

# SUBCOMMITTEE NO. 5

# Agenda

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



Wednesday, February 23, 2022  
1:30 p.m.  
State Capitol - Room 4203

Consultant: Nora Brackbill, Ph.D.

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Public Comment

### ALL ITEMS HELD OPEN

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## ITEMS FOR DISCUSSION

## VARIOUS DEPARTMENTS

**Public Safety Package.** The proposed budget includes a total of \$179 million General Fund in 2022-23 (declining to \$22.5 million annually by 2026-27) across multiple state departments to support the implementation of the Governor’s public safety package. The proposals are outlined below.

## Overview of Governor’s Proposed Public Safety Package

(In Millions)

	Department	2022-23	2023-24	2024-25	2025-26	2026-27 and Ongoing
<b>Proposals Addressing Organized Retail Theft</b>						
Organized Retail Theft Prevention Grant Program	BSCC	\$85.0	\$85.0	\$85.0	—	—
Vertical Prosecution Grant Program	BSCC	10.0	10.0	10.0	—	—
CHP Organized Retail Crime Task Force Expansion	CHP	6.0	6.0	6.0	\$10.5	\$15.0
DOJ Organized Retail Crime Enterprises Program	DOJ	6.0	6.0	6.0	0.4	0.5
Grants to Small Business Victims of Retail Theft	GO-Biz	20.0	—	—	—	—
<b>Proposals Addressing Firearms</b>						
Gun Buyback Grant Program	BSCC	\$25.0	—	—	—	—
UC Firearm Violence Research Center	UC	2.0	\$2.0	\$2.0	\$2.0	\$2.0
<b>Proposals Addressing Drug Trafficking and Other Crime</b>						
Counterdrug Task Force Program Expansion	CMD	\$20.0	—	—	—	—
DOJ Task Force Program	DOJ	5.0	\$5.0	\$5.0	\$5.0	\$5.0
<b>Totals</b>		<b>\$179.0</b>	<b>\$114.0</b>	<b>\$114.0</b>	<b>\$17.9</b>	<b>\$22.5</b>

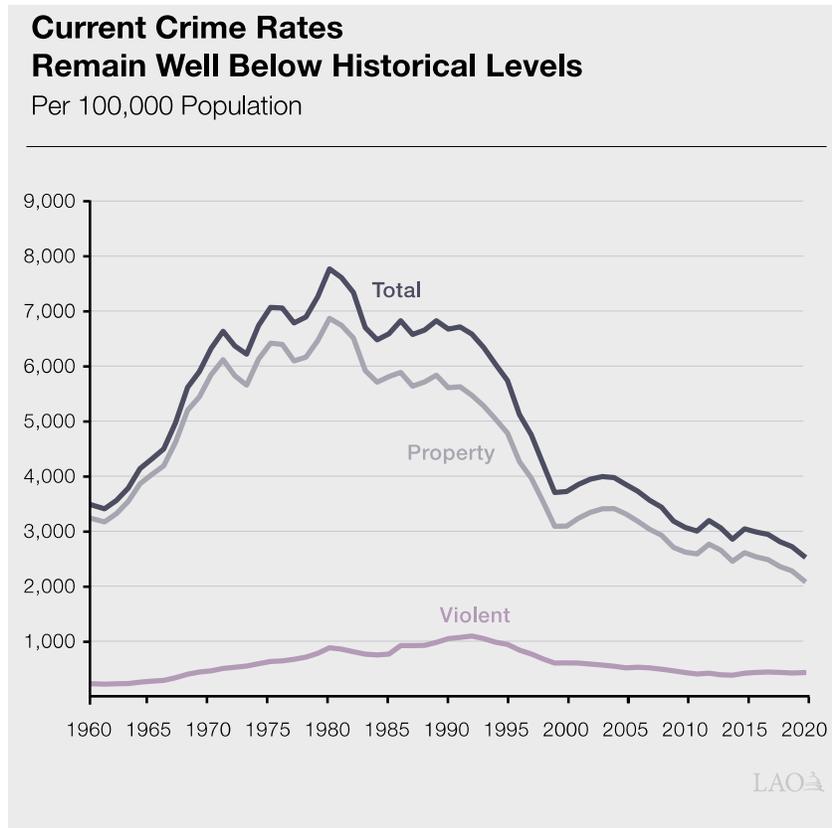
BSCC = Board of State and Community Corrections; CHP = California Highway Patrol; DOJ = Department of Justice; GO-Biz = Governor’s Office of Business and Economic Development; CMD = California Military Department

The funding directed towards GO-Biz, UC, and CMD will be discussed in other subcommittees.

**Crime Trends.** DOJ collects data on crimes reported to law enforcement agencies throughout California. While these data underestimate the total number of crimes that have occurred (as they do not reflect unreported and certain types of crime), they provide useful metrics for tracking changes in crime rates over time. The most recent available year of data is 2020. However, analysis by the Public Policy Institute of California (PPIC) of preliminary data on certain crimes from four large cities (Los Angeles, Oakland, San Diego, and San Francisco) covering the first ten months of 2021 gives an early indication of 2021 crime rate trends.

*Crime Has Fluctuated During the Pandemic Yet Remains Well Below Historical Levels.* During the initial phase of the COVID-19 pandemic, California’s total crime rate—consisting of both property and violent crime—declined by 6 percent between 2019 and 2020—from 2,724 to 2,552 crimes per 100,000 residents. While the exact causes of this decline are not clear, experts have suggested it could be associated with businesses being closed and people staying home in response to public health orders. However, preliminary 2021 data suggest that the total crime rate may be returning to pre-pandemic levels. From a historical perspective, such a potential increase

in crime is occurring in the context of a major long-term decline in crime rates. As shown below, between 1980 (when the total crime rate peaked) and 2020, the state's total crime rate declined by about 67 percent. Moreover, the property crime rate is at the lowest level ever recorded since reliable data collection started in 1960.



***Increases in certain types of crimes.*** However, substantial increases have been noted in certain types of crime between 2019 and 2020, including:

- Motor vehicle theft (20 percent increase)
- Motor vehicle accessory (such as catalytic converters) theft (26 percent increase)
- Homicide (31 percent increase)
- Aggravated assault (9 percent increase)

These increases mirror nationwide trends. In addition, preliminary statistics from 2021 indicate that these may be increasing again from 2020 to 2021. However, the 2020 homicide rate is 62 percent lower than its peak in 1980, and the 2020 aggravated assault rate is 55 percent lower than its peak in 1992.

Data specific to property theft and firearm violence is discussed in more detail in the following issues.

**Issue 1: Combating Organized Retail Theft**

**Governor’s Proposal.** The Board of State and Community Corrections (BSCC), the California Highway Patrol (CHP), the Department of Justice (DOJ), and the Governor's Office of Business and Economic Development (GO-Biz) request \$127 million General Fund in 2022-23 and annually through 2024-25, \$10.9 million in 2025-26, and \$15.5 million in 2026-27 and ongoing for various initiatives to combat organized retail theft. Specifically, the proposal includes:

- *Organized Retail Theft Prevention Grant.* \$85 million annually through 2024-25 in grants to local law enforcement for increased presence and other efforts, administered by BSCC.
- *Vertical Prosecution Grant.* \$10 million annually through 2024-25 in grants to district attorneys (DAs) for vertical prosecutions, administered by BSCC.
- *Organized Retail Crime Taskforce.* \$6 million General Fund annually through 2024-25, \$10.5 million in 2025-26, and \$15 million in 2026-27 and ongoing for the CHP to expand and make permanent its Organized Retail Crime Taskforce.
- *Regional Task Forces and Multijurisdictional Prosecutions.* \$6 million General Fund annually through 2024-25, \$361,000 in 2025-26, and \$500,000 in 2026-27 and ongoing, for the DOJ to support regional task forces combating organized retail theft and to prosecute retail theft cases that span multiple jurisdictions.

This proposal also includes \$20 million one-time General Fund in grants to small businesses who experience thefts or crimes, administered by GO-Biz, which will not be discussed here.

**Background.**

Chapter 803 of 2018 (AB 1065, Jones-Sawyer) established organized retail theft as a specific crime that involves working with other people to steal merchandise with an intent to sell it, knowingly receiving or purchasing such stolen merchandise, or organizing others to engage in these activities. Depending on the circumstances of the crime, people who commit organized retail theft may be charged with other related crimes, such as burglary, robbery, receiving stolen property, fraud, or conspiracy. According to the DOJ, in 2021 there were 953 arrests (an increase of 14 percent from 2020) and 57 convictions (a decrease of 17 percent) for organized retail theft.

According to retailers, retail theft is on the rise, particularly in California and the Bay Area. CVS stated that they have experienced a 300 percent increase in retail theft since the beginning of the pandemic<sup>1</sup>. Recent high-profile, brazen, coordinated thefts across the Bay Area have reinforced this perception, and retailers have reported concerns about increasingly violent efforts. In San Francisco, chains including Walgreens, Target, and Safeway have cited increases in shoplifting as they close stores or cut hours. Walgreens stated that the shoplifting rates at its San Francisco stores are five times the national average<sup>2</sup>. City and state officials have taken steps to combat this issue, including supporting increased police presence and filing charges in several high-profile cases.

<sup>1</sup> <https://www.judiciary.senate.gov/imo/media/doc/Dugan%20testimony.pdf>

<sup>2</sup> <https://www.nytimes.com/2021/10/13/us/walgreens-store-closures-san-francisco.html>

However, there is limited data to verify the trends being reported by retailers, and there is no clear estimate of the scale of the problem<sup>3</sup>. The state does not collect data specific to organized retail theft (or even to retail theft in general, which may fall into several categories of crime). According to official crime statistics provided by the FBI, SFPD, and DOJ, related crimes such as shoplifting and property theft have been steadily declining for years, with a sharp drop at the beginning of the pandemic<sup>4</sup>. For example, DOJ data show a 29 percent decrease in shoplifting—from 226 to 161 per 100,000 residents—between 2019 and 2020<sup>5</sup>. Preliminary data shows an increase in larceny theft in 2021, now similar to pre-pandemic levels<sup>6</sup>.

Retailers claim that these official reports of theft are artificially low due to pandemic-related closures and underreporting, and that they do not reflect an increase in high-value, violent, and organized retail theft. A survey by the National Retail Federation (NRF) reports that three quarters of retailers saw an increase in organized retail crime in 2020, including increases in case value and aggression and violence<sup>7</sup>. According to a survey of 22 U.S. retailers, shoplifting apprehensions dropped 41.3 percent from 2019 to 2020, but essential retailers that closed few or no stores saw a rise of 7.9 percent<sup>8</sup>. In addition, these crimes may be underreported due to a perceived lack of consequences. However, it is difficult to assess the quality of the data being self-reported by retailers in these surveys.

*Driving factors.* Increased opportunities to sell goods online, persistent income inequality and economic stress, and criminal justice policy reforms have all been cited as potential driving factors. Proposition 47, which specified that commercial burglary of less than \$950 in value should be charged as a misdemeanor (unless the person has certain prior convictions), has come under particular scrutiny. However, there is no clear link between the passage of Prop 47 and property crime<sup>9</sup>. In addition, many other states, including Texas and South Carolina, have higher thresholds for felony theft (\$2500 and \$2000, respectively)<sup>10</sup>.

*Challenges in combating retail theft.* Retailers and law enforcement have outlined several challenges in combating retail theft, including:

- Lack of initial apprehension due to fears of encounters turning violent.
- Limited resources for investigations and prosecutions of retail theft, both at the local level and for larger-scale, multi-jurisdictional investigations.
- Intersection with other issues, such as income inequality and increases in other types of crimes.

*Loss prevention by businesses.* Individual stores typically take steps to prevent retail theft, including limiting physical access to commonly stolen items, using technology such as increased

<sup>3</sup> <https://www.theguardian.com/us-news/2021/dec/17/explainer-california-mass-thefts-retail-policing>;

<https://www.latimes.com/business/story/2021-12-15/organized-retail-theft-crime-rate>

<sup>4</sup> <https://crime-data-explorer.fr.cloud.gov/pages/explorer/crime/property-crime>; <https://www.sfchronicle.com/crime/article/Is-shoplifting-rising-in-San-Francisco-Here-s-16272907.php>

<sup>5</sup> <https://lao.ca.gov/Publications/Report/4546>

<sup>6</sup> <https://www.ppic.org/blog/after-decreases-in-2020-both-property-and-violent-crimes-are-up-in-2021/>

<sup>7</sup> [https://cdn.nrf.com/sites/default/files/2020-12/2020%20Organized%20Retail%20Crime%20Survey\\_0.pdf](https://cdn.nrf.com/sites/default/files/2020-12/2020%20Organized%20Retail%20Crime%20Survey_0.pdf);

<https://cdn.nrf.com/sites/default/files/2021-08/2021%20National%20Retail%20Security%20Survey%20updated.pdf>

<sup>8</sup> <https://hayesinternational.com/wp-content/uploads/2021/05/33rd-Annual-Retail-Theft-Survey-2021-With-Thoughts-Behind-Numbers-1.pdf>

<sup>9</sup> <https://news.uci.edu/2018/03/07/proposition-47-not-responsible-for-recent-upticks-in-crime-across-california-uci-study-says/>;

[https://www.ppic.org/wp-content/uploads/r\\_0618mbr.pdf](https://www.ppic.org/wp-content/uploads/r_0618mbr.pdf)

<sup>10</sup> <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/05/22/states-can-safely-raise-their-felony-theft-thresholds-research-shows>

surveillance and or working with law enforcement to plant bait cars or goods, increasing security presence, and cooperating with law enforcement on investigations. Larger businesses and chains often make significant investments in loss prevention teams and programs, which may not be fiscally possible for small businesses.

*Statewide efforts.* In 2018, the Organized Retail Theft Task Force was created as a joint venture between the DOJ and the CHP with the goal of reducing organized retail theft activities (AB 1065, Jones-Sawyer, Chapter 803, Statutes of 2018). It was funded in the 2019 budget for two years, and the 2021 budget included \$5.6 million one-time General Fund for CHP and \$149,000 one-time General Fund for the DOJ. The Administration proposes to add regional seats for Sacramento and the Central Valley, in addition to the current seats for San Diego, Los Angeles, and the Bay Area. According to the Administration, the task force has conducted over 773 investigations that resulted in hundreds of arrests and nearly \$20 million in recovered merchandise.

*Limiting resale opportunities.* Efforts are also being made at the state level to target online marketplaces. For example, SB 301 (Skinner) would require online marketplaces to verify some information about their sellers, in order to limit the opportunity for reselling stolen goods. Similar legislation is pending at the federal level.

