiveness Program**

The May Revision proposes \$300 million in 2021-22 (Coronavirus Fiscal Recovery Fund of 2021) for a one-time program to eliminate criminal fines and fee debt owed by low-income individuals for infractions issued between January 2015 and June 2021. The funding would be used to backfill the resulting revenue reductions to judicial branch and local government funds as well as program administration and outreach costs. We note that the administration has not yet provided trailer bill language for this program.

We find this proposal merits consideration as it provides relief to lower-income individuals. However, key questions remain including:

- What happens if the participation rate is higher than expected resulting in a larger reduction in fine and fee revenue than anticipated?
- How much funding would be provided for program administration and outreach costs?
- How would the backfill to local governments be distributed?
- How would the program operate in tandem with the Governor's January proposal to expand online adjudication of infractions and ability to pay determinations statewide?

Answers to the above questions are critical to allow the Legislature to weigh this program against its other priorities as well as to ensure it is structured and operated in manner consistent with legislative priorities. Finally, we note the Legislature may need to address the impact of revenue reductions to other state funds supported by this revenue as well (such as the DNA Identification Fund), but has various options to do so.

**Staff Recommendation.** Hold all proposals open.

## 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

### Issue 5: May Revision Proposals and Adjustments

The May Revision proposes total funding of \$13.6 billion (\$13.3 billion General Fund and \$347 million other funds) for CDCR in 2021-22.

Spring 2021 Projected ADP

Spring 2021	2020-21	2021-22	2022-23	2023-24
<b>Total Population</b>	<b>109,591</b>	<b>108,870</b>	<b>122,863</b>	<b>128,941</b>
Prop 57 - Non-Violent Parole Process	(562)	(857)	(1,209)	(1,309)
Prop 57 - Good Conduct Credits	(2,055)	(1,744)	(1,990)	(2,077)
Prop 57 - Milestone and Achievement Credits	(2,983)	(4,823)	(6,963)	(8,331)
Prop 57 - Juvenile Sentencing Changes	(265)	(262)	(262)	(262)
<b>Prop 57 Total</b>	<b>(5,866)</b>	<b>(7,685)</b>	<b>(10,423)</b>	<b>(11,980)</b>
Credit Change (April 2021, Violent to 33.3%, NVSS to 50%)	(48)	(2,466)	(7,653)	(9,983)
Reception Center Time Reduction	(46)	(557)	(1,320)	(1,400)
COVID-19 Expected Releases	(2,856)	(744)	-	-
Positive Programming Credit	(3,319)	(1,828)	(1,201)	(906)
Increased Intake	-	11,900	13,084	10,229
<b>Prison Reform and COVID-19</b>	<b>(6,268)</b>	<b>6,305</b>	<b>2,910</b>	<b>(2,060)</b>
<b>Post-Projection Policy Changes</b>	<b>(237)</b>	<b>(1,231)</b>	<b>(1,878)</b>	<b>(2,045)</b>
<b>Total Population</b>	<b>97,220</b>	<b>106,259</b>	<b>113,472</b>	<b>112,856</b>

**CDCR proposals and adjustments within May Revision.** The May Revision includes the following proposals and adjustments for CDCR:

- 1. Adult Institution and Parolee Populations.** The Governor's Budget projected an overall incarcerated adult average daily population of 95,324 in 2021-22. Spring projections now estimate an incarcerated adult average daily population of 106,259, an increase of 10,935. This is primarily because CDCR has resumed intake of individuals sentenced to prison but who remain in county jails awaiting transfer to state prison. The Governor's Budget projected an overall parolee average daily population of 45,924 in 2021-22. The average daily parolee population is now projected to be 48,269, an increase of 2,345, or approximately five percent.



Due to these changes in population, the Administration requests corresponding budget bill changes that are both ongoing and one-time. Overall, this reflects a net increase of \$106,159,000 and a net increase of 161.6 positions, which is comprised of an increase of \$103,570,000 General Fund and an increase of \$2,589,000 Inmate Welfare Fund.

