

SUBCOMMITTEE NO. 5

Agenda

Senator Nancy Skinner, Chair
Senator John M.W. Moorlach
Senator Jim Beall



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State Capitol - Room 113

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Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ITEMS FOR VOTE-ONLY

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

1. ***Partnership with California Volunteers and Various Adjustments.*** The January budget originally proposed a placeholder amount of \$2 million for three years beginning in 2019-20 for the Division of Juvenile Justice to establish a mentorship program in partnership with AmeriCorps. The program's purpose is dedicated to committed youths in petitioning for honorable discharge designations. This amount was adjusted in a Spring Budget Change Proposal. The various technical adjustments result in a decrease of \$1.17 million to General Fund allocations as it relates to the California Volunteers proposal, corrects one-time funds erroneously budgeted as ongoing, and leads to an increase of 2.4 positions to support the seven-day operations at the Ventura Training Center.

In partnership with DJJ, California Volunteers issued a planning grant with federal funds to engage partners with subject matter expertise in determining how to leverage AmeriCorps and create the most effective program design. The planning period is nearing completion, and California Volunteers has set aside federal funds up to \$900,000, which can be spent over three years, to support the implementation of the program model described later in this proposal. Up to 40 part-time AmeriCorps "Honorable Discharge Navigators" would be chosen each year from applicants with prior involvement with the justice system (inclusive of juvenile adjudication and adult incarceration). These Navigators would assist young people currently in DJJ custody, young people returning to their communities from DJJ custody, and young people who left DJJ custody within the prior 18 months, to better understand the benefits of receiving an honorable discharge and the requirements of the petition process. Through peer mentoring and one-on-one coaching. Navigators would help eligible and potentially eligible individuals utilize reentry resources to increase their likelihoods of successfully applying for and receiving honorable discharges. CDCR plans to contract with a nonprofit entity in coordination with AmeriCorps through California Volunteers to create the mentorship program.

Staff Recommendation. Approve as budgeted.

2. ***Receiver- Statewide Telehealth Services Program.*** California Correctional Health Care Services requests 17 positions and \$6 million in fiscal year 2019-20 and \$5.4 million in 2020/21 and ongoing to expand the Telehealth Services Program. Specifically, this request includes funding to (1) purchase telehealth equipment and software, (2) establish dedicated management oversight, and (3) provide information technology and business operations support for the expanded program. With the expansion and evolution of the use of the telehealth service delivery model comes the need to ensure the proper administrative structure and oversight of the program. Similarly, the expansion of Telehealth requires additional Information Technology (IT) and Business Operations support.

Staff Recommendation. Approve as budgeted.

3. ***Receiver-California Correctional Health Care Services (CCHCS) Leasing Augmentation.*** The budget requests \$3.6 million in 2019-20 and ongoing to fund increases in lease costs. CCHCS leases a number of privately-owned buildings in the management of its day-to-day operations. The rent for these buildings has increased annually at approximately 3.7 percent since 2013-14. However, funding for these rent increases has not been added to CCHCS' budget since 2011-12,

and the result are projected deficits of \$3.07 million in 2018/19 and \$3.6 million in 2019-20. The workload and job duties, however, have not decreased such that CCHCS could downsize to smaller and less expensive buildings. In fact, the need for office space has been increasing with the redirection of physician and psychiatry positions to headquarters and regional offices to provide care via Telehealth.

Staff Recommendation. Approve as budgeted.

4. ***CDCR Administration Changes Trailer Bill Language.*** The budget includes trailer bill language that would rename the Undersecretary for Administration and Offender Services as the Undersecretary of Administration. The language would rename the Division of Internal Oversight and Research as the Division of Correctional Policy Research and Internal Oversight. The bill would also eliminate the Division of Fiscal and Business Services.

Staff Recommendation. Approve as budgeted.

5. ***Roof Replacement Design and Construction.*** The budget proposes \$2 million General Fund in 2019-20 for the design phase of roof replacements at High Desert State Prison and California State Prison, Solano and \$69.7 million General Fund in 2020-21 for the construction phase.

Staff Recommendation. Approve as budgeted.

0820 CALIFORNIA DEPARTMENT OF JUSTICE (DOJ)

6. ***Theft: Aggregation of Organized Crime (AB 1065).*** The budget requests \$327,000 General Fund in 2019-20 and \$149,000 General Fund in 2020-21 to implement the provisions of AB 1065 (Jones-Sawyer) Chapter 803, Statutes of 2018. AB 1065 creates, until January 2, 2021, the crime of organized retail theft, extends the county jurisdiction, and requires the California Highway Patrol, in coordination with DOJ to convene a regional property crimes task force.

Staff Recommendation. Approve as budgeted.

7. ***Peace Officer Radio Replacement.*** The budget includes a one-time General Fund allocation of \$2.87 million to replace 300 peace officer radios. The Governor's Office of Emergency Services (OES) has recommended repeatedly over the last several years that the DOJ's Division of Law Enforcement replace its radios, a suggestion that has not been implemented due to a lack of funding.

Staff Recommendation: Approve as budgeted.

8. ***Implementation of Mandates in SB 746, SB 1100, AB 1872, and AB 1968.*** The budget includes \$5.2 million Dealers' Record of Sale Special Account spending authority and 10 positions in 2019-20, \$2.7 million in 2020-21, and \$1.7 million in 2021-22 and ongoing to implement SB 746, SB 1100, AB 1872, AB 1968.

- SB 746 (Portantino), Chapter 780, Statutes of 2018, allows a person who is temporarily prohibited from possessing ammunition to transfer ammunition to an ammunition

vendor, in addition to a licensed firearms dealer and requires a new California resident to apply for a unique serial number within 60 days of arrival for any firearm the resident wishes to possess in the state.

- SB 1100 (Portantino), Chapter 894, Statutes of 2018, increases the age at which a person can purchase a long-gun from a licensed dealer from 18 to 21 years old with certain exceptions.
- AB 1872 (Voepel), Chapter 56, Statutes of 2018, adds harbor and port police departments to the list of entities exempt from the sale or purchase of unsafe handguns.
- AB 1968 (Low), Chapter 861, Statutes of 2018, prohibits a person who has been taken into custody, assessed, and admitted to a designated facility because he or she is a danger to himself, herself, or others, as a result of a mental health disorder and who was previously taken into custody, assessed, and admitted one or more times within a period of one year preceding the most recent admittance form owning a firearm for the remainder of his or her life.

Nearly all of this funding would support DOJ's internal data center responsible for modifying and maintaining databases used by Bureau of Firearms.

Staff Recommendation: Modify this proposal by taking the following action for each bill:

SB 746: Approve proposed resources within Governor's budget

SB 1100: Approve Dealers' Record of Sale Special Account authority of \$350,000 one-time per Senate Appropriations analysis

AB 1872: Reject all proposed resources

AB 1968: Approve permanent augmentation of two positions and Dealers' Record of Sale Special Account authority of \$663,000 in 2019-20, \$333,000 in 2020-21, and \$238,000 ongoing per Senate Appropriations analysis

- 9. *Justice Human Resources.*** The budget proposes \$2.15 million (\$669,000 General Fund and \$1.5 million Special Fund) in 2019-20, \$2.3 million (\$713,000 General Fund and \$1.6 million Special Fund) in 2020-21, and \$659,000 (\$204,000 General Fund and \$455,000 Special Fund) in 2021-22 and ongoing for DOJ to develop/implement a cloud-based, secure software solution that will create a centralized employee information repository.