**Proposed Resources.** The Administration has proposed the following package of resources to combat retail theft:

- *Organized Retail Theft Prevention Grant Program (\$85 Million).* The Governor’s budget proposes \$85 million annually from 2022-23 through 2024-25 for the BSCC to administer a new competitive grant program to support local law enforcement agencies (including police departments, county sheriffs, and probation departments) in preventing retail theft and enforcing theft-related laws.

Proposed provisional budget language specifies that priority “shall be given to localities that do not have a designated CHP task force and that have the largest increases in theft-related crimes over a three-year period based on the most recent available data.” According to the administration, this language is intended to prioritize grant funds for law enforcement agencies in the Fresno and Sacramento areas where the Governor proposes to establish two new CHP Organized Retail Crime Task Forces (ORCTFs), as discussed further below. (ORCTFs consist of CHP officers who collaborate with local law enforcement agencies and prosecutors in specified regions to support investigation and prosecution of organized retail crime.)

The Administration has indicated that they want to provide flexibility to local governments. Grants could be used to fund activities including, but not limited to:

- Participating in ORCTFs.
- Increasing presence at retail locations.
- Supporting increased diversion and supervision of people that commit retail theft, including programs that address root causes of crime.
- Training law enforcement personnel on identifying and combatting retail theft and other organized crime committed against retail businesses.

Other details of the grants, including the scoring criteria and grant sizes, among other details, are not determined, and would be set by BSCC after the funding is approved.

- *Vertical Prosecution Grant Program (\$10 Million)*. The Governor’s budget proposes \$10 million annually from 2022-23 through 2024-25 for BSCC to administer a new competitive grant program for district attorneys to fund vertical prosecution of organized retail theft. Vertical prosecution is a strategy in which the same attorney is responsible for all aspects of a case from arraignment to disposition. According to the administration, funding would be prioritized for district attorney offices that have attorneys dedicated to the existing and proposed CHP ORCTFs. Although not typically applied to retail theft, the Administration believes that vertical prosecution would provide for greater consistency throughout prosecution of cases and the opportunity for attorneys to develop expertise in prosecuting organized retail theft. Other details of the grants, including the scoring criteria and grant sizes, among other details, are not determined, and would be set by BSCC after the funding is approved.
- *CHP ORCTF Expansion (\$6 Million)*. In 2019, the state established three CHP ORCTFs that operate in the greater Bay Area and portions of Southern California. These three task forces are currently supported with \$5.6 million General Fund annually, which is scheduled to expire in 2026-27. The Governor’s budget proposes \$6 million annually through 2024-25 (increasing to \$10.5 million in 2025-26 and \$15 million in 2026-27 and ongoing) for CHP to make the three existing ORCTFs permanent and establish two new permanent ORCTFs in the Fresno and Sacramento areas. Due to CHP’s high officer vacancy rate, the proposal assumes that these new task forces will be operated by existing officers working overtime for at least three years. After that time, the new ORCTFs would be operated using dedicated staff rather than overtime.
- *DOJ Organized Retail Crime Enterprises (ORCE) Program (\$6 Million)*. The Governor’s budget proposes \$6 million annually from 2022-23 through 2024-25 (declining to \$500,000 annually beginning in 2026-27) for a new program to pursue ORCE investigations and prosecutions. Specifically, the proposed resources for the first three years would support 28 positions—15 positions to pursue ORCE investigations and 13 positions and legal resources to prosecute resulting ORCE cases. The ORCE investigators plan to focus on complex, multi-jurisdictional organized retail theft crime networks for fraud, tax evasion, and other white-collar crimes. These investigators would coordinate with federal, state, local, and retail partners as well as coordinate data collection and information. The annual funding after the first three years would support one sworn DOJ agent who currently participates in the existing CHP ORCTFs. (The position is currently funded with limited-term funding.)

#### **LAO Comment.**

*Limited Retail Theft-Related Data Does Not Show Substantial Increases.* The LAO notes that the limited data on retail theft does not appear to support a conclusion that retail theft is a significant problem in the state. Accordingly, the Legislature could choose to instead target homicide, aggravated assault, or motor vehicle-related theft, which have demonstrated significant increases

in recent years. However, some experts and retailers report observing an increase in the criminal sophistication of shoplifters and the level of brazenness and violence involved in incidents of theft. This could warrant concern even if the total number of incidents has not changed. In addition, crime rates tend to vary by region and type of crime, and statewide crime trends may not be representative of certain regions of the state. According to an analysis by PPIC, the 2020 violent crime rate in the San Joaquin Valley was more than double that in the southern and border regions, and the property crime rate in the Bay Area was nearly double that in the Sierra region. Thus, while crimes like retail theft may not be of significant concern statewide, targeting such crimes in those areas where they are of significant concern could merit legislative consideration.

*Lack of Clear Objectives Makes It Difficult to Assess.* The LAO notes that the plan lacks clear and specific objectives, which make it difficult for the Legislature to assess the proposals. For example, the types of criminal activities related to organized retail theft can range from two people working together to steal merchandise and return it for store credit to a criminal organization that exploits marginalized people to steal on its behalf and sells the stolen merchandise through online marketplaces. As such, there are essentially numerous ways to potentially reduce organized retail theft. However, without clear and specific objectives it is difficult to determine which of the various criminal activities related to organized retail theft to target and to identify the specific actions to pursue with limited resources. For example, if the objective is to arrest individuals engaged in basic shoplifting or organized retail theft at a low level of sophistication, the use of video surveillance cameras could be an effective use of state resources. In contrast, if the objective is to dismantle criminal organizations engaged in organized retail theft, employing complex operations to uncover individuals who are running theft rings, as opposed to those they hire or exploit to shoplift for them, could be an effective use of state resources.

*Unclear How Funding Would Be Allocated and Used.* Given that the Governor proposes to give significant authority to BSCC to implement the grant program proposals, it is unclear how the grant funding would be allocated. According to the administration, after the budget is enacted, BSCC would convene Executive Steering Committees—composed of board members, content area experts, practitioners, and other stakeholders—and receive public comment in order to determine how funding will be allocated. As such, it is unclear how the proposed funding would be targeted or prioritized, whether there would be minimum or maximum grant amounts for a single applicant, and what metrics or outcomes would be collected. It is also unclear how the grant programs would be administered—such as what information would be required in a grant application and the criteria that will be used to determine which applications will be approved. Without this information, it is difficult for the Legislature to determine whether the proposed funding will be allocated equitably or accountably. For example, the Legislature may want to know whether BSCC would prioritize funding for applicants who are disproportionately impacted.

*Difficult to Assess Whether Programs Will Be Effective.* The lack of details on how the BSCC grant funding would be allocated and used makes it difficult for the Legislature to assess whether programs are structured in the most effective manner, what outcomes could be achieved, and how likely the Governor's proposals are to be successful. The organized retail theft prevention grants to local law enforcement are competitive grants that can be used to support any activities that prevent retail theft or enforce theft-related laws. The breadth of the existing language means that there are numerous possibilities for how the money ultimately could be used. A large portion of

the funding could go to increasing law enforcement patrol of retail locations or to participate in task forces, instead of other activities such as the purchase of cameras or other technology that could achieve different outcomes and/or be a more effective use of limited-term funding.

*Supplantation of Local Funding Possible.* The broad budget provisional language allowing BSCC to determine most implementation details could result in the supplantation of local funding. Law enforcement agencies and district attorney offices have an incentive to investigate and prosecute certain theft crimes—particularly if there is an ongoing local surge in such crimes—as this impacts the local economy and is frequently a concern of local constituents. This means that local agencies have a strong incentive to redirect resources internally to make the investigation and prosecution of such crimes a priority—even if the state does not specifically provide resources to do so. Accordingly, any state funds that are provided to local agencies under the Governor’s proposed package might not change the amount they would otherwise spend addressing such crimes. However, it is unclear whether BSCC will take steps to avoid this, such as requiring locals to provide matching funds. While it is possible that BSCC ultimately addresses this concern upon actual implementation, specific budget language to prevent it from occurring would increase the likelihood the monies are used effectively.

*CHP ORCTF Expansion Could Face Challenges.* If the state is interested in targeting organized theft coordinated by criminal gangs or networks, DOJ could be a better entity than CHP to administer such task forces. This is because DOJ has existing expertise in operating dedicated task force teams as well as managing task forces that consist of federal, state, and local partners. Additionally, DOJ employs both law enforcement investigative personnel as well as attorneys who can more easily work together to successfully investigate and prosecute cases. Furthermore, CHP currently does not have the ability to dedicate full-time sworn officers to the two new ORCTFs proposed by the Governor due to a high vacancy rate. The requested funding would instead go to support overtime to pay for patrol officers to conduct increased enforcement in the initial three years. This may not be the most effective way to operate a task force as the patrol officers likely would not be able to fully focus on addressing retail theft in the same manner as full-time dedicated officers. This could then impact the outcomes that can be achieved in the near term.

### **Staff Comment.**

*Inconsistent data on the problem scope.* Different retailers or retail groups have presented significantly different estimates of the overall size of organized retail theft nationwide, in California, and in the Bay Area (although in multiple cases were mistakenly citing losses to any kind of theft or fraud, including employee theft)<sup>11</sup>. Some industry advocates cited numbers in the billions for the Bay Area alone, while the LA Times estimated, using numbers from the NRF surveys, that losses to organized retail crime are \$2.1 billion nationwide. If California matched nationwide averages, California’s share would be roughly \$210 million annually.

*Other priorities for retailers.* A recent NRF survey indicated that “mall or store violence/shooting incidents” and “cyber-related incidents” are both priorities for more retailers than “organized retail crime”<sup>12</sup>. In addition, organized retail crime represents a small portion (roughly four percent) of

<sup>11</sup> <https://www.latimes.com/business/story/2021-12-15/organized-retail-theft-crime-rate>

<sup>12</sup> <https://cdn.nrf.com/sites/default/files/2021-08/2021%20National%20Retail%20Security%20Survey%20updated.pdf>

overall inventory losses experienced by retailers<sup>13</sup>. Other larger loss categories include employee theft, paperwork errors<sup>14</sup>, and self-checkout systems<sup>15</sup>, although NRF stopped publishing detailed breakdowns of loss sources in 2018.

*Increase in violent incidents.* Retailers have noted an increase in brazen and violent thefts, including using firearms. Such brazen attempts may be bolstered by understaffed stores. The Legislature could consider how to target funding to focus on violent incidents.

*Increased policing and surveillance.* The proposed plan does not consider equity or privacy concerns. There are no safeguards to ensure this funding is used in a way that promotes racial equity and does not reinforce existing biases and patterns of overpolicing. The funding may also be used to increase surveillance and tracking technology, often managed by private companies, which may raise significant privacy concerns.

*Targeting resources for sustainable improvements.* As noted by the LAO, it is not clear how these funds, particularly the local law enforcement grants, will be well-targeted to organized retail theft. Some of the allowable uses are also ongoing expenses, and it is unclear how expanding those resources for a limited term will result in a long-term solution to retail theft. In addition, the limited-term resources provided to the DOJ may result in recruiting challenges.

*Unclear demand.* It is not clear how the Administration decided on the funding levels requested here. Given that the details of the grant programs are still being decided, it is not known how many entities the Administration intends to fund and at what level.

### **LAO Recommendation.**

*Consider Highest-Priority Public Safety Goals.* The LAO recommends that the Legislature first determine specific goals in regards to public safety, set clear objectives, and then ensure that proposals are well-targeted to achieve those objectives. For example, given that the total crime rate is currently quite low relative to historical standards, the Legislature may want to prioritize public safety goals not directly related to reducing crime. Such goals could include better addressing the mental health or housing needs of individuals involved with the criminal justice system. If the Legislature decides to prioritize reducing crime, the Legislature should decide whether retail theft should be the priority, as opposed to other issues with demonstrable increases such as motor vehicle-related theft, homicides and aggravated assaults, or the use of firearms in crime.

*Options for Addressing Crime-Related Public Safety Goals.* The LAO also presented several alternative investments (some of which are discussed in the next item). Their suggested options include:

*Expanding Existing Programs.* The Legislature could consider expanding certain existing programs targeted at crime, particularly those programs with subject matter and/or

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<sup>13</sup> <https://nrf.com/blog/organized-retail-crime-remains-growing-threat>

<sup>14</sup> <https://cdn.nrf.com/sites/default/files/2018-10/NRF-NRSS-Industry-Research-Survey-2018.pdf>;

<https://www.theatlantic.com/health/archive/2021/12/shoplifting-holiday-theft-panic/621108/>; <https://nrf.com/blog/organized-retail-crime-remains-growing-threat>

<sup>15</sup> <https://www.ecrloss.com/research/self-checkout-research>

operational expertise that could be leveraged to address problems more effectively and quickly than establishing a new program. Using an existing program can avoid duplication of effort as well as start-up challenges (such as taking time to identify and develop stakeholder relationships or to create new operational processes) that would face a new program. Potential programs that the Legislature could expand include DOJ resources targeting complex or organized crime, or DOJ Task Forces to focus on specific crimes in different regions.

*Invest in Research-Based Options.* The Legislature could consider options that research has found to be effective at reducing crime or certain types of crime. By pursuing strategies that have been found to be effective, the Legislature would increase the likelihood that its desired outcomes are achieved. Research-based options that can reduce both violent and property crime include place-based strategies (such as improving lighting in public places), interventions to reduce substance use (such as expanding access to substance use disorder treatment), and policies or programs that mitigate financial stress on people, among others.

To the extent the Legislature aims to reduce retail theft, there are a variety of research-based tools and best practices that retailers can employ—often in partnership with local law enforcement—to deter and detect theft. For example, strategically placed surveillance cameras could help deter theft by increasing the likelihood that individuals will be identified. Accordingly, the Legislature could consider funding limited-term grants to help retailers and/or local law enforcement invest in technology, infrastructure, training, or consulting services. This could help retailers better self-protect from theft and improve the sharing of crime data and evidence between retailers and law enforcement.

The Legislature could consider various other options, such as those being tried in other jurisdictions. For example, some jurisdictions operate partnerships between retailers, police, and prosecutors through which shoplifters identified by retailers are required to complete a diversion program to avoid being prosecuted with a crime. Such programs can be designed to help people understand the harm that they cause when they shoplift as well as identify factors in their life that may be contributing to their behavior. This could help reduce shoplifting—whether by individuals working alone or by “boosters” hired by organized retail crime rings to shoplift on their behalf. In another example, at least one California city has used GPS tracking devices in “bait” cars in order to reduce motor-vehicle thefts. Accordingly, the Legislature could consider funding a pilot to test these ideas.