2. **Division of Juvenile Justice Population.** The May Revision reflects an estimated average daily population of 732 wards in 2020-21 and 613 wards in 2021-22, which represents a decrease of 68 and 116 wards in 2020-21 and 2021-22, respectively, as compared to the Governor's Budget estimates. Taken with the Governor's Budget estimates, this will result in estimated savings of \$10.1 million General Fund in 2021-22.
3. **COVID-19 Response.** The January Governor's budget included \$281.3 million General Fund to continue the CDCR and the California Correctional Health Care Services' (CCHCS) efforts to treat COVID-19, and minimize exposure to incarcerated people and staff. The May Revision includes \$407.9 million one-time General Fund in 2021-22 to continue COVID-19 activities and fund related contracts and purchases.
4. **Continuation of Intake from County Jails and Associated Funding.** The suspension of intake has resulted in greater numbers of incarcerated persons being held in county jails. In circumstances where CDCR cannot accept the intake of an individual from a county jail, the state is required to reimburse counties for holding those individuals. As of March 15, 2021, the state has provided approximately \$121.1 million General Fund to county sheriffs for this purpose. This reflects payments for individuals held in county jails from March 2020 through December 2020, and reimbursements will continue until such time that all incarcerated individuals are transferred to state prison. Current projections suggest a total of \$98.3 million in additional reimbursements will be issued by June 30, 2021, and \$97.5 million will be issued in 2021-22 as the backlog is gradually reduced and then eliminated.
5. **Prison Closure Update from January.** Due to the steady declines in prison population pre-COVID-19, the Administration reduced its reliance on contract prison capacity. CDCR terminated six of seven in-state contracts by October 2020 and will close its final in-state contract facility by May 2021. The Administration anticipates the closure of the Deuel Vocational Institution by September 2021. The May Revision includes a reduction of \$4.5 million and 32.7 positions General Fund in 2020-21, \$5.4 million and 37.1 positions in 2021-22, and an increase of \$350,000 and 0.9 positions in 2022-23 and ongoing, and statutory changes to reflect the closure of Deuel Vocational Institution. This request includes funding to support limited-term positions for workers' compensation workload and reverses a position erroneously reduced in the initial savings estimate. The closure of DVI overall is estimated to achieve savings of \$113.5 million General Fund in 2021-22 and \$150.6 million General Fund beginning in 2022-23.

The CDCR announced, earlier this year, plans to close the California Correctional Center in Susanville, by June 30, 2022. The closure of this facility is estimated to save the state \$122 million General Fund in 2022-23 and ongoing.

6. **The Norway Model and related proposals.** Norway is globally recognized for its model corrections system, demonstrated through its low rate of recidivism and successful post-release outcomes. The May Revision includes \$13.7 million General Fund in 2021-22, and \$3 million ongoing, to expand programming and undertake facility improvements at Valley State Prison (VSP), guided by the Norway model. The 2020 Budget Act previously included \$1.3 million General Fund in 2020-21, and \$2 million ongoing, to establish a Youth Offender Rehabilitative Community at Valley State Prison, also guided by this model.

With this funding, the Administration states that it will install two new modular buildings to accommodate additional educational and rehabilitative activities for incarcerated individuals, create two new baccalaureate degree programs—one general education program and one focused on Science, Technology, Engineering, and Mathematics, add new vocational and career technical training opportunities, including multimedia (video, music, and podcasts) production and construction licensing and certification programs, and provide additional laptops, complementary to the Governor’s Budget proposal, for the incarcerated population’s use to support digital literacy development and access to educational offerings.

As well, the May Revision includes \$34.8 million one-time General Fund to replace existing metal dayroom furniture with more comfortable furniture for positive programming and non-designated program facilities and female institutions.

7. **Increased Visitation Opportunities.** The 2020-21 Governor’s Budget proposed to expand visitation before the outbreak of COVID-19 led to the proposal’s withdrawal. In April 2021, CDCR resumed in-person visiting, which will continue in conjunction with video visiting that was introduced in December 2020. To support increased in-person visiting, the May Revision includes \$20.3 million ongoing General Fund to add a third day of in-person visitation on Fridays at all institutions (visiting is currently limited to Saturdays and Sundays). In addition, this funding will provide visitors with free transportation on select days throughout the year to all prisons via chartered busses.
8. **Statewide Implementation of Fixed Video Surveillance Systems.** The May Revision includes a total of \$212.3 million General Fund over three years, and \$11 million ongoing, to install modern fixed security cameras at 24 additional institutions. This proposal, along with existing efforts underway, will effectuate a roll-out of new audio visual surveillance systems at all institutions statewide.
9. **Staff Misconduct and Discrimination Complaint Processes.** The May Revision includes \$3.7 million General Fund in 2020-21, \$89.3 million in 2021-22, and \$36.8 million ongoing overall for the CDCR’s staff misconduct and discrimination complaint processes. These proposals are detailed below:
  - The U.S. District Court of California ordered CDCR to develop a plan within 21 days after finding that systemic abuses against incarcerated people with disabilities existed and had been documented in more than one hundred declarations. The findings also

showed that the CDCR was aware that these abuses violated the Americans with Disabilities Act and court orders previously issued in *Armstrong v. Newsom*. The January budget includes \$13.5 million General Fund in 2020-21, \$10.1 million General Fund in 2021-22, and \$6.9 million General Fund in 2022-23 to implement court-ordered reforms at the Richard J. Donovan Correctional Facility. Notably, these reforms include the installation of security cameras throughout the prison within 90 days, use of body-worn cameras within 60 days, and modifications of the staff complaint and disciplinary processes and increases to supervisory staffing and training. This funding is also for the installation of security cameras on two yards at the California State Prison, Los Angeles County.

