

SUBCOMMITTEE NO. 5

Agenda

Senator Nancy Skinner, Chair
Senator Joel Anderson
Senator Jim Beall



Tuesday, May 16, 2017
9:30 a.m. or upon call of chair
State Capitol - Room 113

Consultant: Julie Salley-Gray

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PROPOSED FOR VOTE ONLY**Various Departments**

1. **State Penalty Fund (SPF) Proposal.** The Governor proposes to eliminate the statutory formulas dictating how SPF revenues are distributed and, instead, appropriate revenues directly to certain programs based on his priorities. Under the plan, some programs would no longer receive SPF support entirely, while others would be reduced.

Previous Subcommittee Hearing: This item was discussed during the subcommittee's March 23rd hearing. The agenda and video recordings from that hearing are available on the State Senate website.

Staff Recommendation: Approve the Governor's proposal to eliminate the statutory formulas and reject the Governor's spending plan. Instead, allocate the SPF funding as follows:

Program/Fund	2017-18 SPF Funding
Fish & Game Preservation Fund	100
Peace Officer Standards and Training Program	46,496
Standards and Training for Corrections Program	10,000
Traumatic Brain Injury Program	600
Driver Training Program	1,038
Victim/ Witness Assistance Programs	12,053
California Witness Relocation and Protection Program	3,277
Restitution Fund	9,082
Internet Crimes Against Children Task Forces	-
California Gang Reduction, Intervention, and Prevention Program	7,500
Local Public Prosecutors and Public Defenders Training Program*	450
Motorcyclist Safety Program	-
Total	90,596

* Funding restored for training for local public defenders.

In addition provisional language shall be included in the budget that does the following:

- Los Angeles County shall receive \$750,000 of the funding as a set-aside.
- Cities applying for California Gang Reduction, Intervention and Prevention (CalGRIP) Program funds are required to provide clearly defined, measurable objectives for their grant proposals. Grant recipients are also required to provide the BSCC with quantifiable measures of progress in meeting those objectives.
- The Board of State and Community Corrections (BSCC) is required report to the Legislature once per funding cycle on the overall effectiveness of CalGRIP.

- BSCC is required to prioritize proposals from cities that are disproportionately and persistently affected by violence. In addition, BSCC is required to prioritize proposals that would direct resources to programs that have been shown to be the most effective at reducing violence.
- The minimum threshold of funds grantees are required to distribute to community-based organizations is increased to 50 percent, and eligibility for primary applications is extended to community-based organizations.

Finally, CalGRIP's name shall be amended to the California Violence Reduction, Intervention & Prevention (CalVRIP) Grant Program, in order to more correctly reflect modern, evidence-based approaches to achieving reductions in crime and violence.

Board of State and Community Corrections (BSCC)

2. **Jail Visitation Requirements.** As discussed during the February 21st joint hearing, in recent years it has come to the state's attention that some county jails are no longer providing in-person visitation. Instead they are allowing only visitation via video. In addition, despite significant concern from the Legislature, BSCC has recently developed regulations that grandfather in a large number of counties who have expressed an interest in only providing video visitation. According to the last information from the BSCC, over 20 counties have either already stopped providing in-person visitation or plan on stopping in-person visitation. Of those jails, eight do not appear to have the physical space to accommodate in-person visits.

Previous Subcommittee Hearing: This item was discussed during a joint hearing between the Senate Public Safety Committee, and both the Senate and Assembly public safety budget subcommittees on February 21, 2017. The agenda and video recordings from that hearing are available on the State Senate website.

Staff Recommendation: Adopt placeholder trailer bill language that does the following:

- Requires that a county providing video visitation, also provide in-person visitation.
- Temporarily exempts the following eight county jails from providing in-person visitation once BSCC has inspected the jail and certified that it does not have space for in-person visitation:
 - Kings County Jail Facility
 - Kings County Branch Jail
 - Madera County Adult Correctional Facility
 - San Bernardino High Desert Detention Center
 - San Mateo Maple Street Correctional Facility
 - Solano County -- Stanton Correctional Facility
 - Tulare South County Detention Facility
 - Imperial Oren R. Foy Medical Security Facility
- Requires all other county jail facilities to provide in-person visitation, if they are providing video visitation.