**Staff Recommendation:** Hold Open.

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)****Issue 2: Local Law Enforcement Gun Buyback Program Grants**

**Governor’s Budget.** The proposed budget includes \$25 million one-time General Fund for BSCC to implement the Local Law Enforcement Gun Buyback Grant Program.

**Background.** According to a 2018 survey from the Firearm Violence Research Center at UC Davis<sup>16</sup>, around 4.2 million people in California own a total of 20 million firearms, including 9 million handguns. Most Californian gun owners own one or two guns, but ten percent of gun owners own ten or more guns, accounting for roughly half of the guns in the state. California has a lower rate of gun ownership than the national average and has the ninth lowest state gun ownership rate<sup>17</sup>.

However, firearm ownership in California and the United States has increased since the beginning of the pandemic. Firearm sales in the United States surged by an estimated 64 percent between March and May of 2020<sup>18</sup>. Researchers at the Firearm Violence Research Center at UC Davis estimated that 110,000 new guns were purchased in California between March and July 2020. People with ready access to a firearm are almost twice as likely to be killed and three times more likely to commit suicide than those without such access<sup>19</sup>.

*Increase in Number of Armed and Prohibited Persons.* The state’s Armed and Prohibited Persons System (APPS) identifies individuals who legally purchased or registered firearms, but subsequently became prohibited from owning or possessing them. These “armed and prohibited persons” include those convicted of felonies and some misdemeanors, found by a court to be a danger to themselves or others due to mental illness, or have a restraining order against them. From 2008 to 2021, the number of such persons more than doubled—from 10,266 to 23,598 individuals. Individuals are generally removed from this list when law enforcement reports they no longer possess their firearms (such as if a police department seized them).

*Increased Role of Firearms in Crime and in Firearm Deaths.* California experienced a concerning 31 percent increase in homicides and a 9 percent increase in aggravated assaults between 2019 and 2020. In a July 2021 analysis of violent crime in large California counties, PPIC found that the share of crimes involving guns increased for homicides, aggravated assaults, and robberies. These increases mirror nationwide trends. Preliminary statistics from 2021 indicate that these may be increasing again from 2020 to 2021. However, the 2020 homicide rate is 62 percent lower than its peak in 1980, and the 2020 aggravated assault rate is 55 percent lower than its peak in 1992.

As shown below, total firearm-related deaths increased from 2,925 deaths in 2019 to 3,428 deaths in 2020—an increase of 503 deaths (or 17 percent). Of this amount, homicide firearm deaths increased from 1,246 deaths in 2019 to 1,731 deaths in 2020—an increase of 485 deaths (or

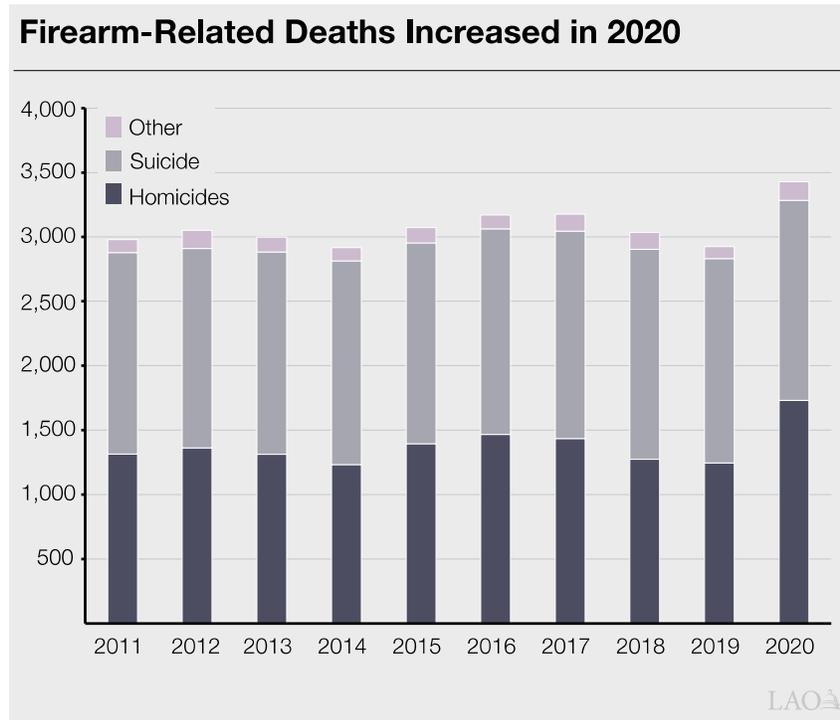
<sup>16</sup> [https://health.ucdavis.edu/vprp/UCFC/Fact\\_Sheets/CSaWSBrief\\_InjPrev\\_Kravitz-Wirtz.pdf](https://health.ucdavis.edu/vprp/UCFC/Fact_Sheets/CSaWSBrief_InjPrev_Kravitz-Wirtz.pdf)

<sup>17</sup> <https://journalistsresource.org/health/gun-buybacks-what-the-research-says/>

<sup>18</sup> <https://www.medrxiv.org/content/10.1101/2020.10.03.20206367v1.full.pdf>; <https://www.latimes.com/science/story/2020-10-17/about-110-000-californians-have-bought-a-gun-since-the-coronavirus-arrived-study-says>

<sup>19</sup> <https://www.nejm.org/doi/full/10.1056/NEJMs1916744>; <https://www.latimes.com/science/la-sci-guns-20140121-story.html>

39 percent). In contrast, while there are slight fluctuations over the past decade, suicide firearm deaths were roughly the same in 2019 (1,586 deaths) and 2020 (1,552 deaths).



**Gun buyback programs.** In gun buyback programs, governments offer cash or other rewards in exchange for the surrender of firearms, typically with no questions asked about the origin or legality of the firearm. The goal of such programs is to reduce the number of privately-owned guns, which would hopefully lead to a reduction in gun violence and crime. For example, one of the largest gun buyback programs was instituted in Australia after automatic and semi-automatic weapons were banned in 1996. 650,000 guns were purchased, estimated to represent about 20 percent of the privately owned guns in the country. Most gun buybacks in the United States have been much smaller and are typically run by local governments.

The effectiveness of gun buyback programs has been debated<sup>20</sup>. A review from 2019 concluded that gun buyback programs, combined with widescale gun violence reduction efforts, are a cost-effective method of reducing the number of weapons in the public<sup>21</sup>. In Australia, there was a 42 percent decrease in homicide rates and a 57 percent decrease in suicide rates in the seven years after weapon ban and buyback program. However, it is not clear how much can be attributed to the buyback versus the accompanying weapons ban and other firearm policy changes, and existing trends<sup>22</sup>. A study published in July 2021 by researchers working with the National Bureau of Economic Research, which looked at almost 25 years of data to analyze whether buybacks in 100 different U.S. cities affected gun crime, found “no evidence that gun buyback programs are

<sup>20</sup> <https://journals.sagepub.com/doi/10.1177/0011128708321321>

<sup>21</sup> <https://link.springer.com/article/10.1007/s40719-019-00180-8>

<sup>22</sup> <https://link.springer.com/article/10.1007/s11121-019-01064-8>; <https://www.rand.org/research/gun-policy/analysis/essays/1996-national-firearms-agreement.html>

effective at deterring gun crime either in the short- or longer-run”<sup>23</sup>. There are numerous challenges in evaluating the research around gun buyback programs and extrapolating that research to this proposal. Some major issues are:

- *Unique challenges in the United States.* One of the challenges is the sheer number of privately owned guns in the United States: in 2017, the Small Arms Survey estimated that there were 393 million civilian-owned firearms in the US<sup>24</sup>, representing 45.8 percent of the world’s civilian-owned guns. Gun ownership is also concentrated, so the people returning weapons for buyback may have other guns at home. A mandatory or large-scale national program, in conjunction with firearm policy changes intended to restrict the acquisition of new weapons, is unlikely to occur in the United States. Smaller-scale, local programs are less likely to have a measurable impact on gun crime.
- *Poor program design.* Some of the gun buyback programs in the United States have not been well designed. Common pitfalls include not targeting the programs to the most dangerous weapons (for example, allowing broken firearms or rifles or shotguns, which are not commonly used in crimes, to be collected), and not appropriately setting the payment levels. There have been reports of participants turning in broken or low-value weapons and using the money to buy better guns. Researchers at the Firearm Violence Research Center at UC Davis have highlighted concerns about previous, ineffective buyback programs, and offered suggestions to improve programs moving forward<sup>25</sup>.
- *Different definitions of success.* Researchers from the Firearm Violence Research Center at UC Davis have indicated that gun buybacks may be valuable if they are part of a broader effort to reduce gun violence and focus on community engagement and education around gun safety<sup>26</sup>. The 2019 review mentioned earlier did not focus on gun crime, instead concluding that “Gun buybacks are a cost-effective means to reduce the number of unwanted firearms in the general public and also provide a means for education regarding injury prevention. Buybacks in conjunction with other methods have been shown to be successful in reducing the number of firearms that could lead to injury and death.”

***Strategies for effective gun buyback programs.*** Specific suggestions to improve the effectiveness of gun buyback programs include:

- *Target the types of guns.* Buybacks should be limited to the most dangerous guns, such as working guns and handguns, and/or should pay more for more dangerous weapons.
- *Provide drop off sites that are not law enforcement.* Even if amnesty is explicitly part of the program, some people may not participate if it is run by law enforcement.

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<sup>23</sup> <https://www.nber.org/papers/w28763>

<sup>24</sup> <https://www.smallarmssurvey.org/database/global-firearms-holdings>

<sup>25</sup> <https://health.ucdavis.edu/vprp/pdf/2013/2013.11.improving-the-potential-effectiveness-of-gun-buyback-programs.pdf>

<sup>26</sup> <https://www.npr.org/2013/01/15/169439243/newtown-prompts-gun-buybacks-but-do-they-work>

- *Use the buyback to increase awareness and engagement.* The buyback should be planned as part of broader gun reduction efforts, including an emphasis on community engagement and education.
- *Set appropriate payments.* If the payments are too low, they will not incentivize people to turn in guns. If the payments are too high, people could turn in low-value guns for a profit.

***Proposed resources.*** The Administration indicated that this program would provide \$25 million in matching grants to local agencies, providing safe-disposal opportunities to remove guns from the streets and raising awareness of gun violence. Grantees would be required to provide a cash or in-kind match of ten percent. The details of the program have not been developed further.

***Other statewide investments in combating gun violence.*** The proposed budget also includes \$2 million ongoing for the UC Firearm Violence Research Center (in addition to \$1 million ongoing provided in the budget last year), as well as the investments in the DOJ's firearm registration and tracking systems described in the next item. The 2021 Budget included \$10.3 million to assist law enforcement in seizing weapons from persons who are prohibited from possessing them (including those in APPS), \$11 million for education and training around gun violence restraining orders, and \$200 million across three years for the California Violence Intervention and Prevention (CalVIP) Program, which provides grants aimed at violence reduction in general (not limited to guns).

#### **Staff Comment.**

***Lack of detail.*** The Administration has not provided any details on this proposal, including:

- Basic grant information such as how large the grants will be, what entities and programs would be eligible, how applications would be reviewed and prioritized, and other details.
- Anticipated demand.
- Why this program is preferred over other investments to reduce gun violence.
- How much of the funding can be used for administration by local entities.
- How many guns are expected to be surrendered using this funding.
- What a well-targeted and effective gun buyback program looks like, and how the Administration would ensure that the funded programs follow those guidelines.

The Administration has indicated that it does not have these details available at this time and expects these details to be developed by BSCC if the funding is approved. However, the Legislature should consider how the program could be targeted to the highest need areas and the highest risk guns, and whether benefits such as education and community engagement should be expressly stated goals of the program, and if so, how to ensure they are incorporated.

***Level of resources.*** If the programs offered \$50 per gun, a standard amount in previous programs, the funding could be used to recover roughly 500,000 guns (ignoring BSCC or local administration costs and not including the local match). This represents 2.5 percent of the guns in California. This may not be a large enough number to result in a significant change in gun crime and emphasizes the need for the program to have a targeted approach.

***Reselling guns from buyback programs.*** The Legislature may wish to specify or limit what may be done with guns that are collected. For example, while atypical, some guns collected in buyback programs are resold<sup>27</sup>.

### **LAO Comment.**

The LAO notes similar concerns as for the previous BSCC grant proposals, including that it is not clear how funding would be allocated and used, the program does not have clear objectives, and it will be difficult to assess.

### **LAO Recommendations.**

***Potential Public Safety Goals Related to Firearms.*** The Legislature could consider prioritizing certain firearm-related goals based on the data presented earlier. Specifically, the Legislature could consider addressing (1) the growth in homicide firearm deaths or (2) the increase in the share of homicides, aggravated assaults, and robberies that involve firearms. Additionally, the Legislature could consider targeting the removal of firearms from armed and prohibited persons—particularly those who are prohibited due to mental illness or restraining orders. Research suggests that firearm prohibitions associated with mental illness may decrease violent crime and those associated with domestic violence restraining orders may decrease total and firearm-related intimate partner homicides.

***Ensure Program is Well-Designed.*** If the goal of the gun buyback program is specifically to reduce firearm crime-related violence, research suggests that such programs are more effective if they require firearms be working in order to receive an incentive, prioritize the types of firearms used in crimes (such as newer firearms or semiautomatic pistols), and/or focus on the types of individuals or locations more prone to firearm violence. However, it is unclear whether BSCC will ensure the gun buyback program is structured effectively.

***Options to Expand Existing Programs.*** The Legislature could consider expanding certain existing programs targeted at crime, particularly those programs with subject matter and/or operational expertise that could be leveraged to address problems more effectively and quickly than establishing a new program. Using an existing program can avoid duplication of effort as well as start-up challenges (such as taking time to identify and develop stakeholder relationships or to create new operational processes) that would face a new program. Potential programs that the Legislature could expand include:

- ***Gun Violence Reduction Program to Reduce Number of Armed and Prohibited Persons.*** As previously discussed, APPS identified nearly 23,600 armed and prohibited persons as of January 2021. The 2021-22 budget provided \$10 million one-time General Fund to DOJ's Gun Violence Reduction Program for competitive grants to county sheriff's departments to reduce the number of armed and prohibited persons by seizing firearms and ammunition from them. To the extent the Legislature would like to further reduce the number of armed and prohibited persons, it could provide additional funding to the Gun Violence Reduction Program and make other law enforcement agencies (such as city police) eligible for grants.