- In March 2021, the US District Court for the Northern District of California ordered CDCR to develop a plan to implement remedial measures at five institutions—including Kern Valley State Prison; California Institution for Women; California State Prison, Corcoran; Substance Abuse Treatment Facility and State Prison, Corcoran; and California State Prison, Los Angeles. The May Revision includes an additional \$80.5 million General Fund and 152.1 positions in 2021-22 and \$28 million General Fund in 2022-23 and ongoing to implement remedial measures at these 5 institutions pursuant to a March 2021 *Armstrong* court order, including deploying body-worn cameras, installing fixed security cameras, modifying the staff complaint inquiry processes, and increasing supervisory staffing and training. This amount includes \$53.9 million in one-time resources and \$28 million in ongoing resources.
- The 2019 Budget Act included \$9.8 million ongoing General Fund and 47 positions to establish the Allegation Inquiry Management Section (AIMS) Program within the Office of Internal Affairs to conduct inquiries into certain specified allegations of staff misconduct that previously would have been reviewed at the institution level. The May Revision includes \$8 million ongoing General Fund and 40 positions to expand the AIMS process to cover all use of force allegations against staff as well as allegations of staff misconduct that fall under the federal Prison Rape Elimination Act.

**10. Centralize Discrimination Complaints.** The May Revision proposes \$815,000 General Fund in 2021-22 and \$804,000 ongoing and six positions to expand CDCR’s Civil Rights Operations/Equal Employment Opportunity program, which centrally handles discrimination complaints. The 2020 January Governor’s budget included \$1.8 million General Fund and 12 positions in 2020-21 and ongoing to create a centralized discrimination complaint process and restructure its Civil Rights Operations/Equal Employment Opportunity program. Due to the pandemic, the 2020 Budget Act reduced the proposal from \$1.8 million ongoing to \$943,000 to promote objectivity and fairness in the investigation of equal opportunity complaints.

**11. Mental Healthcare.** The May Revision includes \$37.7 million General Fund in 2021-22, and \$35.9 million ongoing, and 264.1 positions to standardize staffing models across the five CDCR-operated Psychiatric Inpatient Programs (PIPs) and support targeted

staffing increases to perform operationally critical functions. This includes resources to add clinicians, nurses, custody staff, and administrative staff to provide the comprehensive suite of services necessary to best serve PIP patients.

Additionally, the May Revision includes \$3.7 million ongoing General Fund to add supervisory capacity within the Statewide Telepsychiatry Program.

- 12. Board of Parole Hearings.** The May Revision includes \$3.1 million in 2021-22 and ongoing General Fund to increase the number of Board of Parole Hearings commissioners from 17 to 21 to address a backlog in hearings. The proposal also includes statutory changes to permit the Board of Parole Hearings to conduct video conference hearings currently authorized through an Emergency Executive Order, which allows for more hearings by reducing travel time for commissioners, as well as associated costs.

The May Revision also includes \$1.3 million ongoing General Fund to deliver services for victims during the parole hearing process. The staff and resources will also enable CDCR to expand existing initiatives such as the Victim Offender Dialogue program.

- 13. Deferred Maintenance.** The January Governor's budget included \$50 million General Fund one-time to address the CDCR's highest priority deferred maintenance projects. The May Revision includes an additional investment of \$50 million one-time General Fund in 2021-22 to address CDCR's significant backlog of deferred maintenance projects. Taken with the Governor's Budget proposal, this will provide \$100 million in total funding for CDCR deferred maintenance projects.

- 14. Pine Grove Youth Conservation Camp State and Local Partnerships.** The May Revision proposes statutory changes to create opportunities for state and local partnerships to maintain firefighting operations at the Pine Grove Youth Conservation Camp in Amador County. This will enable juvenile courts to assign local youth to Pine Grove without committing them to DJJ and authorize counties to contract with the state to place youth at Pine Grove. This action is consistent with the intent expressed in SB 823 to continue operations at Pine Grove given the camp provides critical reentry and job training to justice-involved youth.

- 15. California Sex Offender Management Board Expansion and Juvenile Sex Offender Treatment Certification Statutory Changes.** The Administration proposes trailer bill language to increase the California Sex Offender Management Board's expertise related to the treatment of juvenile sex offenders by expanding its membership and creating a certification process for service providers treating youth who have committed a sex-related offense. This action will support the realignment of youth to counties starting July 1, 2021, as directed by SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020.

- 16. Redirection of Funding From Eliminated Civil Service Positions to Psychiatry Registry Staff.** On September 30, 2009, CDCR filed a staffing plan based on a ratio-driven model in accordance with the *Coleman* Court's established deadline. The Ratio Staffing Model was designed to objectively quantify the staffing complement which would concurrently satisfy judicial, financial, and policy

objectives. CDCR submits baseline mental health staffing adjustments, based on the ratio-driven methodology and changes in inmate population. This adjustment occurs twice per year to ensure that CDCR has sufficient resources to provide incarcerated people with the appropriate level of mental health services. When CDCR has unfilled civil service psychiatry positions, it utilizes contractors known as psychiatry registry staff to provide the necessary services. These registry staff are partially supported using funding associated with vacant civil service mental health positions. However, due to a decline in the prison population, many of these vacant mental health civil service positions are now being eliminated. (CDCR adjusts the number of mental health service positions based on the size of the inmate population annually.) This has resulted in a shortfall in funding available for psychiatry registry staff. According to the CDCR, current registry usage for Psychiatry, Psychology, Rec Therapist, and Social Worker positions will require expenditure of approximately \$75 million during this fiscal year. This amount is about \$15.9 million more than the net funding available for registry usage taking into account normal salary savings for civil service positions and supplementary funding for registry services. In addition, the 2020 Personal Leave Policy salary reductions also reduced salaries tied to vacant positions, so the amount of salary savings available for registry funding decreased, while registry costs have remained consistent.