- Requires the eight exempt county facilities to provide for in-person visitation within five years of passage of the 2017 budget. In addition, those counties will receive priority for any jail construction funding that is relinquished to the BSCC in order to retrofit the existing jails to provide for in-person visitation. Any additional construction funding provided by the state can only be used for in-person visitation space.
 - Temporarily suspends all construction (with the exception of counties that have broken ground on new facilities) pending certification from the BSCC that the new facilities, funded with the assistance of the state, will have appropriate space for in-person visitation.
 - Prohibits counties from charging for video visitation, whether the visitor is in the facility or conducting visitation from a remote location.
3. **BSCC Review Functions.** During the subcommittee's May 4th hearing related to the construction of county jail facilities, the subcommittee expressed concern related to the lack of mechanism that allows the Legislature or the Governor to request that BSCC investigate or audit specific areas of concern related to county jails and juvenile detention facilities. The agenda and video recordings from that hearing are available on the State Senate website.

Staff Recommendation: Adopt the following as draft, placeholder trailer bill language:

When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the Board of Corrections shall review policies, practices, and procedures of local detention facilities. The Board of Corrections shall report its findings to the requesting entity.

4. **Post Release Community Supervision.** The May Revision includes \$15.4 million General Fund for post-release community supervision (PRCS) as a result of an increase in the number of offenders eligible due to Proposition 57 and various court-ordered measures. This is an increase of \$4.4 million General Fund over the amount estimated in the Governor's January budget.

Staff Recommendation: Approve as proposed.

Judicial Branch

5. **State Controller's Office Audit Language.** The May Revision requests provisional language that specifies that \$540,000 in Item 0250-101-0932 is available for the audit work that is being conducted by the State Controller's Office. The language puts a cap on the amount of resources provided to the SCO.

Staff Recommendation: Approve as proposed.

6. **Technical Adjustment.** The May Revision requests a decrease of \$2.1 million General Fund to reflect updated health benefit and retirement rate changes for trial court employees.

Staff Recommendation: Approve as proposed.

7. **San Diego County Courthouse Trailer Bill Language.** The May Revision requests the adoption of trailer bill language that transfers the title of the old San Diego courthouse and adjacent old

county jail to San Diego County from the state. In exchange, the county will release the state from the obligation to demolish and remove those buildings.

Staff Recommendation: Approve the language as draft, placeholder trailer bill language.

Department of State Hospitals (DSH)

8. **Admission, Evaluation and Stabilization (AES) Center.** The May Revision proposes a decrease of \$3.6 million General Fund for the AES Center due to a six-month delay in implementation. The remaining General Fund amount requested is \$5.9 million.

January Budget Proposal. The Governor's budget proposes to establish an AES Center, which would be located in the Kern County Jail. Specifically, the budget proposes a \$10.5 million General Fund augmentation and two positions for DSH to activate 60 beds in the Kern County Jail in Bakersfield to provide restoration services for Incompetent to Stand Trial (IST) patients.

Previous Subcommittee Hearing: This item was discussed during the subcommittee's March 16th hearing. The agenda and video recordings from that hearing are available on the State Senate website.

Staff Recommendation: Approve as proposed.

9. **Jail-Based Competency Treatment (JBCT) Program.** The May Revision proposes increased funding of \$3.1 million General Fund to add 24 additional JBCT program beds. In addition, the May Revision requests \$1.7 million General Fund in 2017-18 and \$2.5 million General Fund ongoing to support increased costs related to the existing JBCT programs.

January Budget Proposal. Due to the delayed activation of JBCT programs in San Diego and Sonoma counties, the budget includes a General Fund savings of \$948,000 in 2016-17 and \$159,000 in 2017-18.

Previous Subcommittee Hearing: This item was discussed during the subcommittee's March 16th hearing. The agenda and video recordings from that hearing are available on the State Senate website.

Staff Recommendation: Approve as proposed.

10. **Enhanced Treatment Program (ETP) Staffing Adjustment.** The May Revision requests an increase of \$122,000 General Fund due to increased costs associated with the activation of their ETP units. The request includes funding for a patients-rights advocate at each location to provide advocacy services to patients during the ETP referral process.

Staff Recommendation: Approve as proposed.