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<sup>27</sup> <https://www.theatlantic.com/politics/archive/2013/04/how-arizona-gun-buybacks-became-gun-sellbacks/315779/>

- *Firearm Removal From Individuals Immediately When They Become Prohibited.* Beginning in 2018, courts have been required to inform individuals upon conviction of a felony or certain misdemeanors that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. Courts are also required to assign probation officers to report on what offenders have done with their firearms. Probation officers are required to report to DOJ if any firearms are relinquished to ensure the APPS armed and prohibited persons list is updated. To the extent the Legislature would like to limit growth in the number of armed and prohibited persons, providing funding to local law enforcement agencies and probation departments to ensure this process is followed can be effective as firearms would be surrendered at the time of conviction.

**Staff Recommendation.** Hold Open.

**0820 DEPARTMENT OF JUSTICE (DOJ)**

Under the direction of the Attorney General, DOJ provides legal services to state and local entities, brings lawsuits to enforce public rights, and carries out various law enforcement activities. DOJ also provides various services to local law enforcement agencies, including providing forensic services to local law enforcement agencies in jurisdictions without their own crime laboratory. In addition, the department manages the statewide criminal history database and conducts background checks required for firearm and ammunition purchase as well as other purposes.

The Governor’s budget proposes \$1.2 billion to support DOJ operations in 2022-23—an increase of \$40 million (or 3.4 percent)—over the revised amount for 2021-22. About half of the proposed funding supports DOJ’s Division of Legal Services, while the remainder supports the Division of Law Enforcement and the California Justice Information Services Division. Of the total amount proposed for DOJ operations in 2022-23, around one-third—\$433 million—is from the General Fund. This is an increase of \$37 million (or 9.5 percent) from the estimated 2021-22 General Fund amount.

**Department of Justice Budget Summary**

(Dollars in Millions)

	2020-21 Actual	2021-22 Estimated	2022-23 Proposed	Change From 2021-22	
				Amount	Percent
Legal Services	\$498	\$585	\$604	\$19	3.3%
Law Enforcement	218	307	337	30	9.9
California Justice Information Services	228	259	250	-10	-3.8
<b>Totals</b>	<b>\$944</b>	<b>\$1,151</b>	<b>\$1,191</b>	<b>\$40</b>	<b>3.4%</b>

**Issue 3: Firearms Tracking and Data Systems**

**Governor's Budget.** The proposed budget includes four proposals related to firearm tracking and data collection and management, including:

- *Firearms IT System Modernization (FITSM) Project.* \$5,188,000 Dealer Record of Sale (DROS) Special Account in 2022-23 to plan and analyze the efforts necessary to modernize the Department's firearms systems.
- *Implementation of Legislation.*
  - \$223,000 General Fund in 2022-23 and ongoing to support accelerated implementation and ongoing workload associated with tracking the sale, possession, and transfer of precursor parts in California, pursuant to Chapter 730, Statutes of 2019 (AB 879, Gipson).
  - \$2,284,000 DROS Account and 5.0 positions in 2022-23, increasing to \$3,462,000 in 2023-24, \$1,483,000 in 2024-25, \$1,017,000 in 2025-26, and \$973,000 in 2026-27 and ongoing to facilitate and maintain multiple modifications to DOJ's firearms-related systems to meet the mandates outlined in Chapter 250, Statutes of 2021 (SB 715, Portantino).
  - \$327,000 General Fund and 2.0 positions in 2022-23 and \$306,000 in 2023-24 and ongoing to analyze and report on firearms that were illegally possess, used in a crime, or suspected to have been used in a crime pursuant to Chapter 683, Statutes of 2021 (AB 1191, McCarty).

**Background.**

*FITSM.* The DOJ has 17 firearms information technology systems (see table below). These systems support the education, regulation, and enforcement actions regarding the manufacturing, sale, ownership, safety training, and transfer of firearms. Many have been implemented in a piecemeal fashion over the past four decades, largely in response to specific legislative mandates. However, this has resulted in a complicated set of databases that are not compatible and require extensive reprogramming for even minor changes. For example, this complication has delayed the implementation of Chapter 25, Statutes of 2019 (SB 94, Committee on Budget and Fiscal Review) which requires specific data on the collection of firearms from Armed and Prohibited Persons (APPS) to be reported annually.

The DOJ has begun planning to update and consolidate its firearm data systems into two systems: one external and publicly accessible and one internal DOJ-only. The 2020-21 budget included \$2.352 million in DROS funding to hire consultants to plan and analyze the modernization roadmap. The resources requested here will help continue the planning process, which is being undertaken in consultation with the Department of Technology. DOJ is requesting funding for ten positions and six external consultants in 2022-23 to support the continuation of the FITSM project.

Count	Firearms System Name
1	Automated Firearms System (AFS)
2	Dealer Record of Sale Entry System (DES)
3	Armed and Prohibited Persons System (APPS)
4	Dealer Record of Sale (DROS)
5	California Firearms Information Gateway (CFIG)
6	California Firearms Application Reporting System (CFARS)
7	Centralized List (CL)
8	Consolidated Firearms Information System (CFIS)
9	Firearms Certificate System (FCS)
10	Mental Health Reporting System (MHRS)
11	Mental Health Firearms Prohibition System (MHFPS)
12	Carry Concealed Weapon System (CCW)
13	Assault Weapon Registration (AWR)
14	California Firearms License Check (CFLC) System
15	Prohibited Applicant
16	Firearms Employment Application File (FEAF)
17	Ammo Processor

### ***Implementation of Legislation.***

*AB 879 and SB 118 – Precursor parts.* Ghost guns are untraceable weapons assembled from parts at home, which has allowed people to get around restrictions on buying and owning firearms. However, beginning July 1, 2022, the sale of the parts used to build ghost guns, referred to as firearm precursor parts, will become subject to many of the same regulations and restrictions as the sale of assembled firearms, per AB 879, as amended by Chapter 29, Statutes of 2020 (SB 118, Committee on Budget and Fiscal Review). The DOJ must also track related information in a database to be known as the Firearm Precursor Parts Purchase Records File. The 2020-21 and 2021-22 budgets included a total of \$14.2 million for the implementation of this program, but DOJ indicates that additional ongoing resources for the California Justice Information Services (CJIS) Division are needed.

*SB 715 – Various restrictions.* SB 715 (Portantino), Chapter 250, Statutes of 2021 bans the possession of semiautomatic centerfire rifles, limits the possession of firearms by a minor, prevents dealers from returning unauthorized weapons to sellers, and requires hunting licenses to be confirmed as part of the background check for people under 21. These changes require DOJ to update several data systems, implement an interagency agreement with the Department of Fish and Wildlife, and make changes related to the creation of a new crime, among other requirements. DOJ is requesting resources for both the Division of Law Enforcement (DLE) and CJIS.

*AB 1191 – Firearms used in crimes.* AB 1191 (McCarty), Chapter 683, Statutes of 2021 requires DOJ to analyze information already reported regarding firearms that were illegally possessed, used in a crime, or suspected to have been used in a crime, and submit an annual report to the Legislature summarizing the analysis. DOJ is requesting one position for CJIS and one positions for DLE, in addition to consultation costs with other divisions and sections within DOJ.

**Staff Recommendation.** Hold Open.

<b>Issue 4: Task Force Program</b>
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**Governor’s Budget.** The proposed budget includes \$5,000,000 General Fund in 2022-23 and ongoing to maintain DOJ oversight of collaborative law enforcement task forces statewide.

**Background.** The DOJ coordinates eight task forces (outlined below) that facilitate communication between local, state, and federal law enforcement agencies. The task forces are regional and focused on major crimes, including gang violence and human trafficking. DOJ helps coordinate the task forces, providing leadership, training, and supervision on major investigations. Each task force is assigned approximately 100 cases per year. The various statewide task forces exchange information related to tactics, strategies, intelligence, and emerging criminal trends. The task forces also help smaller, local law enforcement agencies with investigations that they would not have the resources to perform on their own.

Task Force	Total DOJ Cost	Description
High Impact Investigation Team (HIIT)	\$546,000.00	Focuses on criminal organizations and gang activity in Fresno, Tulare, and King Counties.
Inland Crime Allied Task Force (INCA)	\$505,000.00	Established in 1991, focuses on large-scale, transnational organized crime in the Inland Empire.
Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force (LA IMPACT)	\$1,412,000.00	One of the largest task forces, with 80 sworn personnel and 15 staff. Focuses on organized crime in the LA area, with expertise in surveillance, property crimes, financial crimes, organized crime, and crimes against persons.
Los Angeles Regional Criminal Information Clearing House (LA CLEAR)	\$325,000.00	Provides intelligence and information sharing to its client law enforcement agencies in support of the Los Angeles High Intensity Drug Trafficking Area program.
California Marijuana Program (CAMP)	\$1,875,000.00	Established in 1983 to eradicate large scale illegal marijuana cultivations on public and private lands that cause deforestation, damage to wildlife habitats, pose dangers to the environment, and introduce pollutants.
Merced Area Gang and Crime Enforcement Team (MAGCET)	\$382,000.00	Established in 2015 to combat organized crime and gang violence in Merced County.
Placer County Special Investigation Unit (Placer SIU)	\$382,000.00	Established in 1987 to combat organized crime in Placer County.
San Diego Human Trafficking Task Force (SD HTTF)	\$1,009,000.00	Established in 2015 to fight human trafficking in San Diego County.
<b>Total</b>	<b>\$6,436,000.00</b>	

Currently, the task forces are funded using a combination of contributions from each member (typically covering their participant’s salary and associated costs), federal grants and reimbursements, and redirection from other DOJ resources, including vacancy savings. Many of the programs are funded through Byrne Justice Assistance Grants, which are federally funded and

awarded through BSCC. DOJ has indicated that it plans to continue to apply for these funds, but that the ongoing redirection of department resources is not sustainable.

Current Funding for DOJ Task Force Program.

Year	Total DOJ Cost	Grant Funding	DOJ Redirected Funds
2021-22	\$6,436,000.00	\$2,209,040.00	\$4,226,960.00
2020-21	\$4,363,667.17	\$2,041,232.00	\$2,354,119.57
2019-20	\$4,683,486.59	\$2,151,667.00	\$2,531,819.59
2018-19	\$4,961,205.65	\$1,275,000.00	\$3,686,205.65
2017-18	\$4,123,950.84	\$1,071,638.04	\$3,052,312.80

**LAO Comment.**

*DOJ Task Force Program Facilitates More Complex Investigations With Both Regional and Statewide Benefits.* Because each agency that participates in the DOJ Task Force Program typically pays for the costs of their own participants, there is incentive to ensure each regional task force focuses on investigating those crimes that are of highest priority to all participating members—likely the most pressing and/or complex criminal issues in the region. Each task force also benefits from the different resources and expertise of each participating agency, which allows the pursuit of more complex or multi-jurisdictional cases. This collaboration allows for benefits or outcomes that may not have otherwise been achieved without great cost or if the participating agencies worked in isolation from one another. For example, a local law enforcement agency may not be able to afford to dedicate sufficient resources to pursue complex cases at the expense of more routine patrol activities. Moreover, since the state only supports DOJ’s costs associated with the task forces and not those of the participating agencies, the Governor’s proposal appears to be a cost-effective method for the state and local governments to continue addressing more complex investigations that have both regional and statewide benefits.

As noted above, the state’s share of costs related to DOJ’s Task Force Program has been supported using funding associated with vacant positions that DOJ expects will no longer be available as vacant positions are filled. To the extent the DOJ Task Force Program is a priority, ongoing General Fund resources—as proposed by the Governor—would provide a stable source of funding. For budget transparency purposes, the Legislature may want DOJ to report in budget hearings on how it would use the vacant position funding currently supporting the DOJ Task Force Program if this proposal is approved and the vacant positions are not filled as planned. If these activities are not a priority for the Legislature, it could choose to reduce DOJ’s budget accordingly.

**LAO Recommendation.** The LAO recommends that the Legislature consider approving the proposed \$5 million ongoing General Fund for the DOJ Task Force Program as the funding would maintain DOJ participation in its eight existing task forces. Such task forces can be cost-effective ways of targeting more complex or multi-jurisdictional criminal investigations that could have statewide benefits.

**Staff Recommendation.** Hold Open.

<b>Issue 5: Various Legislative Proposals</b>
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**Governor's Budget.** The Governor's budget includes the following proposals to implement legislation passed in the 2021 session:

Issue	Funding	Unit
<b>Criminal Procedure: Resentencing (AB 1540)</b>	\$396,000 General Fund limited-term in 2022-23, decreasing to \$382,000 in 2023-24 through 2026-27, to provide legal response to appeals when criminal resentencing is denied, or a defendant claims an error occurred in resentencing, pursuant to Chapter 719, Statutes of 2021 (AB 1540, Ting).	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
<b>Felony Murder Resentencing (SB 775)</b>	\$3,599,000 General Fund limited-term in 2022-23, and \$3,477,000 in 2023-24 through 2025-26, to address increased resentencing hearings pertaining to initial sentence enhancements pursuant to Chapter 728, Statutes of 2021 (SB 775, Becker).  SB 775 extends certain resentencing options offered to persons who were convicted of murder under Chapter 1015, Statutes of 2018 (SB 1437, Skinner) to persons who were convicted of attempted murder or manslaughter. DOJ estimates 55 cases in FY 21-22 and 360 cases per year for FY 22-23 through 25-26.	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
<b>Resentencing to Remove Sentencing Enhancements (SB 483)</b>	\$794,000 General Fund limited-term in 2022-23 and \$768,000 in 2023-24 to address increased resentencing hearings to reflect the elimination of certain sentencing enhancements pursuant to Chapter 728, Statutes of 2021 (SB 483, Allen).	Appeals, Writs and Trials Section (AWT) within the Criminal Law Division
<b>Human Trafficking: Vacatur Relief for Victims (AB 262)</b>	\$491,000 General Fund and 1.0 position in 2022-23, \$99,000 in 2023-24, and \$95,000 in 2024-25 and ongoing to update the Criminal Justice Data Exchange pursuant to Chapter 193, Statutes of 2021 (AB 262, Patterson), which provides additional rights to victims of human trafficking who are trying to vacate convictions of crimes committed while they were being trafficked. DOJ has estimated 85 cases per year.	California Justice Information Services (CJIS) Division
<b>Peace Officers: Release of Records (SB 16)</b>	\$7,440,000 (\$3.4 million General Fund and \$4 million Legal Services Revolving Fund (LSRF)) and 27.0 positions in 2022-23 and \$6,470,000 (\$2.7 million General Fund and \$3.8 million LSRF) in 2023-24 and ongoing to prepare records pertaining to peace office conduct for public disclosure pursuant to Chapter 402, Statutes of 2021 (SB 16, Skinner).	Department-wide
<b>Reproductive Health Care Services (AB 1356)</b>	\$879,000 General Fund and 4.0 positions in 2022-23 and \$671,000 in 2023-24 and ongoing to implement new data reporting requirements, prepare an annual report that details anti-reproductive healthcare rights violations and criminal offenses, and provide legal guidance to state and local entities pursuant to Chapter 191, Statutes of 2021 (AB 1356, Bauer-Kahan).	Public Rights Division (PRD) - Antitrust Law Section; California Justice Information Services Division (CJIS)

