

**SUBCOMMITTEE NO. 5**

**Agenda**

**Senator Aisha Wahab, Chair**  
**Senator María Elena Durazo**  
**Senator Josh Newman**  
**Senator Kelly Seyarto**



**Thursday, May 2, 2024**  
**9:30 a.m. or Upon Adjournment of Session**  
**State Capitol – Room 112**

Consultants: Nora Brackbill and Eunice Roh

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## ITEMS FOR VOTE-ONLY

### Transportation

#### 2600 CALIFORNIA TRANSPORTATION COMMISSION

##### Issue 1: Administrative Workload Adjustments

**Governor’s Proposal.** The Governor’s Budget includes \$539,000 in reimbursement authority to support three existing limited-term positions addressing the workload related to climate resiliency, the Local Transportation Climate Adaptation Program (LTCAP), and the Transit Intercity Rail Capital Program (TIRCP). Currently, the positions are funded from the State Highway Account (47 percent) and Public Transportation Account (53 percent). However, the funding will expire at the end of this fiscal year. As such, the department requests reimbursement authority for these positions through 2026-27 to continue implementing climate resiliency, LCTAP, and TIRCP, all programs that is expected to have grant and project management workload for the next several years. CTC will be reimbursed from the California State Transportation Agency (CalSTA), specifically out of the General Fund appropriations for TIRCP in the 2021 Budget Act.

In addition, the Budget includes one permanent Attorney IV position to provide legal services. In the 2023-24 Budget, the California Transportation Commission received \$200,000 for a contract for legal services. However, the Commission has determined staff counsel that could provide dedicated legal services is more desirable than specialized contracted counsel because of they can provide more tailored expertise related to specific Commission functions, namely its role as a responsible agency under CEQA, but also related to Bagley-Keene Open Meeting Act matters, right-of-way matters, and other issues that arise.

**Staff Recommendation:** Approve as budgeted.

#### 2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

##### Issue 2: Administration Program Support

**Governor’s Proposal.** The Governor’s Budget includes \$4,761,000 ongoing from the State Highway Account and 38 permanent positions for administration support. More specifically, Caltrans requests 34 positions in the Division of Human Resources and 4 positions in the Division of Procurement and Contracts. Over the past six years, the California Department of Transportation (Caltrans) has experienced significant expansion in resources, requirements, and functions. However, administrative staffing has not increased proportionally to the department’s growth, putting a strain on resources as operational demands continue to grow and pose challenges to our existing support staff. As such, Caltrans requests these positions to address this increased administrative workload, and improve their hiring, recruitment, training, procurement, and contracting processes.

**Staff Recommendation:** Approve as budgeted.

**Issue 3: Bridge and Tunnel Safety Inspection Resources**

**Governor’s Proposal.** The Governor’s Budget includes \$6,628,000 in 2024-25 and \$8,518,000 ongoing from the State Highway Account to address new federal bridge inspection and data collection requirements. More specifically, recent revisions of federal bridge safety regulations require more in-depth inspections, increased inspections for bridges in poor condition, greater data collection in a new format, additional bridge inspection training, and new quality control and quality assurance measures. As a result, Caltrans requests 28 positions to address this additional workload, funding to purchase specialized inspection equipment, as well as operational expenses for travel and vehicle replacement and maintenance.

**Staff Recommendation:** Approve as budgeted.

**Issue 4: California High Speed Rail Reimbursement Authority**

**Governor’s Proposal.** The Governor’s Budget includes \$3,065,000 in reimbursement authority in 2024-25 and 2025-26 for services rendered on behalf of the California High Speed Rail Authority (HSRA). More specifically, these resources will provide ongoing legal services to the California High Speed Rail Authority in real property acquisition and management for the Central Valley Madera to Shafter segment. There are approximately 291 parcels remaining on the Madera to Shafter segments. As the cases for the Madera to Shafter segments enter the trial phase, an extension of existing resources is requested to complete the process and secure the parcels based on court timelines and availability of judicial resources. The request includes 11 positions total—six attorneys, three legal secretaries, and two Associate Governmental Program Analysts—and funding for expert witnesses completing property appraisals, statement evaluations, site inspections, and agriculture impact assessments.

**Staff Recommendation:** Approve as budgeted.

**Issue 5: Continuation of Proposition 1B Administrative Support**

**Governor’s Proposal.** The Governor’s Budget includes \$1,687,000 from various funds in 2024-25 and 2025-26 to continue addressing workload associated with Caltrans’ responsibilities under Proposition 1B. Proposition 1B was approved on November 7, 2006 and is the transportation component of the infrastructure bond package. Administration of Proposition 1B involves a wide array of duties, including project programming and monitoring; contract preparation and monitoring; performing audits; accountability report preparation; managing nine different funds; invoice processing and financial report preparation; preparing reports to control agencies; as well as various other tasks required to implement and manage transportation projects. This proposal is based on work needs for the remaining active projects and are based on zero-based budgeting practices. 200 projects are still in the implementation phase, and will require monitoring for several more years before they are complete. Therefore, Caltrans request 11 positions for two years, to continue implementing Proposition 1B.