11. **Conditional Release Program: Sexually Violent Predator Caseload.** The May Revision requests a reduction of \$2.5 million General Fund for the conditional release program due to a decrease in the sexually violent predator caseload.

Staff Recommendation: Update the subcommittee's previous action to include the May Revision funding adjustment.

12. **Transfer of Sexually Violent Predator Screening.** The May Revision requests the transfer of \$483,000 and 2.5 positions from DSH to CDCR to reflect the transfer to the SVP screening services from one department to the other. DSH currently performs the SVP clinical screenings for CDCR, under this proposal, those screenings will now be done by CDCR.

Staff Recommendation: Approve as proposed.

13. **Napa State Hospital Earthquake Repairs.** The May Revision requests an increase of \$654,000 to the original General Fund loan amount. In addition, it increases the federal reimbursement amount by the same amount and updates the amount in the provisional language.

January Budget Proposal. The Administration requested a \$6.2 million General Fund loan that would be repaid with federal reimbursements as phases of the project are constructed. Accordingly, the Governor's budget also includes \$6.2 million in federal reimbursement authority. The Administration anticipates this funding will be sufficient to complete the first two phases of the project.

Previous Subcommittee Hearing: This item was discussed during the subcommittee's May 11th hearing. The agenda and video recordings from that hearing are available on the State Senate website.

Staff Recommendation: Approve as proposed.

Commission on Peace Officer Standards and Training (POST)

14. **Spring Finance Letter: Funding Adjustment and Provisional Language.** The Administration submitted a spring finance letter requesting a realignment of \$4 million State Penalty Fund beginning 2017-18 from training contracts to local agency reimbursements. In addition, the letter requests the restoration of provisional language related to "Tools of Tolerance" training conducted by the Simon Wiesenthal Center-Museum of Tolerance.

Staff Recommendation: Approve as proposed.

ITEMS TO BE HEARD**4440 DEPARTMENT OF STATE HOSPITALS (DSH)****Issue 1: Metropolitan State Hospital Movement of Patients**

May Revise Proposal. The May Revision requests \$7.9 million General Fund and 22 positions in 2017-18, and \$12.4 million General Fund and 35.5 positions in 2018-19, to support the transfer of 150 Lanterman-Petris-Short (LPS) patients at Metropolitan State Hospital. The patients will be moved to another building to allow additional incompetent to stand trial (IST) waitlist commitments to be placed in secured treatment beds beginning in 2018-19.

Background. DSH continues to experience significant waiting lists for their IST treatment beds. Among the various efforts being implemented to increase the number of beds and reduce the waiting list is a capital outlay project at Metropolitan State Hospital. The 2016 budget provided \$31,182,000 in capital outlay funding for this project is to increase the secured bed capacity at Metropolitan State Hospital. The project will increase capacity to house forensic inmates by securing 505 beds by constructing a secured fence for two buildings at the hospital. The proposed project will construct two perimeter security fences, one fence around the Continuing Treatment West (CTW) building and adjacent park, and a second perimeter fence around the skilled nursing facility (SNF). The current May Revision proposal moves the current LPS patients in those buildings to alternative buildings on the hospital grounds so that construction can proceed.

Justification. According to DSH, because of the differences between the building lay outs, such as number of units and number of beds, the additional nursing staff are needed to comply with unit staffing requirements. The additional ancillary staff are also needed to maintain licensing standards and for the overall operations of the 100s building. Because the 100s building cannot accommodate all LPS patients, there will be LPS patients remaining on several units in CTW, thus the need for additional staff to operate two separate patient buildings on two separate parts of the hospital's campus.

Staff Recommendation. Approve as proposed.

Issue 2: Metropolitan State Hospital Central Utility Plant

Metropolitan State Hospital. The May Revision includes provisional language to enable DSH to request funding necessary to continue to contract for heating and cooling through the existing central utility plant for the Metropolitan State Hospital.

Background. For many years, DSH has contracted with Wheelabrator Norwalk Energy Corporation to provide steam and chilled water to DSH-Metropolitan from a central utilities plant located at the facility that is owned and operated by the corporation. However, the contract is set to expire in February 2018. In November 2016, the Department of General Services informed the department that it cannot extend the existing contract, but has to go through a competitive bid process or purchase the facility and operate it with DSH staff. According to the department, if no action is taken by February 2018, the plant could cease operating, which could threaten the licensure of DSH-Metropolitan. In response, the Administration is proposing provisional language giving it the authority to spend any amount necessary to continue to operate the central utilities plant.