The CDCR proposes to retain projected cost savings order to correct a baseline funding deficiency and to offset registry utilization, as registry staffing contracts pay registry staff at higher hourly rates than CDCR pays for civil service positions. To address the funding shortfall, CDCR is requesting to retain most of the funding associated with civil service mental health positions proposed for elimination in the May Revision and to redirect this funding to psychiatry registry staff. Specifically, CDCR requests to redirect \$49.3 million in 2020-21 and \$40.9 million in 2021-22 and ongoing from eliminated civil service positions to augment existing funding for psychiatry registry staff. The administration indicates that \$11 million of the funding would be used for psychiatry registry services. The remaining amount would be used to backfill funding associated with the eliminated positions.

### 17. May Revise Capital Outlay Projects.

BCP/Project Name	Proposed Amount and Phase	Comments
California Institution for Men, Chino: 50-Bed Mental Health Crisis Facility Reappropriation	Lease Revenue Bond (GF) Reappropriation \$91.032 M for Construction Phase	This proposal requests reappropriation of funding to construct a licensed 50-Bed Mental Health Crisis Facility (MHCF) to provide housing, treatment, and office space to allow for inmate-patients in a crisis mental health state, or requiring other levels of licensed mental health care, to be treated at the California Institution for Men.

		<p>Due to litigation under the California Environmental Quality Act, the Department will be unable to proceed to bid by June 30, 2021 and funding for this project will naturally revert. On June 7, 2019, four local government agencies filed suit challenging the project’s Environmental Impact Report on ten separate grounds. On February 24, 2021, the San Bernardino County Superior Court ruled in favor of the petitioners on three of the ten challenges. In response to the Court’s decision, the California Department of Corrections and Rehabilitation is currently preparing a revised Environmental Impact Report focusing on the three issues that the court found deficient. The Department is requesting a reappropriation of the construction funding authorized in the 2020 Budget Act to ensure that funding remains available for this project.</p>
<p>California Health Care Facility, Stockton: Facility B Individual Exercise Yards</p>	<p>\$ 537,000 General Fund for Preliminary Plans and Working Drawings</p>	<p>To design 10 individual exercise yards (IEYs) in Facility B at the California Health Care Facility (CHCF). The IEYs will allow maximum custody patients receiving inpatient mental health treatment at CHCF to participate in out-of-cell recreation therapy that is consistent with their mental health treatment plan.</p> <p>This proposal requests funding for the preliminary plans and working drawings phase of the project. The total estimated cost of this project is \$4,368,000.</p>

<p>Health Care Facility Improvement Program (HCFIP): Lease Revenue Bonds to General Fund</p>	<p>Reverts existing Lease Revenue Bond authority and withdraws April 1 Request to increase lease revenue authority, Instead switches fund source to General Fund and proposes \$115.7 Million general fund for the construction phase to complete HCFIP projects.</p>	<p>The funding for HCFIP projects is currently derived from bond proceeds generated through asset transfers. As part of this proposal, it is requested that budget line items and statute are amended to revert existing lease revenue bond authority. In addition, the 2021-22 April Finance Letter requesting additional lease revenue bond financing authority of \$43,235,000, is being officially withdrawn and replaced with this proposal.</p>
<p>Medication Distribution Improvements Phase II Reappropriation at 13 facilities</p>	<p>\$30.1 Million General Fund Reappropriation</p>	<p>For the construction medication distribution improvement at 13 institutions. These projects are required to address population mission changes, along with projects inadvertently omitted from the original phase. These improvements will increase staff productivity and safety as well as ensure compliance with the <i>Plata Court</i> by providing timely inmate-patient access to medication. While this request is combined in one Capital Outlay Budget Change Proposal, this is not a joint appropriation; there are 13 separate projects with the same objective. The requested funding is for the construction phase of these 13 separate projects, each subject to project authority separately and individually.</p> <p>Funding for the construction phase of this project was received in the 2020 Budget Act. Design documents have been completed and submitted to the State Fire Marshal for approval. However, it is unclear whether State Fire Marshal approval of working drawings will be obtained by June 30, 2021. Therefore, the Department is requesting a reappropriation of construction in the 2021 Budget Act so funding for this project remains available. The total estimated project cost is \$36,570,000.</p>

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## LAO Comments on California Department of Corrections and Rehabilitation (CDCR) May Revision Proposals

### Inmate Population Projection

The May Revision proposes \$105.9 million (mostly from the General Fund) to accommodate a 10,935 increase (from 95,324 to 106,259) in the projected average daily inmate population in 2021-22 relative to what was assumed in the Governor's January budget. This increase is largely due to the administration's expectation that it will begin transferring to CDCR the backlog of around 10,000 inmates who have been sentenced to prison but are currently in county jails due to the halt on intake in response to the COVID-19 pandemic.