Staff Recommendation. Reject item as proposed.

- 10. *Armed Prohibited Persons Systems Investigations.*** The budget initially included 26.0 positions and \$5,601,000 (\$16,901,000 General Fund, -\$11,300,000 Dealers' Record of Sale Account) in fiscal year 2019-20, and \$4,656,000 (\$15,956,000 General Fund, -\$11,300,000 Dealer's Record of Sale Account) in 2020-21 ongoing to conduct Armed and Prohibited Persons System (APPS) investigations.

The result of the aforementioned proposal would be not only an increase in support for the APPS program, but also a funding swap between the Dealers' Record of Sale (DROS) Account and the General Fund. The APPS program would effectively shift to be fully funded by the General Fund.

An April Finance Letter was submitted requesting an increase of \$575,000 General Fund to make APPS investigations entirely funded by the General Fund. This adjustment accounts for

employee compensation related increases that were erroneously not included in the Governor's Budget proposal.

The April Finance Letter also requested a corresponding decrease in special fund resources to shift APPS to the General Fund. This request, however, included the incorrect fund for the adjustment. The fund used in the April Finance Letter is Fund 0032—Firearm Safety Account; however, the correct fund should be Fund 1008—Firearms Safety and Enforcement Special Fund.

The net result of both of these proposals is: (1) the APPS program will be funded with \$17,476,000 General Fund, and (2) the DROS Unit will be split funded (\$6,779,000 DROS Account and \$5,334,000 FSE), in contrast to historically being entirely DROS-funded.

Staff Recommendation. Reject the proposal and technical adjustments. Approve a one-time \$2.5 million General Fund allocation to create a pilot grant program to support local law enforcement agencies who wish to carry out sweeps of APPS in their jurisdiction. Moreover, adopt budget bill language that would require participating jurisdictions to submit a report detailing the use of funds and efficacy of the program.

11. Cannabis Convictions Resentencing (AB 1793). The budget includes \$985,000 General Fund in 2019-20 and \$908,000 General Fund in 2020-21 to the DOJ to implement AB 1793 (Bonta), Chapter 993, Statutes of 2018, which requires DOJ to review records in the Automated Criminal History System and identify past cannabis related convictions that are eligible for recall, dismissal, sealing or re-designation pursuant to Proposition 64 (The Adult Use of Marijuana Act).

Staff Recommendation. Approve as budgeted.

12. Forensic Laboratory Equipment Refresh. The budget includes \$5.8 million General Fund ongoing to replace inoperative, outdated equipment for the Bureau of Forensic Services (BFS) Criminalistics Laboratory System which provides forensic laboratory support and analysis to cover 500 local law enforcement agencies. BFS equipment replacement has been partially funded by the DNA Identification Fund but as a result of decreasing revenues, BFS has been unable to prioritize the purchase and replacement of equipment. The 2018 Budget Act provided a one-time allocation of \$5.4 million General Fund.

Staff Recommendation: Modify this proposal by approving \$2.6 million General Fund on a one-time basis and adopting placeholder trailer bill language that includes the following details:

- That the DOJ report to the Legislature on the development of a detailed eight-year plan for ongoing replacement of equipment.
- That consideration of equipment replacement will be considered by the Legislature on a year-by-year basis.

ITEMS TO BE HEARD

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) AND 0530 HEALTH AND HUMAN SERVICES AGENCY

Issue 13: Reorganization of the Division of Juvenile Justice (Trailer Bill Language)

Governor's Proposal. The budget proposes moving the DJJ from CDCR to a new department under the California Health and Human Services Agency (CHHS). The new department will be called the Department of Youth and Community Restoration.

The proposed trailer bill language focuses on transferring authority from CDCR to the new Department, allowing current day-to-day operations to continue during the transition. The move will require additional resources to establish the administrative structure of the new Department.

The Department will develop and launch a new independent training institute that will train all staff on best practices so they can further the new Department's rehabilitative mission.

Background. California's juvenile justice system is largely administered locally by trial courts, county probation departments, and local law enforcement. Over the past 20 years, the Legislature has enacted various measures to realign to counties increasing responsibility for managing juvenile offenders.

Adjudication of Cases. Cases are handled differently in the juvenile justice system, as compared to the adult system. When a juvenile is arrested by a local law enforcement agency in California, there are various criminal justice outcomes that depend on the circumstances of the offense and the criminal history of the offender. Following the arrest of a juvenile, a law enforcement officer has discretion to release the juvenile to his or her parents, or to take the suspect to juvenile hall and refer the case to the county probation department. Many juveniles who are referred to county probation departments are arrested for more serious alleged offenses. Probation departments also receive referrals from non-law enforcement entities such as schools and parents. The probation department then has the option to close the case, place the juvenile in a diversion program, place the juvenile on informal probation, or refer the case to the courts. Most of these referrals are adjudicated in juvenile court but, depending on the nature of the alleged offense and the age of the accused, some cases may be prosecuted in adult criminal court.

Juvenile court judges then generally take the recommendations of probation department staff into account in deciding whether to make the offender a ward of the court. They also determine the appropriate placement and treatment for the juvenile based on such factors as the juvenile's offense, prior record, criminal sophistication, and the county's capacity to provide treatment. The courts place most juvenile offenders under the supervision of county probation departments, while a small number are sent to state institutions, either a juvenile facility operated by the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) or state prison.¹

¹ Legislative Analyst's Office, *California's Criminal Justice System: A Primer*, January 2013.

Under current law, only youth adjudicated for a serious, violent, or sex offense can be sent to state facilities by juvenile courts. As a result, over 98 percent of juvenile offenders are housed or supervised by counties. As of 2016, there were approximately 39,000 youth involved in the county probation system, with 29,000 being wards under Welfare and Institutions Code Section 602 for felony and misdemeanor crimes.² For a very small portion of the juvenile justice population, county probation departments determine that the crimes committed or the needs of the juvenile are so great that they cannot provide adequate care and treatment in their facilities. Those youth are then sent to DJJ facilities. There were only 653 youth under the jurisdiction of the DJJ in 2016, and 662 as of fall 2018 population projections.

Juvenile Justice Realignment. As noted previously, over the last 20 years, the state has realigned responsibility for most youth in the juvenile justice system to the counties. Specifically, the Legislature and Governors took the following steps:

- **Sliding Scale.** In 1996, the Legislature passed, and Governor enacted, SB 681 (Hurt), Chapter 6, Statutes of 1996, which established a sliding scale fee for counties committing wards to the state. Under this arrangement, counties were required to pay a share of the state's costs to house each ward sent to DJJ (then called the Department of the Youth Authority), with a higher share of costs paid for lower-level offenders than for higher-level offenders. SB 681 was designed to incentivize counties to manage less serious offenders locally and decrease state costs. This sliding scale was ultimately replaced with a flat fee of \$24,000 per youthful offender in 2012.
- **Lower-Level Offenders.** Approximately a decade later, the state enacted SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, which limited admission to DJJ only to juveniles who are violent, serious, or sex offenders. To help counties manage their new responsibilities for other offenders, SB 81 also established the Youthful Offender Block Grant (YOBG), which provided counties with \$117,000 for each ward estimated to have been realigned to their responsibility under the measure. In addition, SB 81 also provided counties with \$100 million in lease-revenue funding to construct or renovate juvenile facilities, an amount that later increased to \$300 million.
- **Parolees.** Finally, in the 2010–11 budget, the Legislature and Governor realigned from the state to county probation departments full responsibility for supervising in the community all wards released from DJJ. As part of that measure, the Legislature also established the Juvenile Reentry Grant, which provides counties with ongoing funding for managing these parolees. Since the implementation of this Public Safety Realignment, DJJ's population has declined significantly. In 2008–09, the average daily population for youth housed at DJJ was 1,670, and there were 1,857 under the jurisdiction of Juvenile Justice Parole.