Legislative Analyst's Office (LAO). While it is critical to maintain access to the utilities provided by the plant, we recommend rejecting the proposed provisional language as it significantly undermines legislative control. At budget hearings, the Administration should discuss possible alternatives—both short-term and long-term. In addition, the LAO will be researching alternatives available to address the ongoing need for the plant and will advise you of them in the near future.

Staff Recommendation. Approve the proposed language.

0820 DEPARTMENT OF JUSTICE**Issue 3: Legal Resources for Federal Actions**

May Revise Proposal. The May Revision requests \$6.5 million and 31 positions for two years to address new legal workload related to various actions taken at the federal level that impact public safety, healthcare, the environment, consumer affairs, and other constitutional issues.

Background. The Department of Justice (DOJ) notes that beginning on January 20, 2017, the current president and his administration have issued a number of executive orders that effectively challenge the dual sovereignty of our federal system and presented a significant impact to a vast area of public policy. Due to those actions, the Attorney General and the department have expended over 13,000 hours of legal time on federal administration matters between January 20, 2017 and May 8, 2017. They note that this workload equates to approximately 19 attorneys and \$6.5 million in unfunded work.

Staff Comments

Immigration Detention. As discussed during the subcommittee's May 4th hearing, one impact of the federal administration's new policies has been an increase in the detention of people originally from other countries who do not have current legal immigration status. Many of those people are detained in county jails and private detention facilities within California. Currently, the state does not have a mechanism for overseeing the detention of immigrants within the state and ensuring that they are provided with proper care or that their rights are being protected. A single state agency should be established that is responsible for oversight over the treatment of people who are detained in facilities in the state on behalf of the federal government because they do not have the proper documentation to remain in the United States.

Secure Choice. The Secure Choice Pension is intended to provide retirement security for workers in the private sector through access to a defined benefit pension. Once Secure Choice is fully operational in 2019, private employers will be required to either provide their employees with retirement benefits through a retirement plan or provide their employees with voluntary access to Secure Choice. Given that the state's Secure Choice pension program could be affected by potential actions at the federal level, this directive would give the DOJ the ability to appropriately respond.

Staff Recommendation. Augment the May Revision request by \$1 million in on-going General Fund and adopt placeholder trailer bill to require DOJ to monitor the treatment of immigrants being detained in California. The department shall audit each facility annually and report to the Legislature and Governor its findings.

In addition, adopt placeholder trailer bill requiring that for potential litigation involving California's Secure Choice, the Attorney General's Office shall contract with attorneys that possess a comprehensive knowledge of the Employee Retirement Income Security Act of 1974 (ERISA) and have extensive experience litigating ERISA claims in the federal trial and appellate courts.

Finally, adopt the following as draft, placeholder trailer bill language:

A city, county, city and county, or a local law enforcement agency shall not enter into, or renew, or modify a contract with the federal government to expand the number of contract beds being utilized detain immigrants in civil immigration proceedings.

Issue 4: DNA Identification Fund

May Revise Proposal. In order to address significant DNA Identification Fund revenue decline and provide funding stability to the Bureau of Forensic Services' (BFS) statewide operations, the May Revision requests a reallocation \$15 million in existing General Fund spending authority from DOJ's Division of Legal Services (\$5 million) and the Division of California Justice Information Services (\$10 million) to the Division of Law Enforcement.

In addition, the May Revision requests an augmentation of \$5 million in False Claims Act Fund in the Division of Legal Services in order to maintain ongoing federal grant match commitments, and an augmentation of \$10 million in Fingerprint Fees Account funding in the Division of California Justice Information Services to maintain existing background check program activities.