<b>Law Enforcement Gangs (AB 958)</b>	\$1,286,000 General Fund and 5.0 positions in 2022-23, and \$1,245,000 in 2023-24 and ongoing to respond to additional investigations that fall within the expanded definition of "law enforcement gangs" pursuant to Chapter 408, Statutes of 2021 (AB 958, Gipson).	Public Rights Division (PRD) - Civil Rights Enforcement Section (CRES)
<b>Privacy: Genetic Testing Companies (SB 41)</b>	\$396,000 General Fund and 2.0 positions in 2022-23, and \$382,000 in 2023-24 and ongoing to address an increase in consumer complaints, engage in settlement proceedings, and enforce consumer genetic privacy pursuant to Chapter 191, Statutes of 2021 (SB 41, Umberg).	Public Rights Division (PRD) - Consumer Protection Section
<b>Charitable Fundraising Platforms and Platform Charities (AB 488)</b>	\$415,000 Registry of Charitable Trusts Fund and 4.0 positions in 2022-23 and \$659,000 in 2023-24 and ongoing to implement and pursue actions pursuant to Chapter 616, Statutes of 2021 (AB 488, Irwin), which requires DOJ to regulate giving platforms like GoFundMe.	Public Rights Division (PRD) - Registry of Charitable Trusts Unit

In addition, DOJ requests the following resources to continue the implementation of legislation passed in previous sessions, based on changes to the anticipated workloads:

<b>Gender Identity: Female, Male or Nonbinary</b>	\$1,106,000 General Fund in 2022-23 to recode systems within DOJ that interface with Department of Motor Vehicles databases. These were changed in response to Chapter 853, Statutes of 2017 (SB 179, Atkins) in a way that does not work with DOJ's systems. SB 179 allows designation of a gender identity of female, male or nonbinary for driver's licenses.	California Justice Information Services (CJIS) Division
<b>Sex Offender Registration Retiering</b>	\$4,498,000 General Fund in 2022-23 and \$2,197,000 in 2023-24 and ongoing to support previously established positions which are required on an ongoing basis to address the continued workload growth generated by Chapter 541, Statutes of 2017 (SB 384, Wiener). SB 384 changed the sex offender registration from lifetime to limited-term, dependent on the age of the offender and other circumstances.	California Justice Information Services (CJIS) Division
<b>Police Use of Force</b>	7.0 positions and General Fund spending authority of \$2.3 million in 2022-23 and \$1.6 million in 2023-24 and ongoing to physically appear and respond to officer involved shootings that result in the death of an unarmed civilian, pursuant to Chapter 326, Statutes of 2020 (AB 1506, McCarty).  DOJ received an initial appropriation of \$15.3 million in 2021-22 and \$15.6 million in 2022-23 and ongoing to handle this workload. However, DOJ has found that the investigations are more time-intensive and that their presence and/or advice is required for more incidents than anticipated.	Division of Law Enforcement – Bureau of Investigation

**Staff Comment.** No major discrepancies with the fiscal analyses conducted by Appropriations Committees are noted, although in two cases (AB 1540 and SB 483), the DOJ costs were not included in the analysis.

**Staff Recommendation.** Hold Open.

**Issue 6: Special Fund Conditions**

**Governor's Budget.** The proposed budget includes two proposals to address shortfalls in special funds due to insufficient fine and fee revenue:

- *Ammunition Safety and Enforcement Special Fund.* Provisional language for additional General Fund support if needed for the Ammunition Safety and Enforcement Special Fund, which supports the Ammunition Purchase Authorization Program.
- *DNA Identification Fund.* \$46.4 million one-time General Fund backfill of the DNA Identification Fund, which supports the Bureau of Forensic Services, and provisional language for additional General Fund support if needed.

**Background.**

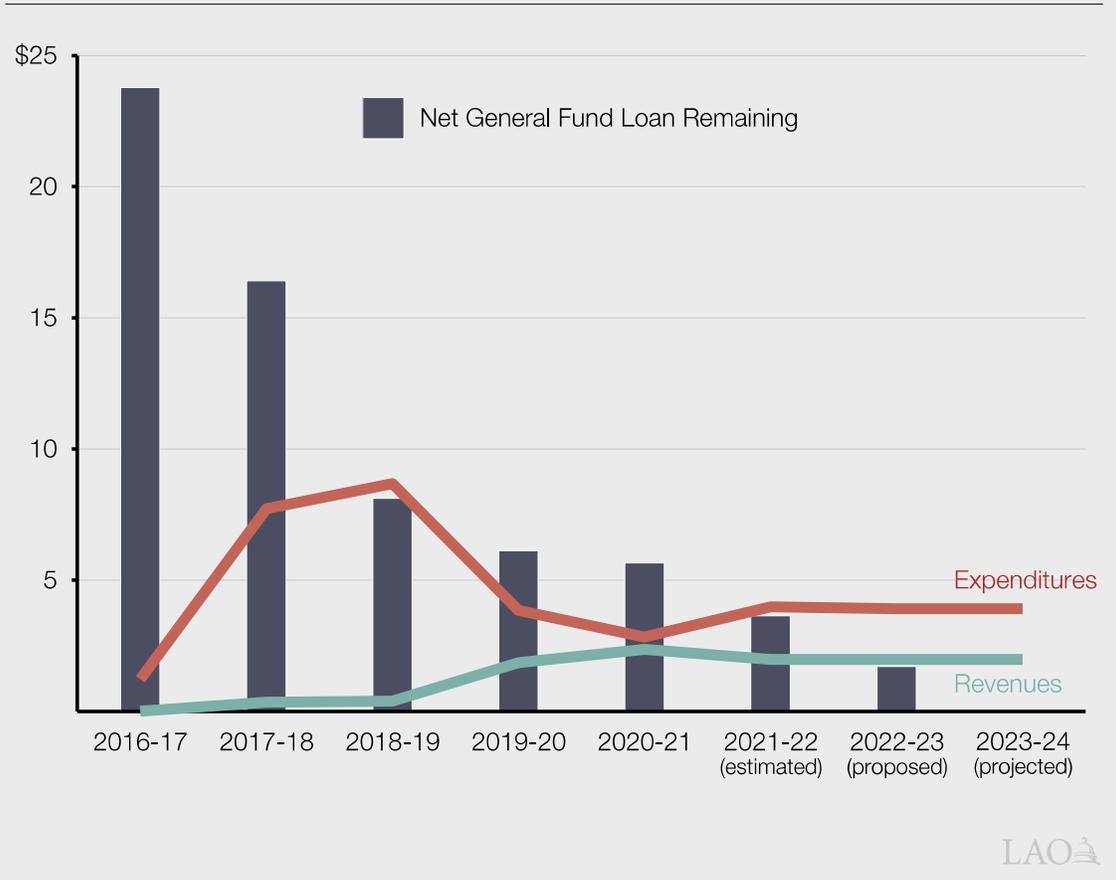
*Ammunition Safety and Enforcement Special Fund.* DOJ's Bureau of Firearms (BOF) is the primary entity that ensures compliance with federal and state law related to firearm ownership, including background checks, prohibited persons, waiting periods, and recording the sales of firearms and ammunitions, among other duties. Historically, BOF was funded primarily through fees and special funds. However, starting in 2019-20, some General Fund support has been included in the budget. In the proposed budget, BOF would be funded with \$20 million General Fund and \$32 million special fund.

One of the special funds is the Ammunition Safety and Enforcement Special Fund, which is continuously appropriated to support the Ammunition Purchase Authorization Program. This fund comes mostly from fees charged when someone buys ammunition and is intended to cover the cost of DOJ licensing and other verification. This fee is up to \$1 per transaction, which DOJ may adjust for inflation. The fund was provided with a \$25 million start up loan from the General Fund, and all excess revenues were supposed to be returned to the General Fund to pay off the loan.

However, since its creation, expenditures from the fund have outpaced revenues (see chart below). The LAO predicts that this fund will become insolvent by 2023-24. The Governor’s proposed budget includes provisional budget language allowing the Department of Finance to transfer General Fund to cover any shortfalls in this funding for the Ammunition Purchase Authorization Program in 2022-23, with 30-day notification to the Legislature.

### Ammunition Safety and Enforcement Special Fund in Operational Shortfall Since Creation

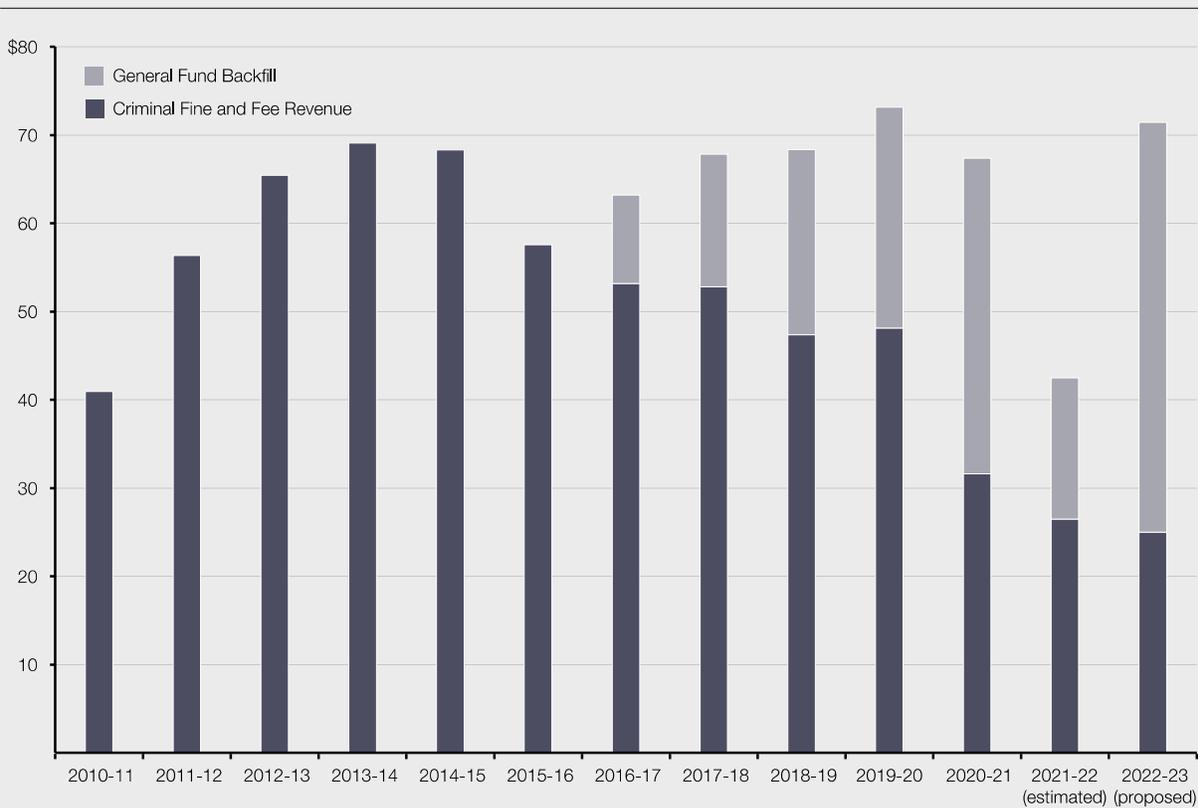
(In Millions)



**DNA Identification Fund Backfill.** The Bureau of Forensic Services (BFS) provides criminal laboratory services, such as DNA testing, to local law enforcement and prosecutorial agencies at no cost. BFS is primarily funded through the DNA Identification Fund, a special fund that receives criminal fine and fee revenue. However, that revenue has been steadily decreasing, and since 2016-17, the state has also provided General Fund to backfill the DNA Identification Fund. DOJ is required to submit a report by March 10, 2022, to identify new options to support BFS operations. For now, the proposed budget includes \$46.4 million one-time General Fund backfill to support BFS operations for 2022-23. The proposed budget also includes language allowing the Department of Finance to provide additional backfill as required, with 30-day notification of the Legislature.

**Steady Decline in Criminal Fine and Fee Revenue Deposited Into the DNA Identification Fund**

(In Millions)



LAO

**LAO Comments.**

**Proposals Lacks Long-Term Solutions to Special Fund Shortfalls.** The LAO notes that both funds are expected to be insolvent this year or next year and will continue to face structural revenue deficits in the future. The budget proposals provided here are only short-term solutions.

*BFS Provides Substantial Benefits to Local Governments.* 46 counties do not use any of their own resources for criminal laboratory services, and BFS is effectively subsidizing those counties by tens of millions of dollars in services annually. In addition, the current structure does not incentivize counties to use BFS services efficiently, as they are not charged for testing. On the other hand, some counties run their own labs, and do not benefit from BFS at all.

**LAO Recommendation.**

*Ammunition Safety and Enforcement Special Fund.* The LAO recommends that the Legislature approve additional funding to the Ammunition Safety and Enforcement Special Fund as a loan, intended to be paid back to the General Fund. The LAO notes that this proposal does not address the long-term structural issue with the fund, which is that the total revenues from the Ammunition Purchase Transaction Fee do not cover the costs of operating the Ammunition Purchase Authorization Program. The LAO also recommends raising the ammunition purchase transaction fee to cover costs and allow the initial loan and any subsequent loans to be repaid. The amount the fee should be raised depends on how quickly the Legislature desires the loans to be repaid. For example, the LAO estimates that a \$3 fee would allow the fund to be stable, a \$4 fee would allow the start-up loan to be repaid in 15 years, and a \$6 fee would allow the loan to be repaid in 5 years (assuming that purchasing behavior does not change with the fee change).

*DNA Identification Fund.* The LAO recommends approving the backfill for 2022-23, but to explore other funding structures for 2023-24 and ongoing. The LAO notes that the March report from DOJ will help identify other funding for BFS operations. Regardless of alternatives, the LAO also recommends that BFS charge local governments for services provided, beginning in 2023-24. The LAO recommends developing the funding framework over the next year, considering how much General Fund the state is willing to contribute, the services requested by each local agency, equity concerns, and other factors.