Juvenile Court Petitions. In 2016, there were 40,569 petitions filed in juvenile court. Each juvenile court petition can contain up to five different offenses. As a result, within those petitions filed, there were 60,239 different offenses. Of those petitions, 41 percent were for felony offenses, 43 percent were for misdemeanors, and 17 percent were for status offenses. Of the felony petitions, 31 percent were for

² Chief Probation Officers of California Fact sheet. Obtained 2019.

violent offenses, 31 percent were for property offenses, 30 percent were for “other” offenses, and about seven percent were for drug offenses.³

Of those 40,569 cases filed in 2016, 63 percent ended up under the care of the county probation departments in wardship probation. About 50 percent of youth receiving wardship probation were sentenced to serve that probation in their own or a relative’s home and 31 percent were sentenced to a locked county facility. 17 percent of the cases were dismissed. Of the remaining cases, seven percent resulted in informal probation, six percent resulted in non-ward probation, and about seven percent resulted in other dispositions, including transfer to adult court, deportation, diversion, or deferred entry of judgement. Finally, 183 youth were sent to one of the state’s facilities under the jurisdiction of CDCR’s DJJ.⁴

Juvenile Arrest Rates. Juvenile crime rates have decreased dramatically in recent decades, declining from a peak of 408,131 juvenile arrests in 1974 down to 62,743 in 2016. More recently, juvenile felony arrests decreased by 54.7 percent between 2011 and 2016. In addition, juvenile misdemeanor and status offenses⁵ decreased by 59.4 percent between 2011 and 2016.

Direct Files to Adult Court. Of those youth who were arrested and referred to county probation departments, less than one-half of one percent, 340 youth, were transferred directly to an adult court. Of the 376 adult court dispositions for juveniles in 2016, 290 dispositions resulted in a conviction, 51 were dismissed, two were acquitted, and 33 were shifted to juvenile court.⁶ Of the 290 convictions, 180 were sentenced to adult prison or DJJ, 63 received probation and a jail term, nine received a jail term, and 20 received another sentence.

Juvenile Recidivism Rates. According to CDCR’s most recent report to the Legislature on their annual performance measures, juveniles have a similar rearrest and recidivism rate to adult offenders overall. For example, after three years, 51.3 percent of adults have been convicted of a new crime. For juveniles, the conviction rate after three years is 53.8 percent. While 75.1 percent of adults are arrested within three years of their release, 74.2 percent of juvenile wards have been arrested during the same time period. In addition, 30.5 percent of juvenile offenders are committed to an adult prison within three years of their release from a DJJ facility. Finally, 64 percent of youth who returned to state-level incarceration did so within 18 months of their release from DJJ.⁷

However, when looking specifically at their similar-aged cohorts housed in state prisons, it appears that youth in DJJ facilities have a lower recidivism rate than their counterparts. For example, of the 18 and

³ Department of Justice, *Juvenile Justice in California* (2016), p. 32.

⁴ Department of Justice, *Juvenile Justice in California* (2016), Table 21, p. 81.

⁵ A “status offense” is an offense that would not be considered a crime if it were committed by an adult. Examples include: underage drinking, skipping school, violating a city or county curfew, or running away.

⁶ According to DOJ, the reason for the increase in the number of youth redirected to juvenile court was due to the passage of Proposition 57 in November of 2016, which requires that juvenile have a fitness hearing in juvenile court prior to being sent to an adult court.

⁷ *Supplemental Report of the 2015-16 Budget Package Annual Performance Measures Report*. January 13, 2017.

19-year-olds released from state prisons in 2011-12 (the same year as the DJJ population that is being tracked for recidivism data), 67 percent had a new conviction after three years, as opposed to 54 percent of DJJ youth. In addition, of the people between the ages of 20 and 24 who were released from prison in 2011-12, 63 percent had a new conviction within three years.⁸

In addition to shifting responsibility for juvenile justice from the state to counties, the declining juvenile crime rate likely also contributed to the 73 percent decline in the state's DJJ population from 2,516 youth in 2007 to 653 youth in 2016.⁹ At the same time, there has been a 60 percent reduction in the population housed in county juvenile camps and halls, down from 11,000 youth in 2007 to 4,200 youth in 2016.¹⁰

This significant and continuing decline offers an opportunity for California to comprehensively assess its juvenile justice system and invest in the best treatments and interventions for rehabilitating youth and emerging adults and to explore additional interventions in order to continue to reduce the number of young people who end up in the criminal justice system.

Division of Juvenile Justice Overview. A small number of wards (under two percent annually), generally constituting the state's most serious and chronic juvenile offenders, are committed to DJJ and become a state responsibility. DJJ, originally known as the California Youth Authority (CYA), was created by statute in 1941 and began operating in 1943 with the objectives of providing training and parole supervision for juvenile and young adult offenders. In a reorganization of the California corrections agencies in 2005, the CYA became the DJJ within CDCR. The Juvenile Parole Board, an administrative body separate from DJJ, determines a youth's parole readiness.

Youths committed directly to the DJJ do not receive determinate sentences. A youth's length of stay is determined by the severity of the committing offense and their progress toward parole readiness; however, DJJ is authorized to house youths until age 21 or 25, depending upon their commitment offense. DJJ also provides housing for youths under the age of 18 who have been sentenced to state prison. Youths sentenced to state prison may remain at DJJ until age 18, or if the youth can complete his or her sentence prior to age 25, the DJJ may house him or her until released to parole.

DJJ currently houses youth at three juvenile facilities and one conservation camp: O. H. Close Youth Correctional Facility (O.H. Close), N. A. Chaderjian Youth Correctional Facility (N.A. Chad), Ventura Youth Correctional Facility (Ventura), and Pine Grove Youth Conservation Camp (Pine Grove). N.A. Chad and O.H. Close, located in Stockton, house 245 and 165 males, respectively, as of December 2018; Pine Grove, houses 68 males as of December; and the Ventura Facility houses 155 males and 26 females. In addition, three males under DJJ's jurisdiction were being housed at Department of State Hospital facilities. In total, there were 662 juveniles in a state detention facilities on December 31, 2018. With 1,175 beds in the four facilities, the facilities are currently filled to just over 55 percent of capacity.

⁸ 2016 Outcome Evaluation Report: An Examination of Offenders Released in Fiscal Year 2011-12. CDCR. October 2017. Page 21.

⁹ Data provided by the Chief Probationers of California.

¹⁰ Ibid.

Characteristics of Current DJJ Youth. Based on data provided by CDCR, on June 30, 2018, there were 629 youth housed in DJJ facilities. Of these 629 youth, 453 had an assault or robbery charge as their primary offense. 62 were convicted of a homicide and 74 were convicted of forcible rape or other eligible sex offense.¹¹ Approximately 96 percent of DJJ youth are male; of which, about 87 percent are either African-American or Latino and 10 percent are white. The average age of DJJ-housed youth is 19 years old. ¹² About 22 percent of the DJJ population were tried in adult court.