Based on our discussions with the administration, the inmate population projections do not take into account the time inmates have been serving on their prison sentences while in county jail awaiting transfer to state prison. As such, we find that the administration's projections and requested funding are likely significantly overestimated. However, the precise amount by which the projections are overestimated is unclear at this time. Accordingly, we recommend approving the proposed funding but adopting budget bill language specifying that the department shall revert to the General Fund any funding it received associated with inmates it did not serve in 2021-22. This will ensure the department does not use funds budgeted for the inmate population for other purposes.

### Prison Infrastructure Projects

To accommodate a long-term decline in the inmate population, the administration intends to close the Deuel Vocational Institution by September 30, 2021 and the California Correctional Center by June 30, 2022. However, recent inmate population projections suggest that the state could be in a position to close around three additional prisons over the next several years. Based on our initial review, we find that the California Rehabilitation Center in Norco, California Men's Colony (CMC) in San Luis Obispo, San Quentin State Prison, and the Correctional Training Facility (CTF) in Soledad appear to be strong candidates for closure, primarily because they all have high estimated repair and/or operational costs relative to their inmate capacity.

The May Revision includes infrastructure-related proposals at various prisons including the prisons we have identified as strong candidates for closure. We recommend making modifications to the following proposals in order to ensure that funding is not spent unnecessarily on infrastructure at prisons that are closed shortly thereafter.

***Health Care Facility Improvement Program (HCFIP): Lease Revenue to General Fund.*** Chapter 42 of 2012 (SB 1022, Committee on Budget and Fiscal Review) authorized \$900.4 million in existing lease revenue authority for health care infrastructure projects at CDCR—including HCFIP projects intended to improve medical care in prison facilities. These projects have required numerous changes from their original design due to errors during the design process and other changes necessary to bring the projects into compliance with fire, life, and safety requirements. These changes have led to substantial delays and cost increases. To address the cost increases, the administration has requested \$125.4 million in additional lease revenue authority from the Legislature and also utilized its ability to augment the legislatively



approved lease revenue authority by \$190.1 million. In April, the administration requested an additional \$43.2 million in lease revenue authority through a finance letter.

The May Revision includes a proposal to withdraw the request from April, eliminate all remaining lease revenue authority for HCFIP projects, and provide \$115.7 million General Fund in 2021-22 to replace the lease revenue authority. The administration estimates that this will be sufficient to complete the HCFIP projects. The proposal also removes the administration's current ability to augment legislatively approved HCFIP funding by 20 percent with prior notification to the Joint Legislative Budget Committee.

While we do not have concerns with the change to the structure of the HCFIP program, we note that the proposal includes increased funding for projects at CMC and CTF—which we have identified as strong candidates for closure. We recommend that the Legislature modify the proposed budget bill and budget trailer legislation to restrict the administration from making any expenditures with the proposed funding at prisons the Legislature identifies as strong candidates for closure—such as CMC and CTF—unless the department puts forward a prison closure plan showing that those facilities will not be closed.

***Increase to Proposed One-Time Augmentation for Deferred Maintenance.*** The May Revision proposes an additional \$50 million one-time General Fund for deferred maintenance projects at various prisons—increasing the total amount proposed for CDCR in 2021-22 to \$126 million. We recommend approving the increase given the significant statewide prison infrastructure needs. However, we recommend that the Legislature approve budget bill language prohibiting CDCR from spending these funds on prisons that are strong candidates for closure unless department puts forward a prison closure plan showing that those facilities will not be closed.

***Statewide Implementation of Fixed Video Surveillance.*** The May Revision proposes \$37.6 million (General Fund) and 7 positions in 2021-22 increasing to \$95.4 million and 34 positions by 2023-24, and \$11.1 million and 34 positions in 2024-25 and ongoing to install and operate fixed video surveillance systems at 24 prisons. As noted below, a separate package of proposals would fund fixed video surveillance at six other prisons pursuant to a court order. Taken together, these proposals would enable CDCR to install fixed video surveillance at all state-owned prisons that do not already have it and are not scheduled for closure. In 2021-22, the department intends to install cameras at Salinas Valley State Prison in Soledad; California State Prison, Sacramento; California Correctional Institution in Tehachapi; and Mule Creek State Prison in Ione. The remaining 20 prisons funded by this proposal—including the four we identify as strong candidates for closure—would receive cameras in 2022-23 and 2023-24. Given that cameras could help provide objective evidence with which to resolve inmate allegations of staff misconduct and the four prisons proposed to receive cameras in 2021-22 do not appear to be strong candidates for closure, we recommend approving funding for video surveillance only at these the four prisons. We estimate that this would cost \$37.6 million in 2021-22 to install cameras and \$1.9 million in 2022-23 and ongoing for their operation and maintenance. The administration can request funding to install cameras at additional prisons at a later date—at which point the Legislature may have greater clarity about which additional prisons will be closed.