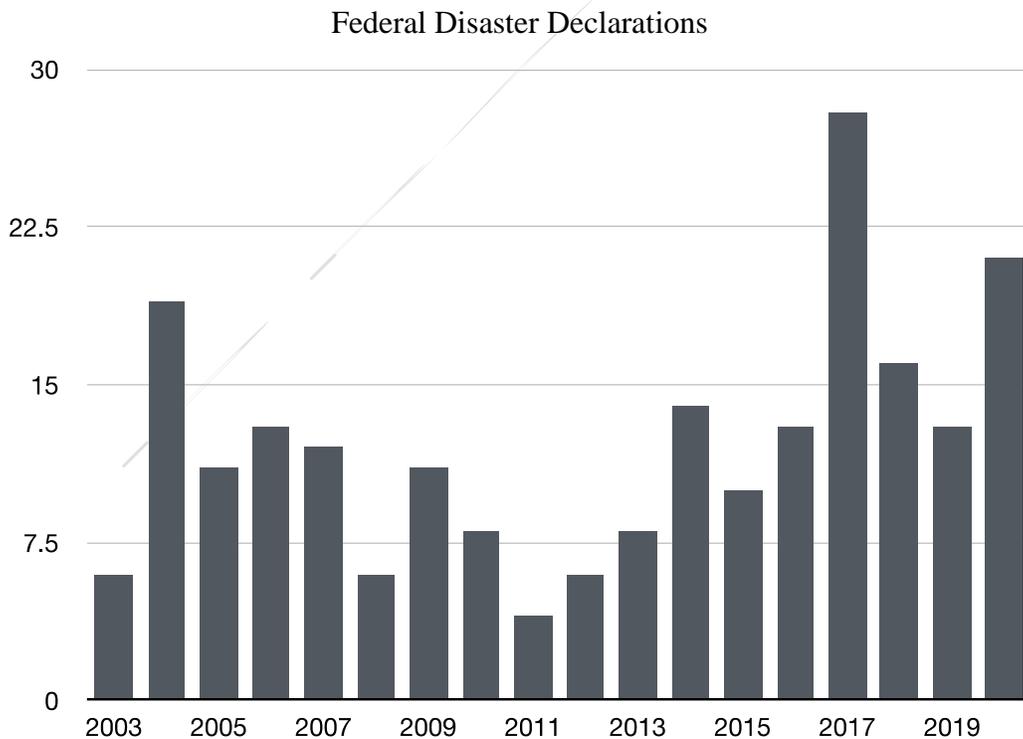
**Staff Recommendation.** Hold Open.

**0690 OFFICE OF EMERGENCY SERVICES (CAL OES)**

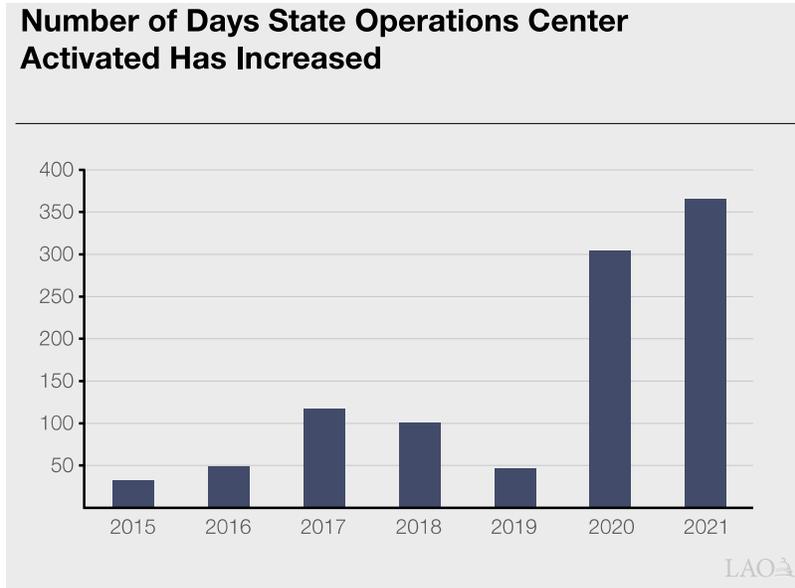
The state is responsible for mitigating the effects of disasters and for protecting Californians' lives and property. Cal OES serves as the state’s leadership hub during all major emergencies and disasters. This includes responding, directing, and coordinating state and federal resources and mutual aid assets across all regions to support the diverse communities across the state.

Cal OES also supports local jurisdictions and communities through planning and preparedness activities, training, and facilitating the immediate response to an emergency through the longer-term recovery phase. During this process, Cal OES serves as the state’s overall coordinator and agent to secure federal government resources through the Federal Emergency Management Agency (FEMA).

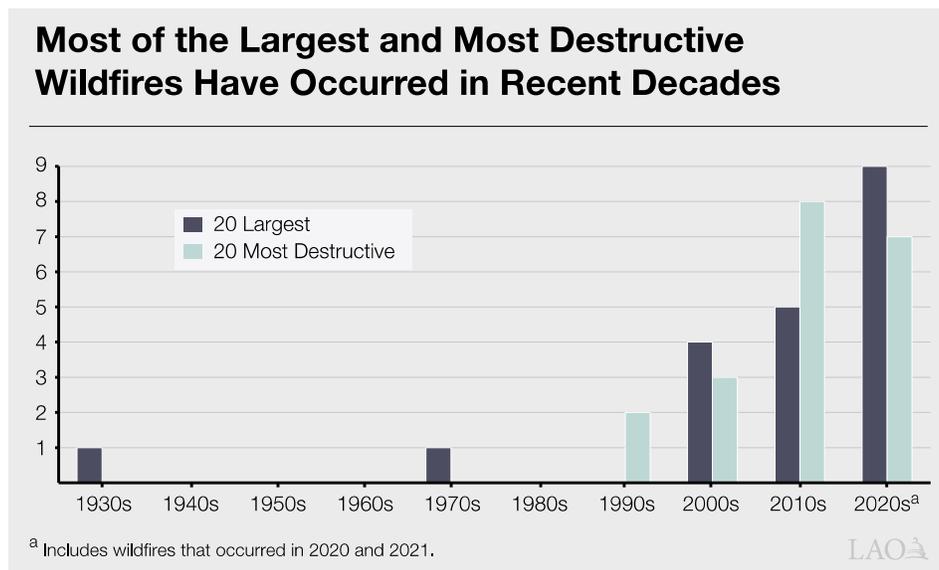
California has moved into a new chapter of emergency management, disaster response, and recovery in the state. Emergencies and disasters are more frequent, more complicated, often involving multiple counties and regions of the state, and the resulting recovery for communities is much longer. Over the 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. California will be recovering from these complex disasters for at least the next decade, while continuing to respond to future disasters.



As a result, the number of days OES has activated the SOC has increased. The primary reason for the major increase in SOC activation days in 2020 and 2021 is the state of emergency that has been in place since March 4, 2020 due to the COVID-19 pandemic. This emergency is the longest continuous activation of the SOC in OES history.

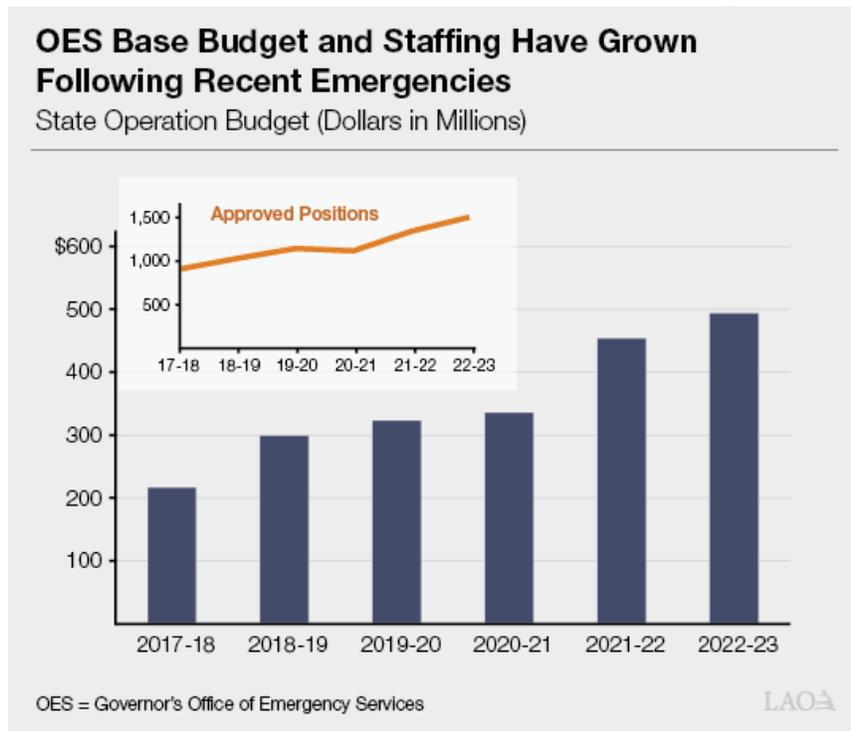


Emergencies unrelated to the pandemic have also increased in severity. Most significantly, the state has experienced a notable increase in the severity of wildfires in recent years. While wildfires are a natural part of California’s ecosystems, when exacerbated by other factors, such as unhealthy forests, development in fire-prone areas, and the effects of climate change (including hotter temperatures and droughts), they are more problematic and represent a greater threat to lives and property. Most of California’s largest and most destructive wildfires have occurred in recent decades. The last few years have also seen emergencies declared for drought, civil unrest, the Ridgecrest earthquake, storms, and a potential energy shortage.



**Increased Level of Emergencies May Persist.** It is possible that the increased number and severity of emergencies seen in recent years will persist or even grow in the future due to various reasons. First, a few key factors that have contributed to the recent increase in large and destructive wildfires are likely to persist, including climate change, unhealthy forests, and development in fire-prone areas. Furthermore, climate change will result in numerous conditions that will cause other types of emergencies, such as more droughts, extreme heatwaves, and coastal flooding. The state also faces a continued threat from COVID-19 and potentially more virulent variants of the disease. In addition, the potential for large infectious disease outbreaks—which could turn into pandemics—could be more likely in the future due to numerous factors, such as human development in animal habitats providing more opportunities for diseases to spread from animals to humans, population growth, international travel, and trade.

**Cal OES Resources.** The proposed budget includes \$2 billion (\$541.1 million General Fund) and 1,507.2 positions for Cal OES. It includes \$239 million (largely from the General Fund) and 163 positions to augment the operations of OES in 2022-23 and to continue three capital outlay projects.



***OES Base Budget Has Significantly Increased in Recent Years.*** In recognition of the increased level of emergencies, OES has received numerous augmentations to its base budget, as well as additional positions, in recent years. From 2017-18 to 2021-22, the state operations budget for OES increased by \$237 million, which represents a 109 percent increase.

## Recent Augmentations to OES Base Budget

- ✓ ***Strengthening Capabilities.*** \$60.6 million and 114 positions in 2021-22 to (1) augment emergency capacity and capabilities to respond to increasingly complex disasters, security threats, and emergencies; (2) maximize federal funds for disasters; (3) modernize technology and data analytics; and (4) strengthen equity and connections with vulnerable populations.
- ✓ ***Long-Term Recovery Support.*** \$37.8 million and 214 positions—110 new positions and 104 positions previously funded on a limited-term basis—in 2021-22 to support recovery efforts, increase federal disaster cost reimbursements for the state and local governments, and enhance programs intended to mitigate the impacts of future disasters.
- ✓ ***Mutual Aid Prepositioning.*** \$25 million in 2019-20 to preposition existing OES and local resources in areas with identified wildfire threat.
- ✓ ***Disaster Planning, Preparedness, and Response.*** \$7.4 million and 88 positions in 2019-20 for activities related to disaster planning, preparedness, and response.
- ✓ ***Regional Hazardous Materials Response.*** \$3.6 million for five positions and vehicles in 2021-22 to respond to emergencies involving hazardous materials.
- ✓ ***Transfer of Seismic Safety Commission.*** \$2.4 million and six positions in 2020-21 for costs associated with transferring the Seismic Safety Commission to OES.
- ✓ ***Wildfire Forecast and Threat Intelligence Center.*** \$2 million and five positions in 2020-21 for OES to participate with other state agencies in operating the Wildfire Forecast and Threat Intelligence Center.
- ✓ ***Emergency Response Operations.*** \$1.6 million and eight positions in regional offices in 2018-19 to support local agencies and coordinate emergency response activities.

OES = Governor's Office of Emergency Services.

Source: LAO

**Issue 7: Various Staffing Proposals**

**Governor’s Budget.** The proposed budget includes the following resources for Cal OES to support its disaster response capabilities and expand its regional presence:

- *Regional Response.* \$5.8 million (\$5.5 million General Fund) and 20 positions to expand Cal OES’s regional response capacity and improve partnerships with local governments and other local stakeholders.
- *Review of County Emergency Plans.* \$1,405,000 General Fund ongoing and 6.0 positions to review the emergency plans of each county to determine whether the plans are consistent with access and functional needs best practices and provide technical assistance, consistent with the requirements of Chapter 744, Statutes of 2021 (AB 580, Rodriguez).
- *Support Capacity.* \$5,042,000 General Fund, \$3,954,000 Federal Trust Fund, \$145,000 State Penalty Fund, \$68,000 bond funds, and 71 positions in fiscal year 2022-23 and ongoing to provide continuity of operations for an increase in administrative support activities. The proposed positions include executive, finance, legal, and audit staff, as well as additional staff for certain programs, such as emergency response, planning, and preparedness programs.
- *Logistics Management.* \$4.9 million ongoing General Fund and 21 positions to improve Cal OES’s core operations and enhance emergency response capabilities.

**Background.**

*Regional Response.* Cal OES has three regional sections (Coastal, Inland, and Southern) that work with each of the 58 counties to facilitate coordination and cooperation between local jurisdictions and counties and the state. Regional staff provide near daily engagement with county emergency managers, coordinating between officials and the array of Cal OES programs that support local and county governments. They also provide linkages between local officials and other state or federal agencies and programs that can support a local government before, during, or after a disaster.

Cal OES is also in the process of establishing a State Operations Center – South (SOC South), which was funded in the 2021-22 budget and will serve as both a back-up for the SOC and a focal point for Cal OES efforts in the southern part of the state. Cal OES also recent established a temporary San Diego Satellite Office to coordinate southern border efforts using emergency COVID-19 funding.

All regions have been stretched by both long-term and chronic disasters over the past few years, including COVID-19, extended wildfires season, and humanitarian efforts. This proposal includes additional staff for each region, the South SOC, and a permanent San Diego Satellite team. The goal is to establish more equal coverage among the regions, provide capacity that can be surged within and amongst regions when multiple or major disasters strike, and add supervisory capacity where needed.