County of Origin. The largest number of the 629 youth housed in DJJ facilities as of June 30, 2018, 133, came from Los Angeles County. A comparison of commitments by county shows that some smaller counties are responsible for a disproportionate number of youth sent to DJJ. For example, youth from Sacramento County, which comprises four percent of the state's population, constitute six percent of the DJJ population. In addition, Fresno County accounts for two percent of the state's population, but is responsible for six percent of the DJJ population. Kings County is home to less than one percent of Californians but account for three percent of DJJ wards. By comparison, twenty-eight other small counties across the state do not have any youth housed at DJJ or have only one youth. And, there are larger counties who send fewer wards to DJJ. For example, Orange County, home to eight percent of the state's population, accounts for one percent of the DJJ population.

Farrell v. Kernan. On January 16, 2003, Margaret Farrell, a taxpayer in California, filed a lawsuit against the director of what was then the CYA. The suit claimed CYA was expending funds on policies, procedures and practices that were illegal under state law. Farrell also claimed that CYA failed in its statutory duties to provide adequate treatment and rehabilitation for juvenile offenders in its care. The lawsuit also alleged that the youth offenders were denied adequate medical, dental and mental health care.

On November 19, 2004, the parties entered into a consent decree in which DJJ agreed to develop and implement six detailed remedial plans in the following areas: safety and welfare, mental health, education, sexual behavior treatment, health care, dental services, and youth with disabilities. After more than a decade of reforms in California's juvenile justice system – including limiting use of force, involving families in the rehabilitation of youth, and greatly reducing the juvenile offender population – on February 25, 2016, the Alameda County Superior Court terminated the *Farrell* lawsuit against DJJ.

Previous efforts to reorganize DJJ. The Governor's budget for 2012-13 included a plan to complete the realignment of juvenile justice to counties. Under the plan, DJJ would have stopped receiving new wards on January 1, 2013. However, DJJ would continue to house wards admitted to its facilities prior to this date until they were released. The Administration estimated that DJJ's population would reach zero by June 30, 2015, at which time all DJJ facilities would have closed and the division would have been eliminated. However, in the May Revision that year, the Administration withdrew the proposal.

¹¹ California Department of Corrections and Rehabilitation. "Characteristics of the Division of Juvenile Justice Population." https://www.cdcr.ca.gov/Reports_Research/docs/research/Characteristics/06_2018_Characteristics_Report.pdf June, 2018

¹² California Department of Corrections and Rehabilitation: Division of Juvenile Justice. "Population Overview." https://www.cdcr.ca.gov/Reports_Research/docs/research/Population_Overview/POPOVER2017.pdf.

Since that time, some advocacy groups have continued to advocate for the closure of DJJ. In part, they argue, research shows that youth have better outcomes if they are housed in smaller settings and closer to their communities and families. On the other hand, counties have expressed serious concerns regarding their ability to effectively provide rehabilitative treatment and programming for those youth they currently send to the state.

County Juvenile Justice System. Most wards are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as juvenile hall or a camp) or supervised at home. Other wards are placed in foster care or a group home.

County Services and Programs. Counties vary widely in the quality and types of programs they provide for the youth in their locked juvenile facilities and no data is collected by the state on the specific types of rehabilitative programs provided in each local juvenile facility. However, appropriate schooling and mental health treatment is required to be provided to all of the youth, as well as substance use disorder treatment and cognitive behavioral therapy for those youth who need it. Many probation offices also work closely with their community partners to provide a wide array of programs, including art programs, faith-based programs, restorative justice programs, and foster grandparent programs.

Innovative County Programs. County probation departments and the juvenile justice system have made great progress over the last decade to ensure that only youth who are a threat to public safety or to themselves, and who cannot otherwise be safely served in the community, are detained. Improved screening to determine the need for detainment, statewide application of risk-needs assessment, implementation of effective prevention and diversion programs, and declining arrest rates have led to a two-fold impact on juvenile probation departments: 1) a decline in facility populations, and 2) a rise in the severity of the risks and needs of the youth who remain in juvenile facilities.

Legislation

AB 1812 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2018, included three major juvenile justice reform efforts: extension of the age of jurisdiction to 25 for certain DJJ committed youth, creation and implementation of a Young Adult Offender Pilot program, and the establishment of a Youth Reinvestment Fund. Trailer bill language made various other statutory changes.

The Budget Act of 2018 also allocated \$3.8 million General Fund and included trailer bill language to establish a seven-year young adult pilot program within DJJ for a limited number of transition-aged youth. This program diverts youth from adult prison to a juvenile facility in order to provide developmentally appropriate rehabilitative programming.

Finally, the Budget Act of 2018 also provided \$37.3 million General Fund on a one-time basis to establish the Youth Reinvestment Fund to support diversion of youth away from arrest and detention (\$26.3 million), for social workers in public defender offices (\$10 million), and to provide specialized diversion services for Native American Youth (\$1 million). Trailer bill language requires the Board of State and Community Corrections (BSCC) to coordinate with the California Health and Human Services Agency and the State Department of Education for the administration and accountability of the grant program.

The Legislature and Governor enacted additional significant legislation in 2018. Specifically, SB 439 (Mitchell), Chapter 1006, Statutes of 2018, established 12 years of age as the minimum age for which the juvenile court has jurisdiction and may adjudge a person a ward of the court, except when there are allegations of specified violent felonies. On or after January 1, 2020, a minor under the age of 12 must be released to his or her parent, guardian, or caregiver if the minor comes to the attention of law enforcement because his or her conduct constitutes a crime or a status offense.

To increase the number of volunteer programs in the juvenile facilities, the 2017 Budget Act created two community resource manager positions and redirected \$500,000 for innovative programming grants to expand the number of available volunteer programs.

SB 312 (Skinner), Chapter 679, Statutes of 2017, authorizes the court to order the sealing of records for certain serious or violent offenses committed when a juvenile was 14 years of age or older, as specified.

SB 625 (Atkins), Chapter 683, Statutes of 2017, authorized the Board of Juvenile Hearings (BJH) to make honorable discharge determinations and to grant an honorable discharge to a person discharged from a DJJ facility who has proven the ability to desist from criminal behavior and to initiate a successful transition into adulthood.

SB 261(Hancock), Chapter 471 of the Statutes of 2015 raised the age, from 18 to 23 years old, at which young offenders would be considered youth for those who committed specified crimes when they were under 18 years of age and who were sentenced to state prison for the purposes of parole.

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, lowered the jurisdiction age for youth from 25 to 23 and replaced the previous sliding scale county reimbursement rates with an annual rate of \$24,000 per youth committed to DJJ via juvenile court. It also eliminated juvenile parole, disciplinary time additions, and new parole violator admissions after December 31, 2012. The legislation also restructured the methodology for discharge consideration hearings.

AB 1628 (Blumenfield), Chapter 729, Statutes of 2010, transferred supervisorial responsibility to the county of jurisdiction's probation department for community supervision of youth released on or after its implementation.

SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007; and AB 191 (Committee on Budget), Chapter 257, Statutes of 2007, restricted juvenile court commitments to cases committed for specified (serious/violent) offenses listed in subdivision (b) of section 707 of the Welfare and Institution Code (WIC) or for specified non-WIC 707(b) sex offender registrants (Penal Code section 290.008). Non-WIC 707(b) (excluding sex offenders) cases that were on parole on September 1, 2007 and were discharged once they completed their parole time.