Current Fund Condition. The DNA Identification Fund, which primarily supports the Department of Justice (DOJ) Bureau of Forensic Services, has been structurally imbalanced since 2010-11 and would likely be facing insolvency in the current year absent planned expenditure reductions. In 2015-16, DOJ spent \$70 million from the fund to support forensic activities. The 2016 budget anticipated similar levels of expenditures. However, the Administration currently estimates that the fund will only be able to support \$62 million in expenditures in 2016-17. The 2017 budget estimates a further decline to \$59 million in 2017-18. This will require DOJ to immediately absorb at least \$11 million in reductions in the current and budget year. Such a significant reduction will likely impact DOJ's ability to process evidence in a timely manner, potentially resulting in significant backlogs.

Staff Recommendation. Approve as proposed.

0250 JUDICIAL BRANCH**Issue 5: Transition to FI\$Cal**

May Revise Proposal. The May Revision requests an augmentation of \$5.3 million General Fund (\$2 million in 2017-18, \$1.8 million in 2018-19, and \$1.5 million in 2019-20 and ongoing) and six positions to support the transition from the Judicial Council's current financial system to the FI\$Cal system.

Background. The Judicial Council currently uses the Oracle Financial System (Oracle) to perform accounting, budgeting, and procurement functions. There are substantial software and hardware upgrades necessary to add new functional models to the current Oracle System.

Staff Recommendation. Approve as proposed.

Issue 6: Sacramento County Courthouse

May Revise Proposal. The May Revision requests the reappropriation of \$16 million from the Immediate and Critical Needs Account for the working drawings phase of the new Sacramento County courthouse. This project will provide a new 53-courtroom courthouse. The estimated total cost for the construction of the new courthouse is approximately \$450 million.

Legislative Analyst's Office (LAO). There are a couple issues the Legislature may want to consider with respect to the Administration's proposal to reappropriate \$16 million from the Immediate and Critical Needs Account (ICNA) for the working drawings phase for the new Sacramento courthouse. Funding was initially provided from ICNA for the preliminary plans and working drawing phases as part of the 2014-15 Budget Act. Given the continued lack of ICNA funding to support this project's construction phase and the fact that working drawings generally only have a limited shelf-life, the Legislature could consider reverting these funds to ICNA. This funding could then be used to address other trial court needs that are a higher legislative priority.

The LAO notes that not reappropriating the funding for working drawings would be consistent with Judicial Council's approach on other ICNA projects. As part of the 2016-17 Budget Act, the Legislature directed the judicial branch to submit a plan to address the long-term insolvency of ICNA within existing resources. This direction has resulted in Judicial Council deciding to allow projects to only complete the phase they are currently in. The Sacramento courthouse is currently in the process of completing the preliminary plans phase.

Staff Comment. In previous actions, the subcommittee has taken the position of requiring that prior to the expenditure of any trial court construction funding, the Judicial Council and the county sheriff certify that the design for the new courthouse will not increase the county's overall trial court security costs. The subcommittee has applied this trailer bill language to both the Siskiyou County courthouse project and the Santa Clara County courthouse funding reappropriation.

Staff Recommendation. If the subcommittee acts to approve the May Revision request, trailer bill language should be included for the new Sacramento courthouse that requires that prior to the expenditure of any construction funding, the Judicial Council and the Sacramento County sheriff will certify that the design will not increase overall trial court security costs.

9285 & 9286 LOCAL ASSISTANCE – TRIAL COURT SECURITY**Issue 7: Trial Court Security Funding**

Governor’s Budget. The Governor’s budget proposes to provide a \$7 million General Fund increase to offset the trial court security costs for those courts completing construction of new courthouses after October 9, 2011. In addition, the budget includes \$280,000 in 2017-18, and \$560,000 ongoing General Fund to offset the security costs related to the transfer of four judgeships between counties.

2011 Realignment of Trial Court Security. As part of the 2011-12 budget plan, the Legislature enacted a major shift, or “realignment,” of state criminal justice, mental health, and social services program responsibilities and revenues to local government. This realignment shifted responsibility for funding most trial court security costs (provided by county sheriffs) from the state General Fund to counties. Specifically, the state shifted \$496 million in tax revenues to counties to finance these new responsibilities. State law also requires that any revenue from the growth in these tax revenues is to be distributed annually to counties based on percentages specified in statute. Due to this additional revenue, the amount of funding provided to counties to support trial court security has grown since 2011-12 and is expected to reach nearly \$558 million in 2017-18, an increase of \$61 million (or 12 percent). This additional revenue is distributed among counties based on percentages specified in statute.