***Medication Rooms.*** The May Revision proposes \$30.1 million General Fund in 2021-22 for a reappropriation of construction funding for medication room projects at various prisons. These projects are intended to provide inmates with adequate access to medication. The

projects are scheduled to begin construction in June 2021 but are waiting for fire marshal approval of their designs—which might not occur before the end of the budget year. We note that the proposal would result in providing funding to a project at CTF—one of the prisons we have identified as a strong candidate for closure. As such, we recommend adopting budget bill language to restrict the administration from making any expenditures on medication room projects at prisons the Legislature identifies as strong candidates for closure—such as CTF—unless the department puts forward a prison closure plan showing that those facilities will not be closed.

### **Proposals Addressing Staff Misconduct**

The budget includes a package of proposals—one proposed in January and two in the May Revision—that are intended to address concerns related to staff misconduct. Specifically, the proposal would fund (1) video surveillance and body-worn cameras at six prison, (2) changes to the existing statewide process for handling inmate and parolee allegations of staff misconduct, and (3) additional supervisory staffing at six prisons. The package would provide a total of \$99 million (General Fund) in 2021-22 (decreasing to \$43 million in 2022-23 and ongoing) and 227 positions.

***Video Surveillance and Body Worn-Cameras at Six Prisons (\$62 million).*** The package would fund installation and ongoing operation of fixed video surveillance systems and body-worn cameras on officers at six prisons. These changes are being required by a court in ongoing litigation—referred to as *Armstrong v. Newsom*—related to treatment of inmates with disabilities. (As noted above, a separate proposal would fund video surveillance at 24 additional prisons not subject to the court order.) Given that these cameras are being required by a court and would help provide objective evidence with which to evaluate allegations of staff misconduct, we recommend approving these resources. However, given CDCR’s limited experience implementing body-worn cameras and the limited research on their effectiveness in correctional settings, we recommend that the Legislature require an evaluation of the implementation and effectiveness of body-worn cameras by an independent researcher. This evaluation would help the Legislature determine whether to expand the use of body-worn cameras statewide. We recommend the Legislature require this evaluation be provided no later than October 1, 2023.

***Process for Handling Inmate and Parolee Allegations of Staff Misconduct (\$19 million).*** The package would support changes to the process for handling inmate and parolee allegations against staff. These changes are being required by the *Armstrong* court for six prisons, however the department requests funding to implement the changes system wide. Specifically, the proposed \$19 million would augment CDCR’s \$9.8 million budget for a centralized unit established in 2019-20 to conduct investigations into inmate and parolee allegations of staff misconduct. The department indicates that the augmentation is needed because (1) staff time per investigation was significantly underestimated in the 2019-20 request and (2) the unit will handle an expanded number of case types pursuant to the *Armstrong* court order and to address concerns raised by the Legislature and Office of the Inspector General.

We find that the level of resources needed to support the staff misconduct investigation process is highly uncertain. This is because

- Details of the process are still subject to negotiation with the plaintiffs in *Armstrong v. Newsom*

- The proposals estimate workload based on the number of inmate and parolee allegations in years when the state correctional population was significantly higher than it is now and is projected to be
- CDCR has had significant difficulty accurately estimating how much staff time is required per investigation
- CDCR indicates it is looking for efficiencies to reduce staff time per investigation (such as conducting interviews via video conference)
- Expansion of video surveillance across additional prisons will likely reduce staff time required per investigation.

Accordingly, we recommend approving the \$19 million augmentation and \$9.8 million base funding on a two-year limited-term basis. This will require the administration to submit a new request for resources after it has data with which to more accurately assess its needs.

***Additional Supervisory Staffing at Six Prisons (\$18 million).*** The package would support additional sergeant positions to allow CDCR to increase supervisory staffing at six prisons as required by the *Armstrong* court. We recommend that the Legislature approve this request as it is required by the court.

### **Redirection of Funding From Eliminated Civil Service Positions to Psychiatry Registry Staff**

When CDCR has unfilled civil service psychiatry positions, it utilizes contractors known as psychiatry registry staff to provide the necessary services. These registry staff are partially supported using funding associated with vacant civil service mental health positions. However, due to a decline in the prison population, many of these vacant mental health civil service positions are now being eliminated. (CDCR adjusts the number of mental health service positions based on the size of the inmate population annually.) This has resulted in a shortfall in funding available for psychiatry registry staff.