SB 681 (Hurt), Chapter 6, Statutes of 1996, required counties to pay the state for each juvenile court commitment pursuant to a "sliding scale fee system" based on commitment offense as an incentive to the county when they do not commit a juvenile because of the associated costs.

AB 3369 (Bordonaro), Chapter 195, Statutes of 1996, reduced the age limit for authorizing a transfer of a person to CYA, now known as DJJ, by the Director of CDCR to under 18 years and requires the transfer

to terminate in specified situations. This was only applicable to minors convicted as an adult but housed at the DJJ under WIC 1731.5(c).

Initiatives

Proposition 57 – Public Safety and Rehabilitation Act of 2016 (November 8, 2016) provided juvenile court judges authority to decide whether juveniles aged 14 and older should be sentenced as adults for specified offenses.

Proposition 21 – Gang Violence and Juvenile Crime Preventive Act (March 7, 2000) made changes to the prosecution, sentencing, and incarceration of juvenile offenders:

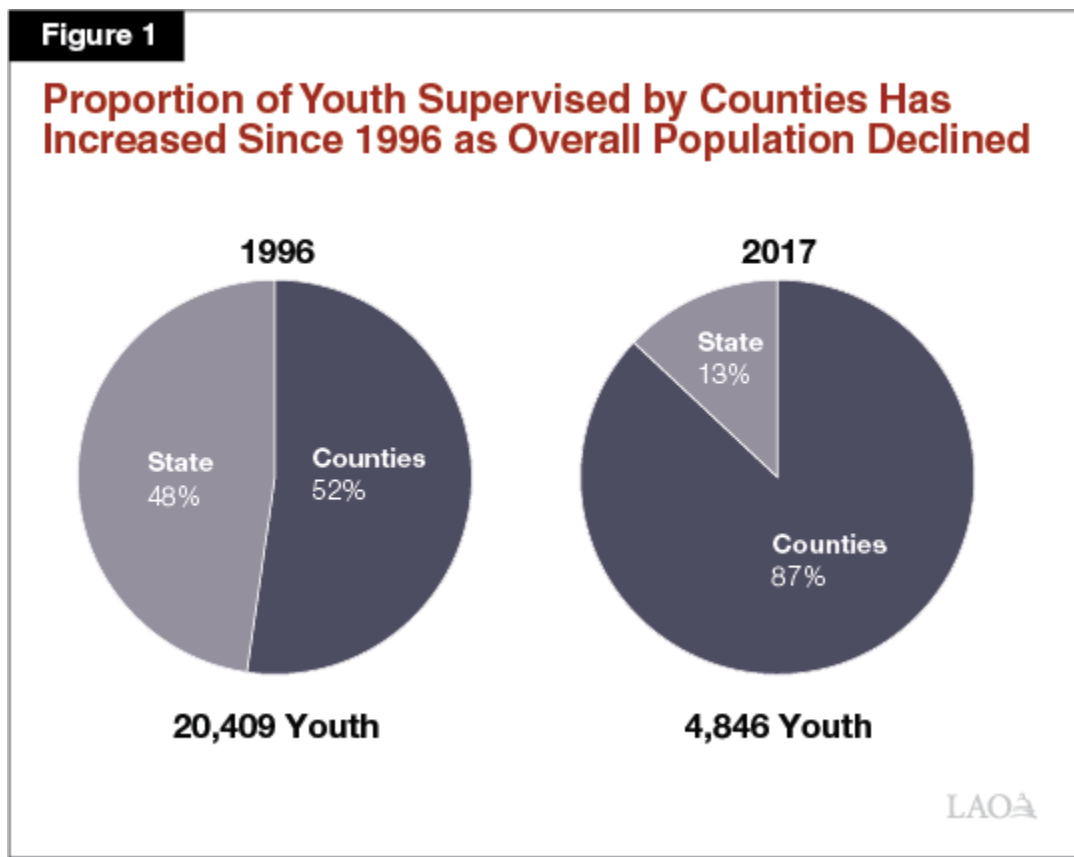
- Increased punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation, and drive-by shootings; created crime of recruiting for gang activities; and authorized wiretapping for gang activities.
- Allowed for the direct filing of a felony complaint to the adult criminal court for juveniles aged 14 years or older under a variety of circumstances.
- Eliminated informal probation for juveniles committing felonies.
- Required registration for gang related offenses.
- Designated additional crimes as violent and serious felonies, thereby making offenders subject to adult prosecution.

LAO Assessment. The LAO states that while the Governor’s proposal to place DJJ under the HHS Agency with the goal of improving the outcomes of youth could have some potential benefits, the Administration has provided very little in the way of details at this time about how the reorganization would be implemented and why it is needed. Given the complexity of both the state’s juvenile justice system and the process of reorganizing state government, the LAO states there should be a well-defined purpose and plan for carrying out this proposal.

1. **Does DJJ Need to Be Reorganized to Improve Rehabilitation?** Currently, it is unclear what specific barriers to rehabilitation currently exist, what specific outcome target the administration is seeking to achieve, and how DJJ is currently performing.
2. **What Are Potential Benefits of the Proposed Reorganization?** The reorganization could potentially result in certain benefits, such as improved rehabilitation and reduced costs for the state. However, the Governor has not provided specific information on the extent to which the reorganization would accomplish these benefits or why they could not be pursued with DJJ’s current organizational structure.

3. **What Are Potential Consequences of the Proposed Reorganization?** The reorganization may not result in improved outcomes, could increase costs, and could result in unintended consequences such as complicating coordination with CDCR.
4. **Are There Alternative Organizational Options Available?** The Legislature will want to consider what other options are available to adjust the organizational structure of the state's juvenile justice system, including trends in how other states have organized their juvenile justice systems.
5. **Should the Reorganization of DJJ Be Done Through Budget Trailer Legislation?** The administration has not provided a rationale why the proposed reorganization should be done with budget trailer legislation rather than going through the executive branch reorganization process established in statute.

The LAO notes that counties now are responsible for a greater portion of youth, although the size of the populations they are responsible has declined. If a juvenile court judge finds that a youth committed certain significant crimes, the judge can place the youth in state juvenile facilities operated by DJJ. Very few youth are placed in DJJ by the juvenile courts. For example, only 224 youth were sent to DJJ in 2017—less than 1 percent of the youth placed by juvenile courts. The figure below shows the number of youth in detention at the county level:



Staff Recommendation. Hold Open.

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) AND
0552 OFFICE OF THE INSPECTOR GENERAL (OIG)****Issue 14: Staff Complaint Inquiry Unit (BCP)**

Governor’s Proposal. The budget proposes \$9.8 million General Fund and 47 positions in 2019-20 and ongoing to implement a new regional model for reviewing and investigating inmate complaints of staff misconduct, as well as revise CDCR's grievance review process.

Background. *Outline of current appeals process.* A staff complaint is defined as an inmate appeal alleging facts that would constitute prison employee misconduct. CDCR institutions process staff complaints in accordance with Title 15 and its department operations manual. An inmate who alleges staff misconduct may fill out an appeal form (“602”) where he or she is asked to describe in detail what happened, including dates, times, places, and names of all people involved in the incident, including all witnesses if possible. It is then submitted to the prison’s appeals office where staff screen whether it is a routine complaint or a staff complaint. Possible staff complaints are then sent to the appeals coordinator¹³ for a second opinion to determine whether alleged misconduct would violate any policy if the allegations were true.