Additional General Fund Recently Appropriated for Greater Levels of Trial Court Security. The California Constitution requires that the state bear responsibility for any costs related to legislation, regulations, executive orders, or administrative directors that increase the overall costs borne by a local agency for realigned programs or service levels mandated by the 2011 realignment. As part of the annual budget act, the state provided \$1 million in additional General Fund support in 2014-15, \$2 million in 2015-16, and \$7 million in 2016-17, above the tax revenue provided through the 2011 realignment, to provide counties with funding to address increased trial court security costs. Eligibility for these funds was limited to counties experiencing increased trial court security costs resulting from the construction of new courthouses occupied after October 9, 2011, (around the time of implementation of the 2011 realignment). Counties are required to apply to the Department of Finance (DOF) for these funds and only receive funding after meeting certain conditions—including that the county prove that a greater level of service is now required from the county sheriff than was provided at the time of realignment. Of the additional funds provided, DOF allocated \$713,000 in 2014-15, \$1.9 million in 2015-16, and currently estimates the allocation of about \$2.7 million to qualifying counties in 2016-17. The Governor’s budget proposes continuing to provide \$7 million in General Fund to augment trial court security funding.

County Sheriffs’ Role in the Trial Court Design Process. According to the Judicial Council, the local county sheriffs have significant input in the Judicial Council’s capital projects. The sheriffs’ staff are included in all space programming meetings for the screening and holding areas. They are included in pre-design activities and throughout the design development and schematic design process where they work with architects on the layout of each room of their space. Finally the sheriff is including throughout the working drawings phase and the actual construction phase. Therefore, county sheriffs appear to have some control over how the courthouse design will affect their ability to provide security within their existing county resources.

Legislative Concerns. The state’s trial courts have faced significant cuts in recent years which have resulted in the closing of courtrooms throughout the state and a reduction in court-related services. As

courtrooms are closed, the need for trial court security is reduced. However, despite a reduction in workload, the revenue provided to counties for trial court security has continued to grow under the realignment formula. In addition, according to the Judicial Council and the Administration, one of the benefits of the new court construction is that they generally require less security than the older courthouses that have multiple entrances.

The Legislature expressed concern with providing the \$1 million in 2014 because of the potential that the General Fund commitment for realigned trial court security would continue to increase year after year; similar concerns were expressed when the funding was doubled in 2015. The request to add an additional \$5 million in funding in 2016 demonstrated that those concerns were well founded.

Legislative Analyst's Office (LAO). The LAO recommended rejecting the initial proposal during the May Revision process in 2014. They acknowledged that some courts may be experiencing an increased trial court security need; they were unable to determine whether there was a statewide net increase in the cost of court security. For example, they note that a number of trial courts closed courtrooms and/or courthouses to address their ongoing budget reductions—thereby reducing the trial court security need and generating cost savings that could be redirected to courts with increased costs. In addition, the 2011 realignment legislation did not envision the state providing each county funding based on its actual court security costs. As such, they argued, the proposal is not consistent with the original intent of the legislation.

As it relates to this year's request for additional security funding related to the judgeships, the LAO found that the Administration has not shown that additional trial court security funding resources are needed. Accordingly, they recommend that the Legislature reject the Governor's proposal for a \$280,000 General Fund augmentation for increased trial court security costs.

Staff Comment. Informal discussions between staff and legislative counsel suggest that it is not certain that this would be a higher level of service. Members may wish to ask for a legislative counsel opinion before acting on any assumptions in this regard. In addition, the Legislature may wish to direct the Administration to use the Trial Court Security growth funding in realignment each year to cover any increased demands on trial court security related to courthouse construction.

Staff Recommendation. Reject both the \$7 million and \$280,000 in General Fund proposed to augment the \$557.6 million in realignment revenue provided in 2017-18 for trial court security.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**Issue 8: Population Adjustments**

May Revise Proposal. The May Revision requests the following population adjustments based upon updated caseload projections and additional alternative custody program placements:

- **Adult Population Adjustment** – The population adjustment includes a net decrease of \$21.3 million and 8.8 positions, which is comprised of a \$21,293,000 General Fund decrease and a \$67,000 Inmate Welfare Fund decrease.