To address the funding shortfall, CDCR is requesting to retain most of the funding associated with civil service mental health positions proposed for elimination in the May Revision and to redirect this funding to psychiatry registry staff. Overall, CDCR requests a redirection of \$49.3 million in 2020-21 and \$40.9 million in 2021-22 and ongoing from eliminated civil service positions to augment existing funding for psychiatry registry staff. The administration indicates that only \$11 million of the funding would be used for psychiatry registry services. The remaining amount would be used to backfill funding associated with the eliminated positions. The administration indicates that this funding has been redirected to other purposes within the mental health program but has not provided additional information regarding these purposes.

We find that redirecting this funding on an ongoing basis is not appropriate. This is because registry services are only intended to be a temporary solution while CDCR works to fill civil service psychiatry positions. As CDCR fills these positions, the need to provide funding for registry services should decline. As such, we recommend that the Legislature (1) approve \$11 million on a limited term basis through 2021-22 to cover the funding shortfall for psychiatry registry services and (2) not approve the remaining funds until the administration can demonstrate that the redirected funding is being used for purposes consistent with the Legislature's priorities.

### **Psychiatric Inpatient Program (PIP) Integration and Standardization**

The May Revision proposes \$37.7 million General Fund in 2021-22 (\$35.9 million ongoing) and 261.4 positions to standardize staffing levels across all PIPs operated by CDCR and to increase certain service levels. We find that the proposal does not provide sufficient justification demonstrating that the number of requested positions or the increase in service levels are necessary. For example, CDCR has not demonstrated that current service levels are negatively impacting patient care. In addition, while CDCR has indicated that it already has sufficient capacity to meet the projected needs of the mental health population, the proposal includes resources to provide additional treatment capacity at the most intensive level of care. We recommend that the Legislature not approve the proposal unless CDCR can provide sufficient justification for the proposed staffing and service levels,

### **Valley State Prison Rehabilitation Enhancements**

The May Revision proposes \$13.7 million General Fund in 2021-22 (decreasing to \$3 million General Fund by 2023-24 and ongoing) and 9.8 positions to make facility modifications and expand rehabilitation programs at Valley State Prison. The proposal would make improvements to visiting areas, add modular buildings to expand space for inmate programs, establish two bachelor's degree programs, expand career technical education, and provide 800 laptops for inmates at VSP. (We note the laptops would be in addition to a separate state-wide proposal in the Governor's January budget to provide laptops to inmates in academic programs throughout CDCR.) The proposal also includes \$150,000 in 2021-22 and 2022-23 to evaluate the program. While the enhancements at VSP have merit, the overall effectiveness of the program remains unclear. Accordingly, we recommend making the funding limited term through 2023-24 and requiring the department to report on results of the evaluation no later than October 2023. This would allow the Legislature to use the evaluation to determine whether ongoing resources should be provided for the program beginning in 2024-25.

### **Replacement of Dayroom and Common Area Furniture**

The May Revision proposes \$34.8 million General Fund in 2021-22 to purchase modular furniture for dayrooms and common areas in certain facilities including non-designated programming facilities (facilities that house sensitive needs and general population inmates together), progressive programming facilities (facilities that provide additional programming opportunities and housing incentives to certain inmates who have demonstrated good conduct), and female facilities. The proposal is intended to make the physical environment within these facilities more conducive to rehabilitation. While this proposal could have merit, it is unclear that this would be the most effective method for CDCR to improve rehabilitation. For example, a more cost-effective approach to improving rehabilitation could be to ensure all inmates have access to evidence-based rehabilitation programs that meet their needs. Before approving this proposal, we recommend that the Legislature require CDCR to report on whether it has sufficient resources to provide all inmates with access to evidence-based rehabilitation programs. If CDCR can demonstrate that this is the case, then the proposal could be merited. Otherwise, there may be more cost-effective approaches to meeting the rehabilitation needs of inmates.

**Staff Recommendation.** Hold all proposals open.

## 0820 DEPARTMENT OF JUSTICE (DOJ)

### Issue 6: May Revision Proposals and Adjustments

The May Revision includes total funding of approximately \$1.1 billion, including \$365.9 million General Fund, to support the DOJ.

**DOJ proposals within May Revision.** The May Revision includes the following proposals and adjustments for the DOJ:

- 1. Police Use of Force Investigations.** The January budget included \$13 million in 2021-22 and \$13.5 million in 2022-23 and ongoing to implement the provisions of AB 1506 (McCarty), Chapter 326, Statutes of 2020. AB 1506 requires a state prosecutor to investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian and makes the Attorney General the state prosecutor unless otherwise specified or named. The proposed funding would be used to establish three teams—one in each of northern, central, and southern regions of California to conduct investigations across the state. The May Revision includes an additional \$2.3 million General Fund in 2021-22 and \$2.1 million ongoing beginning in 2022-23 to provide supportive services to survivors of those killed in officer-involved shootings investigated by DOJ pursuant to AB 1506, and add one additional investigative team in the southern region, bringing the total to four.

As well, the Administration proposes statutory changes that will allow the Director of Finance to augment the overall appropriation in 2021-22 if workload exceeds the level of resources provided to conduct investigations of officer-involved shootings.