If the appeals coordinator concurs that the appeal contains a staff complaint, he or she forwards the form to the hiring authority¹⁴. When the hiring authority determines that an allegation warrants a staff complaint inquiry, the appeals coordinator forwards the staff complaint to a manager within a particular yard where it is assigned to a reviewer who is a supervisor who holds a rank at least one level above that of the accused staff member¹⁵. In general, this inquiry is completed within 30 working days. The reviewer first assesses all information in the complaint and collects any other necessary documentation. Next, the reviewer conducts interviews with the appellant, pertinent witnesses, and the subject to obtain evidence. The reviewer is not compelled to interview all witnesses if he or she can demonstrate that the witness testimony would not be relevant and, if a reviewer believes a witness is not credible, he or she must present facts to support that conclusion.

If at any point during the investigation the reviewer discovers information indicating serious misconduct may have occurred, the reviewer must cease interviewing any staff or inmate and must immediately bring this information to the hiring authority’s attention for future review. The hiring authority then determines whether to instruct the reviewer to continue the staff complaint inquiry, assign the matter to the prisons Investigative Services Unit, or refer the matter to the Office of Internal Affairs.

Upon receiving a completed staff complaint inquiry report, the hiring authority may:

¹³ A prison employee who is responsible for processing appeals (receiving, logging, routing, and monitoring disposition), monitoring the system, preparing the quarterly appeals report, recommending corrective action where indicated, and working with the in-service training officer to ensure that training on the appeals process is carried out.

¹⁴ The individual who has the authority to hire and discipline staff under his or her signature authority. In this context, the hiring authority is the warden or, in some delegated instances, the chief deputy warden.

¹⁵ A supervising prison employee who is responsible for conducting the staff complaint inquiry. Typically, the reviewer is a sergeant or a lieutenant. This is not a dedicated position: reviewers must also complete their regular duties in addition to conducting staff complaint inquiries.

- Conclude no violation occurred and take no further action or,
- Conclude a policy violation did occur and may impose corrective action such as on the job training or counseling. If the hiring authority believes the violation requires an adverse action, such as a reprimand, pay reduction, suspension, or dismissal, they must first refer the matter to the Office of Internal Affairs. Ultimately, the hiring authority determines all disciplinary and corrective against their employees.

OIG Report Findings. In January 2018, the Secretary of the California Department of Corrections and Rehabilitation (CDCR) and attorneys from the Prison Law Office requested that the Office of Inspector General (OIG) assess Salinas Valley State Prison's (SVSP) process of handling inmate allegations of staff misconduct, referred to as "staff complaints." The OIG conducted an investigation and released a report with findings on January 24, 2019. The findings include the following:

- Between December 1, 2017 through May 31, 2018, there were 3,218 staff complaint appeals statewide. SVSP received 298 during this same period of time which was significantly higher than other institutions.
- The process utilized at SVSP to review allegations was inadequate and the assigned staff investigators were inadequately trained.
 - Of the 188 staff complaint inquiry reviews, 55 percent were found to be inadequate and 92 percent had at least one significant deficiency.
 - Of the 150 staff complaint inquiries that could have had relevant evidence to collect, reviewers failed to do 60 percent of the time.
 - Of the 61 reviewers at this one prison, only 23 percent had received any relevant training on the complaint inquiry process and 8 percent had received none.
- Staff Complaint Reviewers were not independent and, at times, displayed bias in favor of their fellow staff members, ignored inmate witness testimony, and often compromised confidentiality.
 - The prison assigned a reviewer who worked on the same yard and shift as the subject of the inquiry 60 percent of the time.
 - In at least 5 instances, the reviewer was actually involved in the incident giving rise to the staff complaint.
 - In a significant number of appellant and witness interviews, reviewers compromised the confidentiality of the process.
- While most of the staff complaint inquiries were completed within the required time frames, inmates were not notified, as required, when inquiries were overdue.
- SVSP staff worked more thoroughly when reviewing complaints submitted by attorneys who represented inmates but they still did not complete high quality inquiries.

OIG Recommendations. Amongst the OIG's recommendations were the following:

- To address the independence and quality issues identified in the report, a complete overhaul of the staff complaint process and reassignment of the responsibility of conducting staff complaint inquiries to employees who work outside of the prison's command structure which is the Division

of Adult Institution is needed. To achieve this, a regionalized model should be adopted so that reviewers are not co-located in the facilities where they conduct staff complaint inquiries.

- Provide comprehensive and ongoing training to all staff members who may be assigned to conduct staff complaint processes and assign inquiries to only to those individuals who have received training and are certified.
- Consider requiring reviewers receive a certificate from the California Commission on Peace Officer Standards and Training with respect to conducting investigations.
- Consider requiring audio-recorded interviews of staff subjects and witnesses and video-record or at least audio-record all appellant and inmate witness interviews.

Although the OIG only reviewed one institution, the policies and procedures at SVSP are in place statewide. Any structural limitations or weaknesses of the grievance process at SVSP likely exist at other institutions.

CDCR's proposal in response to OIG report-staffing and location. To address the independence and quality issues raised in the OIG audit, CDCR proposes to reassign the responsibility of conducting staff complaint inquiries from the adult institutions to OIA, establishing a staff complaint inquiry unit. The department proposes to establish 47 positions: one chief deputy administrator, six captains, 36 correctional lieutenants, one analyst, and three office technicians.

CDCR will structure the unit similar to OIA's regionalized investigative staffing model, in which correctional lieutenants will be assigned to specific adult institutions. Under this model, their sole responsibility will be to conduct staff complaint inquiries, of which there were 6,259 in 2018 at the institutional level. CDCR estimates that a complete and thorough inquiry of a staff complaint, including interviews, evidence gathering, report writing, and management review, will take an average of 12 hours. The inquiry unit staff work locations will be based in the three OIA regional offices overseen by the chief deputy administrator. Captains experienced in investigating allegations of administrative and criminal misconduct will each supervise six correctional lieutenants. The captains' duties will also include training, accompanying staff in the field during complex reviews, and reviewing completed staff complaint inquiries. The analyst will support the chief deputy administrator, coordinate activities with wardens, write reports, and conduct trend analyses. The three office technicians will provide administrative support to each regional office.

CDCR's proposal in response to OIG report-new staff complaints outline. The proposed staff complaints inquiry process also mirrors the existing OIA investigative process by allowing hiring authorities to be aware of initial complaints and assign the case to the OIA's Staff Complaint Unit. If the OIA Correctional Lieutenant identifies possible staff misconduct, an inquiry report will be completed and forwarded to the Senior Special Agent¹⁶ for review. The Senior Special Agent will then refer the matter to the hiring authority for determination. The hiring authority will either complete a Request for Investigation through OIA or take other appropriate action. If the hiring authority refers the case to OIA and there is enough evidence to warrant an investigation, a special agent from its investigative unit will

¹⁶ Captain

be assigned to conduct a full investigation. Additionally, with this new office under the purview of OIA, the Deputy Director can independently open an investigation in instances of egregious misconduct.