The May Revision reflects an estimated average adult daily population of 127,693 in fiscal year 2017-18. This is 466 fewer than projected in the Governor’s budget. The projected adult parolee average daily population is 47,274 in 2017-18. This is an increase of 2,513 from the Governor’s budget projection.

- **Juvenile Population Adjustment** – The May Revision includes a decrease of \$813,000 General Fund in 2016-17, and \$3.3 million General Fund in budget year, for costs related to a smaller than anticipated juvenile ward population. Specifically, the May Revision projects the average daily population of juveniles are 683 in the current year, and 736 in the budget year. This is a decrease of 22 and 43 ward, respectively, as compared to the January estimates.

Staff Comment. The subcommittee discussed the Governor’s January population projections during its March 9th hearing. In addition, the subcommittee had an in-depth discussion of CDCR’s juvenile justice programs, alternative custody and housing programs during its April 20th hearing. Agendas and video recordings from both hearings are available on the State Senate website.

Staff Recommendation. Hold open.

Issue 9: Drug Interdiction

May Revise Proposal. The May Revision requests \$6.7 million General Fund and 43 positions to establish two permanent canine teams at each state prison as a statewide drug and contraband interdiction strategy.

Background. Data provided by CDCR indicate that drug use is prevalent in prison. For example, in June 2013, 23 percent of randomly selected inmates tested positive for drug use. In addition, another 30 percent refused to submit to testing, which suggests that the actual percentage of inmates using drugs is likely considerable.

Drug use in prison is problematic for several reasons. For example, according to the department, the prison drug trade strengthens prison gangs and leads to disputes among inmates that can escalate into violence. Such violence often leads to security lock-downs which interfere with rehabilitation by restricting inmate access to programming. In addition, the presence of drugs in prison allows inmates to continue using them, thereby reducing the effectiveness of drug treatment programs.

The 2014 budget act provided \$5.2 million General Fund for increased contraband and drug interdiction efforts. In addition, the Legislature adopted trailer bill language requiring that any drug and contraband interdiction efforts on the part of CDCR be applied to all individuals in a facility including inmates, department staff, volunteers, and contract employees and that CDCR establish methods to ensure that the searches shall be done randomly and without advance notice.

Finally, the 2014 budget included trailer bill language outlining the requirements and parameters for the enhanced drug interdiction efforts. For example, the language requires that the drug interdiction efforts be applied to all individuals, including staff and vendors, and that the searches be random and unpredictable and that CDCR use methods to ensure that profiling is not practiced. In addition, the language requires that all individuals who have a positive alert be informed of their options, including, but not limited to, unclothed body searches. The 2015 budget included additional trailer bill language requiring an independent evaluation of the effectiveness of CDCR's drug interdiction efforts and removing the strip search requirement from statute.

Drug Interdiction Evaluation. On April 29, 2017, a report on the effectiveness of CDCR's drug interdiction efforts by University of California at Berkeley and the Public Policy Institute of California was submitted to the Legislature. The results of the study were mixed and presented no clear solution to reducing drugs and other contraband in the prison system. Of particular note, the evaluation states that the data received by the use of canine teams was insufficient to definitively determine the value of this particular interdiction strategy. The evaluation did find a statistically significant decline in the proportion of drug tests that resulted in a failure (roughly 25 percent) at the enhanced interdiction institutions. However, at the same institutions they also found an increase in the recorded instances of inmate misconduct, primarily driven by drug-related rules violations. At the same time, they also found a statistically significant decline in cellphone violations at the enhanced institutions.

The evaluators suggest two alternate/complimentary strategies that are not punitive in nature and that may further reduce the amount of illegal drugs and cellphones in the prison system. They opine that the significant cost of legal phone calls in prison may lead to an increased demand for illegal cellphones, which allow inmates who often come from "poor or near-poor" families to stay in touch with their families. They suggest that CDCR experiment with providing a weekly call allowance free of charge and assess whether this leads to a reduced number of cellphone-related rules violations. In addition, similar to recommendations provided by this subcommittee in past years, the evaluators recommend enhanced substance use disorder treatment that utilizes substance replacement therapies such as methadone or naltrexone.¹

It is worth noting that CDCR is currently conducting a medication assisted treatment pilot that involves the use of naltrexone for substance use disorder treatment. However, the pilot does not include the use of methadone.