The staff requested include:

- 2 staff for the Coastal Region, covering 16 counties and 9 million people with a wide diversity of needs.
- 7 staff for the Inland Region, consisting of 31 counties and spanning the largest geographic area, much of it rural and/or mountainous.
- 1 staff for the Southern Region, consisting of 11 counties with over 21 million people, with the added complexity of coordinating with Mexico on any cross-border disasters.
- 10 staff for SOC South and the San Diego Satellite Office.

*County Emergency Plans.* Chapter 744, Statutes of 2021 (AB 580, Rodriguez) requires the state to expand emergency planning for the access and functional needs (AFN) population and include representatives from the AFN populations at various levels of emergency planning. The bill requires counties to submit emergency plans to Cal OES that include AFN planning, and, if requested by the county, requires Cal OES to review the emergency plans and provide technical assistance. Cal OES interpreted the language as requiring a review of every county by 2028, and counties could request that the review include a consultation with representatives from AFN populations. Cal OES expects all or most counties to request these reviews and is requesting 6 additional staff in the Community Planning Unit to facilitate this. Regional staff are also involved in reviewing county plans, but Cal OES indicated that specialized staff at the Cal OES Office of Access and Functional Needs would assist with this component.

*Support Capacity.* Cal OES is requesting \$5,042,000 General Fund, \$3,954,000 Federal Trust Fund, \$145,000 State Penalty Fund, \$68,000 bond funds, and 71 positions in fiscal year 2022-23 and ongoing to provide continuity of operations for an increase in administrative support activities. As Cal OES has grown, so has the support workload. Support functions include financial operations, accounting, legal, communications and technology. 38 of the positions will be funded through the direct funding indicated here and 33 will be funded through distributed administration funding (overhead) from eight of Cal OES's other BCPs.

*Logistics Management.* The Disaster Logistics Planning and Coordination (DLPC) Branch includes Disaster Logistics, Logistical Services, and Facilities. The staffing in this division has not kept up with the increased pace of disasters in the state or the increased size of Cal OES, resulting in project delays and other issues. The Logistics Management division has relied upon temporary and redirected staff to meet the expanding needs of the agency and the mission. Currently, the Logistics Management division has 38 permanent staff and 17 temporary staff. This proposal would convert 12 temporary staff to permanent and add additional permanent staff. The result would be 59 permanent staff and 5 temporary staff (which will not be renewed upon expiration). Specifically, Cal OES is requesting:

- 10 positions for Disaster Logistics to handle the existing workload and expand the ability to respond to multiple crises. The Disaster Logistics coordinates logistics in major incidents, such as implementing staging areas and responder base camps and coordinating the delivery of PPE across the state during COVID-19. Since 2020 the current program has worked more than 30,000 hours of overtime to support disaster related work. This averages to 196 hours per staff person per month.

- 5 positions for Business Services and Facilities Management to support fleet management, reimbursement services, and other duties.
- 3 positions for Facilities, to oversee Cal OES’s growing facility needs.
- 2 positions for Physical Security Unit, to coordinate security at Cal OES headquarters, especially around visits.
- 1 leadership position in DLPC.

**LAO Comment.** *Positions Requested Each Year for Similar Purposes, but Overall Staffing Plan and Needs Remain Unclear.* OES has often requested resources for similar purposes year after year. For example, the 2019-20 budget provided \$7.4 million to support 88 additional positions for disaster planning and preparedness, recovery workload, logistics, administration, and grants management. Similarly, the 2021-22 budget provided a \$60.6 million augmentation to support 114 additional positions for many of the same purposes. As shown below, OES is requesting staffing increases in 2022-23 for the same or similar functions that it has received staffing augmentations for in prior years. While the additional positions provided in recent years, and proposed by the Governor for the budget year, assist in the operations of OES, the overall staffing needs of the department in both the near and long term are not clear. Moreover, OES lacks a staffing plan that outlines a strategy for addressing identified staffing needs. The absence of clearly identified staffing needs and plan is evident in the department requesting positions for similar functions each year.

<b>OES Requests Additional Staff For Similar Activities Most Years</b>					
	2018-19	2019-20	2020-21 <sup>a</sup>	2021-22	2022-23
Grant Administration	●	●		●	●
Monitoring and Quality Control	●	●		●	
Accounting and Audits		●		●	●
Fiscal and Budget				●	●
Information Technology	●	●		●	●
Emergency Management and Response	●	●	●	●	●
Regional Staffing	●				●
Administration	●	●		●	●
Planning		●	●	●	●
Logistics		●		●	●
Recovery	●	●		●	

<sup>a</sup> OES initially requested additional resources in 2020-21 beyond what is shown, however, those requests were withdrawn after the start of the COVID-19 pandemic and projections of a budget deficit.

OES = Governor’s Office of Emergency Services.

Source: LAO

*Strategic Plan for Enhancing Emergency Response Capacity Needed to Guide Future Budget Decisions.* Given the possibility of a continued increase in the number and severity of emergencies, it is reasonable to enhance the state's emergency response capacity. However, it is difficult to determine whether the Governor's specific proposals reflect the most effective and efficient approach to doing so because they are not tied to specific emergency response goals and objectives. The LAO finds that the development of a strategic plan to enhance emergency response capacity would be valuable in assessing future proposals.

**LAO Recommendation.**

*Recommend Development of Strategic Plan and Review of OES Base Budget.* In order to ensure the Legislature has better information to make decisions in the future, The LAO recommends requiring the administration to develop a strategic plan for enhancing emergency response capacity no later than January 1, 2024. Such a plan should include (1) goals for emergency response capacity, (2) an assessment of existing capacity, (3) identification of gaps or weakness in current capacity, and (4) an assessment of the level of staffing needed to support capacity goals. The LAO also recommends that the OES base budget be reviewed to determine whether existing resources are meeting strategic plan goals, some resources should be reallocated to higher-priority uses, and recent augmentations have already provided the necessary resources.

*Recommendations on Specific Staffing Proposals.* The LAO recommends approving the funding for review of county emergency plans consistent with Chapter 744 of 2021 (AB 580, Rodriguez). This proposal appears reasonable for two reasons. First, the proposal would provide adequate resources for OES to complete statutorily required workload. Furthermore, the review of plans for vulnerable populations could help inform OES of local capacity to assist vulnerable populations, which in turn could assist OES in future emergency response efforts or future efforts to assess gaps in emergency response capabilities.

For the other staffing proposals, the LAO recommends approving them with three-year limited term funding, so that they can be reassessed once a strategic plan is available that can be used to evaluate Cal OES's budget.

**Staff Recommendation.** Hold Open.

**Issue 8: Cal OES Headquarters Modernization**

**Governor’s Budget.** The proposed budget includes the following resources for capital outlay and support costs to continue three projects at Cal OES Headquarters in Mather:

- *State Operations Center (SOC) Modification.*
  - \$1,000,000 for the equipment phase and \$8,928,000 for the construction phase.
  - \$5,187,000 General Fund in 2022-23 and \$1,957,000 General Fund in 2023-24 for support costs, primarily for leasing a temporary space for 18 to 24 months and moving costs.
- *Lobby Security Enhancements.*
  - \$198,000 for the working drawings and \$1,111,000 for the construction phases.
  - \$40,000 General Fund in 2022-23 for support costs including a temporary security guard station and signage.
- *Security Checkpoint Enhancements.*
  - \$351,000 for the working drawing phase.
  - \$200,000 ongoing General Fund for support costs, specifically to add two additional security guards to staff the security checkpoints.

**Background.**

*SOC Modification.* The SOC is used to coordinate resource requests, maintain situational awareness, and resolve and set priority issues. The SOC is also where federal, state, and local agencies report during a disaster and in support of the National Response Framework. The SOC is currently set up in a war room model (a dedicated location for emergency personnel to co-locate and communicate the activities associated with the execution of the emergency at hand). However, the layout is not optimal for collaboration and is not accessible to people with disabilities or limited mobility.

The project includes changing the State Operations Center (SOC) from a tiered theatre style seating arrangement with computers to a flat workspace with work pods, increasing seating from 54 to 64. The project will also push out the second-floor balcony approximately 20 feet to add additional workstations, redesign and reconstruct the State Warning Center to add three cubicles, and replace the aging technology video wall with the most current technology available.

The working drawings phase has estimated completion in February 2023. The construction is anticipated to begin in July 2023 with completion by August 2024. The total project cost will be \$17.537 million (\$10.393 million for the capital outlay project and \$7.144 million needed to acquire swing space during the construction phase).

*Lobby Security.* The current entrance to Cal OES has an open lobby layout, where visitors entering could access stairwells and other areas. To maintain steady operations and to provide a safe and secure workplace for staff to conduct businesses, Cal OES’s headquarters must be tightly secure

during activations and normal operations. Currently, upon entry into the building, there are no preventative security measures to control the movement of the visitors.

The new design consists of a free-standing security kiosk, badge access turnstiles at the north and south entry points and adjacent to the stairwell that provides access to the Executive suite, and planter boxes and other obstruction type barriers to funnel foot traffic through these three main points of entry. The project includes construction and installation of all items as well as the demolition and removal of existing furniture.

The estimated total project costs are \$1,411,000 including preliminary plans (\$102,000), working drawings (\$198,000), and construction (\$1,111,000). The construction amount includes \$855,000 for the construction contract, \$60,000 for contingency, \$83,000 for architectural and engineering services, \$60,000 for agency retained items, and \$53,000 for other project costs. The preliminary plans phase began September of 2021. The construction is anticipated for completion by November 2023.

*Security Checkpoint.* Currently, there is no effective or sustainable means to control the vehicular flow of traffic to the main parking area at the Cal OES Headquarters facility. The current parking lot points of entry consists of wooden gate arms and an unmanned badge reader. Pedestrians can enter the rear parking area of the facility, and due to the distance of the security guards, have unfettered access to the rear parking area for an unspecified amount of time. During times when Cal OES is activated and because of the number of partner agencies that access the facility, these gate arms are typically left in the open position, allowing the public to access these areas. There have been five instances of individuals penetrating the rear parking lot through the vehicle access points this calendar year.

The project includes security enhancements to the main point of entry and the delivery entrances, including installing two fortified, permanent security kiosks and upgrading the physical barriers from wooden gate arms to anti-ram, metal control arms. A badge reader installation, intercom and video camera system will also be installed to ensure proper identification of staff and visitors prior to entrance into the facility parking area.

The total project costs are estimated at \$2,763,000. The start date was July 2021. The working drawing phase will begin July 2022 with completion by May 2023. The construction phase is anticipated to begin October 2023 with completion by July 2024.

**LAO Recommendation.** The three proposed capital outlay projects and two related support proposals appear reasonable as they would continue projects that have been previously approved by the Legislature. In addition, modernizing and improving the functioning of the OES headquarters facility and SOC will benefit the state by providing more appropriate and secure facilities.

**Staff Recommendation.** Hold Open.

**Issue 9: Implementing a 9-8-8 Behavioral/Mental Health Hotline**

**Governor’s Budget.** The proposed budget includes \$7.5 million General Fund (\$6 million ongoing) and ten positions to implement a new federally mandated 9-8-8 call system to increase the ease and accessibility for those experiencing a behavioral or mental health crisis. This request will allow Cal OES to procure, install, and maintain call handling equipment to enable the 13 existing Lifeline Call Centers across the state to answer 9-8-8 calls, handle the expected 9-8-8 call volume, and transfer calls between 9-1-1 and 9-8-8.

**Background.** The federal National Suicide Hotline Designation Act established 9-8-8 as the new three-digit alternative to 9-1-1 to aid rapid access to suicide prevention and mental health support, and to provide behavioral or mental health crisis response. The FCC issued Report and Order 18-336 and mandated telecommunication carriers to implement 9-8-8 by July 16, 2022. Before July 2022, when 9-8-8 goes live, states must create a framework to receive and respond to 9-8-8 calls.

*Lifeline Call Centers.* In California, these calls will be answered by 13 existing National Suicide Prevention Lifeline (NSPL) Call Centers, local crisis centers that provide free and confidential support 24/7/365 for people in suicidal crisis or emotional distress. Many of the calls are handled on the line by the person (often a volunteer) at the call center. Lifeline call centers in California set the hours and coverage areas for when they will take calls based on funding and staffing levels. If a crisis center is unable to respond to all callers at any time, calls are diverted to backup centers. When calls are re-routed to centers out-of-state, California callers in crisis often wait two to three times longer, receive fewer linkages to effective local care, and are more likely to abandon their calls. In 2019, the NSPL received nearly 2.3 million crisis calls from across the United States and 290,619 of those calls were from California. Of those calls, 199,192 were connected to crisis centers in the state. Since 2016, California Lifeline call volume has increased 60 percent, and this is expected to rise even higher given the ongoing COVID-19 pandemic and the resultant increase in mental health and substance use disorder crisis needs.

*Infrastructure.* Cal OES, who operates the 9-1-1 system, is providing the technical support and expertise to set up the infrastructure for these 9-8-8 calls, including two key goals:

- Ensure the Lifeline Call Center call handling equipment can support the new FCC 9-8-8 carrier mandate.
- Ensure calls can be transferred from 9-8-8 to 9-1-1 and vice versa.

Cal OES indicated that their primary focus is technical, not content or response. Cal OES is part of planning groups with the Health and Human Services Agency, the Department of Health Care Services (DHCS), the federal Substance Abuse and Mental Health Services Administration (SAMSHA), and the call centers.

*Timeline.* The federal mandate takes effect in July. Cal OES indicated that they are currently redirecting resources to support the initial implementation, and then would perform initial upgrades and review the capabilities of the Lifeline Call Centers to better understand gaps in the system. Over the next two years, Cal OES would perform equipment upgrades.

*AB 988.* Proposed legislation would provide ongoing funding for this system using a fee. The bill would also place several requirements on the system to align it more substantively as an alternative to 911, with similar expectations in terms of physical, immediate responses and assistance.

*Federal funding.* There has been significant federal funding for this transition, given that it is a federal mandate. However, according to DHCS, all SAMHSA funds allocated to California are currently obligated and not available for this activities described here.

**Staff Comment.** Concerns have been raised about the ability of the call centers to answer these calls to the degree that the public may expect and need if the system is advertised as a 911 alternative. While that concern is not specifically related to this BCP, the Legislature should ensure that the entire system is adequately resourced.

**LAO Recommendation.** While the Governor's 988 hotline proposal appears necessary as the system's implementation is federally required, the proposal does not account for potential federal funding available for this purpose through the federal American Rescue Plan Act that was enacted in March 2021. These federal funds could reduce, or potentially replace, the need for state General Fund support. The administration indicates it is currently looking into the availability of federal funds to support the implementation of the 988 hotline.