CDCR's proposal in response to OIG report-additional components. Additionally, the CDCR's proposal has additional components for the following:

- **Training.** Since CDCR's grievance process covers more issues than staff complaints, OIA and Office of Appeals will provide statewide grievance training to all staff attending the supervisory academy. The CDCR will send the correctional lieutenants, who review staff complaints, to a POST-certified interview and interrogation techniques course. CDCR is adding reference material and refresher training through an online system to ensure staff stay current on regulatory updates and training. In addition, CDCR, through its Office of Legal Affairs and Office of Training and Professional Development, will provide training to current hiring authorities specific to their responsibilities in the grievance process, and will include this training for all new hiring authorities upon assignment.
- **Internal Auditing and Review of the Inquiry Process.** To ensure the fidelity of the revised regulations and processes, CDCR's Office of Audits and Court Compliance will audit the institutions' handling of grievances both by tracking data department-wide and performing quality reviews of inquiries and related paperwork.
- **Restructuring the Grievance Process and Office of Appeals.** Although the OIG report focused solely on staff complaint grievances, its recommendations to reduce bias are applicable to the entire grievance process. CDCR will revise its regulations regarding administrative remedies for inmates and parolees. The general grievance process (non-specialty grievances) will be reduced from the current three-level approach to two levels divided into "grievances" reviewed at the local level, and "appeals of grievances" reviewed by the Office of Appeals.

To enhance the independent review of appeals of grievances, CDCR moved the Office of Appeals from the Division of Adult Institutions and placed it under the purview of the Division of Correctional Policy Research and Internal Oversight (CPRIO). CDCR proposes to use existing resources within its Office of Audits and Court Compliance (OACC), which reports to CPRIO, to provide oversight of the new inquiry process. The CDCR believes that this change is significant because CPRIO reports to a different undersecretary through a separate chain of command than the Division of Adult Institutions within the Department's structure, eliminating conflicts of interest between these two divisions. Final grievance decisions will be approved by the chief deputy administrator level or higher. Specialty grievances will continue to adhere to existing expedited review timeframes. New regulations will eliminate reasons to "cancel" or "reject" a grievance for technical problems, such as lack of signature, illegible handwriting, insufficient documentation, or excessive or obscene verbiage. The intended result is for institutional appeal offices to conduct more inquiries at the Institution level.

LAO Assessment.

1. **Proposal Does Not Account for Possible Savings.** The LAO does not raise concerns with CDCR's proposal to shift responsibility for conducting staff complaint inquiries away from prison-based management staff. However, the LAO notes that doing so would reduce workload

for such staff, likely taking the form of reduced spending on overtime. Yet, the proposal does not account for these savings.

2. ***Unclear How OACC Would Effectively Oversee New Inquiry Process.*** CDCR has not provided details about how OACC would effectively oversee the new inquiry process. Specifically, it's unclear whether OACC: (1) has the necessary expertise—such as staff with an understanding of investigatory techniques—to perform this function; (2) would be able to provide sufficiently independent oversight given that it is an entity within CDCR; and (3) would make its data, reports, or recommendations available to the Legislature and/or the public.

LAO Recommendations. The LAO recommends that the Legislature reduce the level of funding proposed for the new inquiry process to account for estimated overtime savings for prison-based staff. To the extent it is interested in doing so, the LAO would work with the administration to develop a reasonable savings estimate.

In addition, the LAO recommends that the Legislature require CDCR to provide more details on how it would ensure that OACC staff effectively oversee the new inquiry process. If the Legislature is satisfied that OACC would provide sufficiently expert and independent oversight, it may still want to establish reporting requirements to ensure that the products of OACC oversight are available to external stakeholders. If the Legislature is not satisfied that OACC can perform satisfactory oversight of the new inquiry process, it could task an independent entity—such as the OIG—with this responsibility. However, this would likely require additional resources.

Staff Recommendation. Hold Open.

VARIOUS DEPARTMENTS**Issue 15: Penal Code Review (Trailer Bill Language)**

Governor’s Proposal. The Governor’s budget includes \$576,000 to support a new committee that will be established under the California Law Revision Commission. The new committee will have separate powers to make policies and take actions, and to review and make recommendations to the Legislature and the Governor on revisions to the Penal Code. The committee will begin an effort to simplify and rationalize criminal law and criminal procedures, establish alternatives to incarceration that aid rehabilitation and protect public safety, improve parole and probation systems, and adjust the length of sentence terms based on certain considerations. The proposal includes \$25,000 for the committee to hire an outside consultant to serve the committee’s needs.

Background. The following background was provided to staff by the Department of Finance:

“The California Penal Code has dramatically increased in size from about 234,000 words in 1965 to 1.2 million in 2018. There are more than 5,000 separate criminal provisions specifying criminal behavior, penalties for convictions, additional enhancements, and credit earning once incarcerated. This complex statutory structure requires study and recommendations to revise the Penal Code. The reason for the new committee to be established as a component of the California Law Revision Commission is first because it would help the committee get up and running quickly, without the need to create new administrative and operational practices. Second, it would allow both the committee and Commission to work on separate tracks, without interfering with each other’s progress. Finally, it would allow for specialization of the membership of the two panels.

Historically, the Commission’s work has not focused on criminal justice reform. Its members were not chosen for expertise in that subject and generally have careers in civil, rather than criminal law. By contrast, the members of the Committee could be selected for their experience in criminal law and policy. While the committee would be a part of the Commission for the purposes of administration and staffing, the committee would have independent authority to make recommendations to the Legislature and the Governor—Commission approval would not be required for any policy decision of the committee. The committee would conduct its own meetings, based on its own deliberative materials. The Commission would not duplicate that work nor weigh-in on the committee’s recommendations. The independence of the committee is also important to maintaining the effectiveness of the Commission.”

Staff Recommendation. Hold Open.

0820 CALIFORNIA DEPARTMENT OF JUSTICE (DOJ)**Issue 16: Sex Offender Registry**

Governor's Budget. The budget includes \$17.2 million General Fund and 37 permanent positions in 2019-20, \$15.7 million General Fund in 2020-21, and \$13.2 million General Fund in 2021-23 to provide resources that will implement years two through four of SB 384. Year one funding of \$10 million and 25 positions were provided in the 2018 Budget Act. SB 384 requires the California Sex Offender Registry to transition from a lifetime registration system to a tier-based system for periods of 10 years, 20 years, and life beginning January 1, 2021. There are currently 104,000 sex registrants in the state, all of whom are now required to be assigned into one of the three tiers.

Background. Existing Sex Offender Registration System. California is one of the few states that require lifetime sex offender registration without discerning by the type of offense. Florida, South Carolina and Alabama are the only other states without some form of tiering. While this allows the public to see a majority of offenders, the public and local law enforcement have no way of differentiating between higher and lower risk sex offenders.

Currently, individuals convicted of certain sex offenses are required to register with their local law enforcement agency. These offenders generally must update their information with their local law enforcement agency annually and inform law enforcement when they move. DOJ maintains a statewide database of registered sex offenders. Depending on the convictions of these offenders, DOJ is required to make some information about them (such as their home addresses) publicly available through the California Megan's Law website. Certain sex offenders, however, are able to apply for exclusions from the website. Sex offenders who are required to register generally must do so for life.

New Sex Offender Registration System. Effective January 1, 2021, SB 384 will establish three tiers of registration for adult sex offenders based on specified criteria, for periods of 10 years, 20 years, and life. Juvenile offenders will be required to register as a sex offender for a minimum of either five or ten years, as specified. A tier one or tier two offender will be required to file a petition in the superior court in the county in which he or she is registered or, if the offender is a juvenile, he or she may file in juvenile court. The offender will be required to file a petition on or after the offender's birthday that follows the expiration of his or her minimum registration period in order to be removed from the registry.