- 2. AB 2699 (Santiago), Chapter 289, Statutes of 2020.** The May Revision includes \$982,000 General Fund in 2021-22, \$912,000 in 2022-23, \$2.9 million in 2023-24, \$3 million in 2024-25, and \$1.9 million in 2025-26 to gather information about unsafe firearms transactions involving peace officers, develop information technology infrastructure to maintain a database of such transactions, and conduct investigations to verify that transactions are being appropriately recorded.

## LAO COMMENTS ON DEPARTMENT OF JUSTICE (DOJ) MAY REVISION PROPOSALS

### Police Use of Force Chapter 326 of 2020 (AB 1506, McCarty)

The May Revision proposes an additional \$2.3 million General Fund in 2021-22 (\$2.1 million ongoing) for one additional investigative team, legal resources, and victim services resources generally related to the implementation of Chapter 326. Chapter 326 requires DOJ investigate peace officer-involved shootings resulting in the death of an unarmed citizen. This increases the total amount proposed for

Chapter 326 implementation to \$15 million in 2021-22 (\$15.6 million ongoing). We note that DOJ inform us that the requested funding for victim services—\$522,000 in 2021-22 (\$491,000 ongoing)—will be used to provide victim services broadly, not just for victims associated with Chapter 326 workload. The May Revision also proposes budget bill language allowing the Department of Finance to provide more funding if DOJ demonstrates a need for additional resources. We recommend rejecting this proposed language as a process—outlined in Item 9840 of the annual budget—already exists for state programs to request additional funding for unanticipated, necessary expenses. Such an approach allows the Legislature to monitor the implementation of this new program and to determine whether statutory changes are needed, such as to adjust the program’s size or scope. We note that the administration has not yet provided a copy of this May Revision budget change proposal. As such, we may have additional recommendations after we have received it.

### **Unsafe Handguns Chapter 289 of 2020 (AB 2699, Santiago)**

The May Revision proposes a total of \$9.7 million General Fund over five years, including \$982,000 in 2021-22 for a database to track unsafe firearms transactions and to ensure compliance with Chapter 289. Beginning in 2026-27 the proposal provides \$912,000 on an ongoing basis for these activities. Chapter 289 specifically amended state law to allow for certain costs of its implementation to be covered by firearm fee revenue deposited into the Dealers’ Record of Sale Special Account (DROS). As such, we recommend modifying the proposal to shift a portion of the costs to DROS.

**Staff Recommendation.** Hold all proposals open.

## **5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)**

### **Issue 7: May Revision Proposals and Adjustments**

**BSCC proposals and adjustments within May Revision.** The May Revision includes the following proposals and adjustments for BSCC:

- 1. California Violence Intervention and Prevention (CalVIP) Grant Program.** The Governor’s Budget included baseline funding of \$9 million ongoing General Fund for the CalVIP program, which provides competitive grants to cities and community-based organizations to support services such as community education, diversion programs, outreach to at-risk transitional age youth, and violence reduction models. The May Revision includes an additional \$200 million one-time General Fund across the next three fiscal years for the Board of State and Community Corrections to expand this program.
- 2. Proposition 47, the Reduced Penalties for Some Crimes Initiative (2014).** The Department of Finance currently estimates net General Fund savings of \$116.2 million, an increase of \$1.4 million over the estimated savings at the Governor’s Budget. These funds

will be allocated according to the formula outlined in the initiative, which requires 65 percent be allocated for grants to public agencies to support various recidivism reduction programs (such as mental health and substance use services), 25 percent for grants to support truancy and dropout prevention programs, and 10 percent for grants for victims' services.

**3. Post Release Community Supervision.** The May Revision includes \$23.6 million one-time General Fund for county probation departments to supervise the temporary increase in the average daily population of those on Post Release Community Supervision (PRCS) as a result of the implementation of Proposition 57. This is an increase of \$4.1 million from the amount estimated in the Governor’s Budget.

**4. May Revise Capital Outlay Requests**

BCP/Project Name	Proposed Amount and Phase	Comments
Reduction of County Jail Construction Authority TBL	Decrease in Lease Revenue Bond Authority of \$229 Million	The Administration requests that statutory changes be adopted to decrease the lease revenue authority for county jail construction programs by \$229 Million resulting from award relinquishments and unawarded funds for the construction of adult local criminal justice facilities. This proposed action will eliminate the remaining and relinquished bond authority for the county jail construction financing programs. These statutory reductions affect four separate county jail financing programs for the local jail and adult local criminal justice facility financing programs. There is a separate, but related action to allocate resources instead to award competitive grants to qualified county and tribal entities to acquire and rehabilitate real estate assets that expand behavioral health treatment resources for individuals with a serious mental illness who are deemed Incompetent to Stand Trial on a felony charge. This related issue is

		handled in Senate budget Subcommittee No 3 under the Department of Health Care Services.
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**Staff Recommendation.** Hold all proposals open.