Staff Recommendation. Hold open.

¹ Raphael, Steven, et al. "The Effects of California's Enhanced Drug and Contraband Interdiction Program on Drug Abuse and Inmate Misconduct in California's Prisons." University of California at Berkeley. April 29, 2017.

Issue 10: Case Management Reentry

May Revise Proposal. The May Revision requests \$2.7 million General Fund and 21 positions to continue the case management reentry program (CMRP), which is designed to provide intensive case management services to address homelessness, joblessness, mental illness, and developmental disabilities among parolees in five counties.

Background. In the 2014 budget, \$2.5 million in Recidivism Reduction Fund money was dedicated to creating a pilot project designed to provide intensive case management for high risk parolees who are the most likely to return to prison. The pilot was implemented in Sacramento, San Diego, San Francisco, Kern and Los Angeles counties.

On March 2, 2017, the University of California at Los Angeles provided the final evaluation of the case management reentry pilot. The report found that their early review indicates that overall CMRP may hold promise for reducing recidivism and increasing the quality of life for mentally ill offenders returning to the community. The researchers note that not enough parolees have had time to move through all three phases of the program and therefore concrete results about the success of the intervention will need to wait until the program has been in place for a longer period of time.

Staff Comment. This pilot project was implemented at the urging of the Senate during negotiations related to Recidivism Reduction Fund spending.

Staff Recommendation. Hold open.

Issue 11: Roof Replacement

May Revise Proposal. The May Revision requests \$34.9 million General Fund to replace roofs at the California Correctional Institution, Pleasant Valley State Prison, and Salinas State Prison. The Administration notes that the severity of storms in California this past year has damaged the roofs at these three prisons.

Staff Recommendation. Hold open.

Issue 12: Physician Retention Strategies

May Revise Proposal. The May Revision requests \$7 million General Fund and 44 positions 2017-18, growing to \$14 million in 2018-19, to implement physician retention strategies to address high vacancy rates in the state prisons. The resources will allow the federal healthcare receiver to expand the current telemedicine program and establish regional support teams.

Justification. Through prior recruitment efforts, the federal receiver's office has found that many candidates are not interested in working in an institution setting, but would be interested in providing telemedicine services. The expansion of telemedicine, the receiver believes, will provide an effective way of addressing vacancies that cannot be readily filled through the normal civil service process or contract registry. In addition, the receiver believes that the creation of regional support times will help to retain medical personnel by providing coaching, mentoring, and orientation for primary care physicians who are

new to working in a prison setting. In addition, the regional support teams will provide coverage for short-term absences of physicians in the prisons.

Legislative Analyst's Office (LAO). As discussed below, the LAO recommends approving the requested telemedicine and regional support team positions. However, they recommend only providing \$1.8 million in 2017-18 and ongoing, as the remaining funds for these positions can be derived from physician salary savings.

Telemedicine. The LAO recommends approving the 31 positions for telemedicine, which would be funded by salary savings in 2017-18. However, they recommend rejecting the proposed \$10.4 million from the General Fund to pay for these positions on an ongoing basis starting in 2018-19. General Fund resources would only be necessary if all physician vacancies are filled by the end of 2017-18, which seems highly unlikely given the historical difficulty of filling these positions. To the extent that the Receiver demonstrates that vacant positions have been filled and there is no longer salary savings in the future, additional resources could be requested at that time.

Regional Support Teams. The LAO recommends approving the 13 positions regional support team positions. However, they recommend only approving \$1.8 million of the proposed funding—half the amount proposed by the Receiver. This \$1.8 million would be used to support the work related to training and supporting newly hired physicians. Since the remainder of the workload would be covering for vacant physician positions or physicians on leave, that workload can be supported by the physician salary savings. To the extent that the Receiver demonstrates that vacant positions have been filled and there is no longer salary savings in the future, additional resources could be requested at that time.

Staff Comment. The subcommittee discussed the problem of recruitment and retention of medical personnel during its subcommittee hearings on March 16th and April 27th. Agendas and video recordings from both hearings are available on the State Senate website.

Staff Recommendation. Hold open.