SB 384 will also authorize a sex offender registrant to petition the courts for early termination from registration, as specified. The bill requires that each petition be served on the registering Local Enforcement Agency (LEA) and the district attorney of the county of conviction of the registerable offense (if different than the county where the petition is filed). The bill further requires a registering LEA to report to the district attorney whether each petitioning sex offender registrant has met the registration requirements for termination. It authorizes a district attorney to request a hearing on a petition under specified conditions. The registering LEA and the LEA of the county of conviction of a registerable offense, if different than the county where the petition is filed, shall, within 60 days of receipt of the petition, report to the district attorney and the superior or juvenile court in which the petition is filed regarding whether the person has met the requirements for termination. SB 384 will also authorize annual resubmission of petitions for termination for each tier two offender and resubmissions every one to five years for each tier one offender, as determined by the courts. Pursuant to the bill, tier two offenders will be eligible for early termination, as specified, after 10 years.

Finally, SB 384 will reduce the number of sex offender registrants in the community; however, it will not reduce the impact of registration to LEAs, courts, district attorneys, or the DOJ.

Effect on DOJ. SB 384 requires the DOJ's California Sex Offender Registry (CSOR) to transition from a lifetime registration system that has been in place since 1947 to a significantly more complex tier-based registration system. There are currently nearly 104,000 sex offender registrants in the state, all of whom are now required to be assigned by the CSOR to one of three tiers by January 1, 2021. To comply with this requirement, numerous existing technology systems must undergo extensive enhancements to be capable of interfacing with numerous criminal justice systems prior to transitioning away from the lifetime registration system. The DOJ also needs to develop new policies, procedures, and training modules, as well as train courts, district attorneys, and law enforcement entities on these policies and systems.

In 2004, AB 488 (Parra), Chapter 745, Statutes of 2004, mandated the DOJ to host, implement, and maintain the Megan's Law website. If an offender met specific requirements, he or she may have become eligible and applied for exclusion from the website. Under the new legislation, approximately 2,610 registrants are no longer eligible for exclusion and will need to be notified and posted to the public Megan's Law website. Until January 1, 2022, the DOJ must also maintain the existing Megan's Law website and posted offender information.

Proposed Positions and Outcomes. DOJ estimates that there are currently 104,000 sex offender registrants that will need to be assigned to the new tiered categories along with an average of 5,000 new registrants annually. Additionally, DOJ estimates that approximately 2,610 registrants are no longer eligible for exclusion from the public website and will need to be notified accordingly.

Projected Outcomes

Workload Measure	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Sex Offender registrants to be tiered	N/A	17,133	34,666	17,333	5,000	5,000	5,000
Sex Offender registrants to be terminated from registry	N/A	N/A	N/A	23,334	13,166	3,000	3,000
Applications for exclusion from Megan's Law website	N/A	N/A	N/A	1,725	1,725	180	180

The systems that support sex offender registration and notification are currently not equipped to fully facilitate the mandates of SB 384, as a large volume of the data necessary to make tiering determinations is not currently reported to, collected, or maintained by the DOJ. This necessitates significant system modifications and consultant costs. In addition to consultant costs, the CJIS Division will require IT permanent and limited-terms positions to support and assist with the implementation and ongoing maintenance of the systems.

Summary of Approved or Requested Resources for New Tiered Sex Offender Registry

(Dollars in Millions)

Fiscal Year	Funding (In Millions)	Supported Positions		
		Permanent	Limited Term	Total
Approved				
2018-19	\$10.0	23	2	25
Requested				
2019-20	\$17.2	37	51	88
2020-21	15.7	37	99	136
2021-22	13.2	38	48	86

LAO Assessment and Recommendation. *Project Could Benefit From Regular Legislative Oversight.*

The LAO finds that the level of resources being requested by DOJ to meet the requirements of Chapter 541 appear justified on a workload basis. However, given the magnitude of DOJ's estimated costs to implement the new sex offender registration system, the LAO finds that regular legislative oversight of the department's progress would help ensure that the resources provided are being used efficiently and that the department is on track to meet the 2021 implementation date. For example, regular oversight would allow the Legislature to identify any potential delays or challenges and inquire how DOJ plans to address them. The Legislature can then determine what action, if any, it may need to take to ensure the project remains on schedule and to limit cost increases.

LAO Recommendations. The LAO find that the Governor's proposal to provide DOJ with \$46 million in additional General Fund support for use over three years to support the implementation of a new tiered sex offender registry appears justified on a workload basis and necessary to meet the statutory time frames enacted by the Legislature. Accordingly, the LAO recommends approval of the proposal. However, in order to facilitate regular legislative oversight over the project, the LAO also recommends the Legislature adopt budget trailer legislation directing DOJ to provide an annual written progress report on key metrics to help monitor the development and implementation of the new sex offender registration system. Specifically, at minimum, the LAO recommends the Legislature direct DOJ to report on the tasks completed, changes to projects costs or deadlines for project milestones, challenges or delays that have emerged, and issues or risks that may result in project schedule or budget changes. This information would help the Legislature ensure that the project remains on schedule and on budget.

Staff Recommendation. Hold Open.

Issue 17: Sexual Assault Investigations Evidence Kits (AB 3118) (BCP)

Governor's Budget. The budget includes a one-time allocation of \$194,000 General Fund in 2019-20 to the DOJ to implement AB 3118 (Chiu), Chapter 950, Statutes of 2018, which requires all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all untested sexual assault kits in their possession and report their data to the DOJ.

Background. Existing law established the "Sexual Assault Victims' DNA Bill of Rights" which prescribes requirements for law enforcement agencies and crime labs regarding the processing of forensic evidence in sexual assault cases and requires certain notifications to be made to the victim.

AB 3118 requires all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all untested sexual assault evidence kits in their possession and report certain data to the Department of Justice by no later than July 1, 2019. The bill also requires the DOJ to prepare and submit a report to the Legislature regarding the results of these audits by no later than July 1, 2020. The data reported for each kit is as follows in AB 3118:

“(A) Whether or not the assault was reported to a law enforcement agency.

(B) For kits other than those described in subparagraph (C) [of Penal Code Section 680.4], the following data, as applicable:

(i) The date the kit was collected.

(ii) The date the kit was picked up by a law enforcement agency, for each law enforcement agency that has taken custody of the kit.

(iii) The date the kit was delivered to a crime laboratory.

(iv) The reason the kit has not been tested, if applicable.

(C) For kits where the victim has chosen not to pursue prosecution at the time of the audit, only the number of kits.”

Previous funding. The Budget Act of 2018 provided the DOJ with \$1 million in one-time General Fund for the compilation of information on the number of untested sexual assault kits statewide. The resources are available for grants to counties and cities to count the number of untested kits in their possession. Budget bill language requires a report from the DOJ to the Legislature regarding these identified and untested kits. The budget bill language was amended for technical reasons in SB 862(Committee on Budget and Fiscal Review), Chapter 449, Statutes of 2018. The language from 2018 reads as follows:

“Of the funds appropriated in Schedule (4), \$1,000,000 shall be available for the compilation of information on the number of untested sexual assault kits statewide. This amount shall be available for grants to counties and cities to count the number of untested sexual assault kits in their possession. This amount shall be available for support or local assistance. The Department of Justice shall report to the Legislature on the cities and counties that received grants as well as the number of untested sexual assault kits by county and city no later than July 1, 2020.”

Staff Recommendation. Hold open.