The LAO recommends that the Legislature direct OES to report on the administration's efforts to secure federal funds for implementation of the 988 hotline. This should include the level of federal funding the state has requested and the potential timing of receiving federal funds if they are awarded to the state. Until the receipt and review of such information, The LAO withholds recommendation on the Governor's 988 hotline implementation proposal.

**Staff Recommendation.** Hold Open.

**Issue 10: California Earthquake Early Warning System**

**Governor’s Budget.** The proposed budget includes \$17.1 million ongoing General Fund and three positions to support the California Earthquake Early Warning Program, including increasing sensor density, offering education grants, and researching new public alert methods.

**Background.** The California Early Earthquake Warning (CEEW) System uses thousands of sensors statewide to detect the early signs of an earthquake and provide a warning a few seconds to a minute or more in advance of an earthquake. The farther away the earthquake, the more warning is received. This alert can be used to automatically take preventative measures that would limit damage, such as stopping or slowing trains, interrupting power or gas sources to decrease the risk of fire, pausing surgeries or other sensitive tasks, opening elevator doors at the next available floor, and activating emergency response units<sup>28</sup>. Starting in October 2019, alerts are also sent to the public via cell phones and other methods, and could provide time for people to “drop, cover, and hold on” and prevent injuries and death. Mexico, Japan, Turkey, Romania, China, Italy, and Taiwan all have some form of early earthquake warning system, some of which have been activated and used to prevent injuries and damage. The usefulness in California specifically is hard to predict until there is a major earthquake, and it depends on where the epicenter is, what is nearby, and how prepared entities and people are to respond to early alerts. One challenge to note in California is that fault lines and their associated hazards coincide with areas of high population density, requiring an extremely fast system to transmit a useful warning<sup>29</sup>.

*Previously Allocated State Resources.* Cal OES has received several one-time appropriations to support the implementation of the CEEW System, including:

- \$10 million General Fund and four permanent positions in 2016-17 for Cal OES to begin the buildout of the CEEW System, including installing seismic stations, increasing telemetry speed and pathways, and improving system performance; developing strategies to reduce the latency to distribute alerts; writing the CEEW Business Plan; implementing a comprehensive statewide public service announcement campaign; and providing program oversight through the CEEW Board.
- \$15 million General Fund in 2018-19 to complete the seismic station buildout through interagency agreements to support seismic sensor installation, enhancements of the state microwave network and last-mile telemetry, and research methods to improve earthquake early warning algorithms. Additionally, Cal OES received \$750,000 General Fund ongoing to provide permanent funding for the four positions previously established to support the CEEW Program.
- \$16.3 million General Fund in 2019-20 to finish the build-out of the CEEW System by adding Global Positioning System (GPS) stations to the network, improving telemetry, and launching a statewide education and outreach campaign.

<sup>28</sup> [https://earthquakes.berkeley.edu/research/eew\\_docs/StraussAllen-EEWuses-SRL-2017.pdf](https://earthquakes.berkeley.edu/research/eew_docs/StraussAllen-EEWuses-SRL-2017.pdf)

<sup>29</sup> [https://pubs.usgs.gov/of/2021/1026/ofr20211026\\_v1.1.pdf](https://pubs.usgs.gov/of/2021/1026/ofr20211026_v1.1.pdf)

- \$17.3 million California Earthquake Safety fund in 2020-21, funded by a loan from the Schools Land Bank Fund, to support the ongoing maintenance, operation, and education required for the CEEW System to function as intended.
- \$17.3 million General Fund in 2021-22, to support the ongoing maintenance, operation, research, and education required for the CEEW System to function as intended.

Ongoing funding is needed to (1) improve and maintain the technical system that detects the earthquakes and triggers the alert, and to (2) ensure the alert is useful – namely that it is communicated to automatic systems correctly, and that it is communicated to the public and that public knows what to do if they receive an alert. Cal OES has indicated that the system’s annual operating costs are roughly \$17.1 million.

The CEEW was initially conceived as a public-private partnership, reflecting the benefits provided by the system to private entities. In the most recent CEEW Business Plan Update, the CEEW Advisory Board recommended that the program be funded by industries that would reduce their earthquake risk the most<sup>30</sup>. Cal OES is working to finalize a Benefit Cost Analysis report, and some funding is received from partners including the US Geological Survey and from private entities that install automatic notification systems. However, Cal OES has indicated that they have had trouble identifying a stable private funding source and are instead requesting ongoing General Fund resources to maintain and improve the CEEW System. Cal OES indicates that they still intend to solicit private and federal funding for specific enhancements or pilot projects.

*Requested Resources.* The resources requested would go towards maintaining the communications and sensor network (\$10.1 million), outreach and education (\$3.1 million), research and development (\$1.2 million), and program management and other costs (\$2.7 million). Major activities include increasing the sensor density, improving connections, offering education grants to community-based organizations to educate the public on what to do in case of an alert, investigating new alert distribution options, including FM radio and crowd sourcing, expanding outreach, and continuing to seek additional federal and private funding to enhance the system.

**LAO Comment.** The Governor proposes to make permanent the level of funding that has been provided previously on a one-time basis to support the development of the CEEW System. While the system is potentially promising, without a strategic plan, it is unclear how the current approach to building out the system would align with overall emergency response goals. For example, it is unclear whether the current efforts to expand the system would provide the highest-priority benefits or whether alternative strategies, such as increased funding for building seismic retrofits, would better mitigate the potential harm from earthquakes.

**LAO Recommendation.** The LAO recommends that the Legislature require Cal OES to develop a strategic plan for enhancing emergency response and use it to evaluate future budget proposals. For this specific proposal, the LAO recommends approving it with three-year limited term funding, so that it can be reassessed once the plan is available.

**Staff Recommendation.** Hold Open.

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<sup>30</sup> <https://www.caloes.ca.gov/EarthquakeTsunamiVolcanoProgramsSite/Documents/CEEWS%20Business%20Plan%20Update%20Final.pdf>

**Issue 11: Fire and Rescue Mutual Aid System.**

**Governor's Budget.** The proposed budget includes the following resources for the California State Fire and Rescue Mutual Aid system:

- \$11.2 million General Fund (\$10.9 million ongoing) and 11 positions to maintain the fleet.
- \$4,045,000 General Fund in fiscal year 2022-23, \$3,998,000 ongoing, and eight positions to transfer training operations from the California Fire and Rescue Training Authority (CFRTA) to the California Specialized Training Institute (CSTI).

**Background.** The Cal OES Fire and Rescue Division coordinates the California State Fire and Rescue Mutual Aid system, which oversees the movement and sharing of local and state resources during emergencies. The system includes firefighting equipment and Urban Search and Rescue (US&R) teams, among other shared resources.

*Fire Fleet.* The Fire and Rescue Division manages over 250 fire engines, as well as various other support vehicles including rescue boats and US&R trailers. The fleet has grown significantly, and related funding has not kept up. Cal OES is requesting \$3.35 million annually for fleet maintenance, including updating and replacing equipment and additional staff to oversee the fleet, including administration, maintenance, and on-site support during deployment.

*Training.* CSTI was established in 1971 under the California Military Department to provide law enforcement training to state agencies, cities, and counties. The scope of its mission grew to include civil emergency management, and in 1985 the Institute was transferred to Cal OES. CSTI offers 102 course titles in emergency management, hazardous materials emergency response, criminal justice and homeland security, and crisis communications, and offers classes in support of the State Fire and Rescue Mutual Aid System, including hazardous materials emergency response, among others.

The resources requested here would be used to transfer fire and rescue training operations from CFRTA, which is jointly run with the Sacramento City and Sacramento Metropolitan Fire Departments, to CSTI. These trainings help firefighters from various state and local entities. The proposed training includes firefighter training and specialized US&R training.

Specifically, Cal OES is requesting:

- *CSTI Staffing.* 8 positions to oversee the training at CSTI.
- *Regional US&R Task Forces.* \$1.022 million for training Regional US&R Task Forces. These are locally funded teams that are part of the mutual aid network and can rapidly deploy across the state. They assist in tasks such as searching for people missing after wildfires or mudslides, or rescuing firefighters or others trapped by wildfires. Currently, these teams are largely trained at the local level, but this funding would allow them to be trained at CSTI, and at the same level as the eight FEMA US&R Teams in the state.

- *Mobilization Exercise Training.* \$1.038 million to expand opportunities for mobilization exercises and other training for both the eight FEMA and the ten Regional US&R Task Forces. FEMA and the local agencies also contribute to the total cost of these exercises.

**LAO Comment and Recommendations.**

***Fire Fleet.*** OES mutual aid fire engines are an important part of the state's ability to access additional capacity during peak wildfire season and large wildfires. However, at this time, it is unclear how the proposed \$11 million ongoing would be used. Specifically, it is unclear to what extent the funding would be used by OES to replace existing fire engines more frequently or provide a more robust maintenance program for its engines. Without this type of basic information, it is impossible for the Legislature to evaluate what specific improvements to fire response capacity would be expected from this proposal and whether they would justify the additional costs. Accordingly, the LAO recommends withholding action pending receipt of such information.

***Search and Rescue Teams and Training.*** The LAO finds that this proposal is difficult to assess in the absence of a strategic plan. First, the proposal would replace an existing state-local partnership with a state-run program at a significantly higher cost. Specifically, under the proposal, OES would spend \$2 million more annually to provide the training, which currently costs the state \$360,000. It is unclear whether and to what extent this approach would provide an increased level of service. To the extent the proposal would support an increased level of service, without a strategic plan, it is unclear if such an increase is necessary.

Second, for the \$1 million annually for local urban search and rescue teams, it is unclear whether providing funding for these local teams should be a state responsibility. For example, it is unclear whether the funding would simply replace local funding or increase the capacity of these teams. Moreover, without a strategic plan that outlines a long-term strategy on the use of local search and rescue teams, it is unclear if any increase in capacity is necessary.

Third, the proposal includes funding to align reimbursements provided to local governments for their cost of participating in mobile training exercises for search and rescue teams with their current actual costs. Adjusting the reimbursement rate to better reflect current costs appears reasonable. However, without a strategic plan, it is unclear whether the number of mobile training exercises funded would align with the state's capacity goals.

The LAO recommends that the Legislature require Cal OES to develop a strategic plan for enhancing emergency response and use it to evaluate future budget proposals. For this specific proposal, the LAO recommends approving it with three-year limited term funding, so that it can be reassessed once the plan is available. However, absent justification for increasing the cost of training, the LAO recommends providing only the funding for the local search and rescue teams and mobile training exercise reimbursements.

**Staff Recommendation.** Hold Open.

**Issue 12: Disaster Funding**

**Governor’s Budget.** The proposed budget includes two appropriations for OES to respond to disasters, and to fund emergency activities that may fall outside of disaster declarations:

- *California Disaster Assistance Act Adjustment.* Cal OES provides financial assistance to local governments for costs incurred as a result of disasters in California per the California Disaster Assistance Act (CDAA). The proposed budget includes:
  - One-time increase of \$114,029,000 General Fund for a proposed 2022-23 total of \$176,643,000.
  - Ongoing increase of \$37,386,000 to the existing annual \$62,614,000 General Fund baseline, resulting in a new ongoing annual baseline of \$100,000,000.
- *Mission Tasking Appropriation.* The proposed budget includes \$10 million ongoing General Fund to provide funding to state entities for costs incurred as a result of mission tasking for incidents not covered under a Governor’s proclaimed state of emergency.

**Background.**

*CDAA.* The CDAA authorizes Cal OES to administer a disaster assistance program that provides financial assistance from the state for costs incurred by local governments due to declared disaster events. CDAA provides for the reimbursement of local government costs including funding for the repair, restoration, or replacement of public real property damaged or destroyed by a disaster. For federally declared disasters, the federal government covers 75 percent of eligible reimbursed costs, and the state and local governments cover the remaining 25 percent at 18.75 percent and 6.25 percent, respectively. For state declared disasters, the state covers 75 percent of total eligible costs, and the local government share is 25 percent. Cal OES is provided with a baseline amount of funding for this purpose each year (currently \$62.6 million), but the exact funding is readjusted based the eligible disasters and reimbursements. The average CDAA expenditures over the past six fiscal years was \$106.8 million.

*Mission Tasking.* Cal OES is authorized to mission task other state agencies and departments to respond to emergencies. If a disaster has been declared, the Department of Finance (DOF) may use the Disaster Response-Emergency Operations Account (DREOA) to fund these types of activities. Occasionally, Cal OES will task entities with missions that fall outside of declared disasters, which results in the entity absorbing the cost of the task. Examples include tasks undertaken to prevent disasters, or in early intervention before a disaster is declared, among other activities. Since 2019, Cal OES has had a \$20 million appropriation that operates in a similar manner to DREOA, but can be used for mission tasking regardless of whether a disaster is declared. However, it is set to expire at the end of this fiscal year.

**LAO Recommendation.**

*CDAAs Augmentation.* The level of funding for this program is adjusted annually based on projections of reimbursement requests for recent disasters. The LAO finds that the \$114 million augmentation proposed for 2022-23 appears to be reasonable given recent disasters. Moreover, the LAO finds the \$37.4 million ongoing component of the augmentation to be appropriate as it better aligns the program's base budget with the actual amount allocated through CDAAs in recent years.

*Mission-Tasking Funding Duplicative of Existing Authority, Circumvents Legislative Oversight.* The LAO finds the requested \$10 million for mission-tasking funding to be unnecessary for two reasons. First, the proposed funding would allow OES to reimburse departments for costs they incur due to being mission-tasked when other emergency response funding sources are unavailable, such as when a state of emergency has not been declared. However, the Governor's budget already includes the ability to augment funding for departments for unexpected costs or emergencies. Specifically, Item 9840-001-0001 includes \$40 million to augment departments' General Fund budgets and Item 9840-001-0494 includes \$15 million to augment departments' special fund budgets upon approval of the Director of Finance and no sooner than 30 days after notification to the Joint Legislative Budget Committee. The LAO also notes that the proposed level of funding for Item 9840-001-0001 is \$20 million higher in 2022-23 than the amount included in the 2021-22 budget.

Second, the Governor's proposal would allow the administration to transfer the \$10 million from OES to other departments without any legislative notification. Under the proposal, OES would only be required to report by March 1, 2024 on the use of the funds. Thus, such transfers would be subject to considerably less legislative oversight than required by the 9840 items.

The LAO recommends that the Legislature reject the mission-tasking appropriation proposal given that there is an existing process for augmenting departments' budgets for such expenses that would provide greater legislative oversight.

**Staff Recommendation.** Hold Open.