**Staff Recommendation:** Approve as budgeted.

**Issue 6: Continuation of Road Charge Pilot (SB 339) Positions**

**Governor’s Proposal.** The Governor’s Budget includes \$1,042,000 from the State Highway Account in 2024-25 and 2025-26 to continue six two-year limited-term positions to implement a road charge revenue collection pilot, as required by SB 339 (Wiener, Chapter 308, Statutes of 2021). In the 2022 Budget Act, Caltrans received \$6,010,000 over two years to fund \$4,000,000 for contract services and \$1,005,000 for six two-year limited-term positions. The department requests to extend these positions for another two years to complete the pilot project, manage the contract services (which ends April 30, 2026), and provide the final report to the Legislature by December 31, 2026.

**Staff Recommendation:** Approve as budgeted.

**Issue 7: Culvert Inspection Program Statewide Crew Augmentation**

**Governor’s Proposal.** The Governor’s Budget includes \$8,142,000 in 2024-25, \$9,529,000 in 2025-26, and \$8,157,000 ongoing from the State Highway Account to improve the frequency of culvert inspections in the State Highway System. Culverts are designed to channel water under or alongside the roadway to keep roads clear and safe. Routine inspections help reduce culvert repair costs by identifying deficiencies that can be addressed quickly through field maintenance projects, rather than waiting to be programmed into the State Highway Operation and Protection Program (SHOPP), which can take years. In 2019, the Caltrans Office of Independent Audits and Investigations found the department’s average current re-inspection cycle is approximately ten years. However, in some parts of the state, the re-inspection cycle is up to 23 years, due to staffing levels. Caltrans requests in total, 50 positions, equipment and tools for culvert inspection, as well as funding for ongoing maintenance and repair costs, to locate, inventory, and inspect the state’s culverts and storm drain systems on a routine schedule of five-to-seven years, in alignment with the recommendations of the department’s Office of Independent Audits and Investigations.

**Staff Recommendation:** Approve as budgeted.

**Issue 8: Distributed Programs Abolishment**

**Governor’s Budget.** The Budget includes a shift to a centralized Administration and Equipment Program, instead of a distributed Administration and Equipment Program, as well as a consolidation of funding to the State Highway Account. In 2010-11, Caltrans transitioned to distributed programs, and a methodology was developed to equitably distribute both administrative and equipment resources and was adjusted annually with budget changes. Charges are distributed to programs on a percentage basis and consequently do not reflect true expenditures to Caltrans’ various programs. By shifting back to a centralized Administration and Equipment program, Caltrans’ budget will be more transparent and more easily accountable.

**Staff Recommendation:** Approve as budgeted.

**Issue 9: Enterprise Data Governance Technology Solution Implementation**

**Governor’s Budget.** The Governor’s Budget includes \$7,747,000 in 2024-25 from the State Highway Account to implement the Enterprise Data Governance Technology Solution, which is a tool to help Caltrans staff manage data assets consistently and effectively. In prior budgets, Caltrans has received funding to complete the various planning stages of this IT project. The department now requests funding for the first year of implementation—specifically, this request is to fund activities for the technology component, specifically, to implement an enterprise set of data governance and management tools, which will be made available for all Caltrans staff to use. The department expects additional budget proposals for the rest of implementation as well as ongoing maintenance and operation of the project.

**Staff Recommendation:** Approve as budgeted.

**Issue 10: Enterprise Data Storage Expansion**

**Governor’s Budget.** The Governor’s Budget includes \$12,873,000 in 2024-25 to address additional data storage and protection needs and completion of network infrastructure upgrades at designated location throughout the state. In addition, \$10,195,000 is requested beginning in 2025-26 and ongoing for data expansion growth and vendor maintenance support for the network and data storage equipment. According to the department, there is growing need for data storage due to the increase in transportation projects in recent years, from both state and federal funding, as well as the shift to digital project management processes. This request is a continuation of an approved budget proposal from the 2022 Budget Act, which provided six permanent positions to support data storage expansion; limited-term funding for data storage expansion; enhancements to network infrastructure; and digital conversion of documents.

**Staff Recommendation:** Approve as budgeted.

**Issue 11: Equal Employment Opportunity Program Support**

**Governor’s Budget.** The Governor’s Budget includes \$2,095,000 ongoing from the State Highway Account for Equal Employment Opportunity Program (EEOP) support and to implement equity related actions, trainings, and departmental policies. According to the department, over the last three years, EEOP has seen a slow, but steady, increase in the number of complaints being reported. As such, the department requests resources to provide more training and focus on preventative measures. This request includes \$1,345,000 for ten positions to provide proactive training and programming; analyze and report internal data; support administrative activities to address change in organizational structure; as well as process and investigate internal complaints, respond to public information requests, and respond to external investigations. In addition, this request includes \$750,000 for training, consulting services, facilitation, travel, software, and equipment.

**Staff Recommendation:** Approve as budgeted.

**Issue 12: FI\$Cal Onboarding Planning**

**Governor’s Budget.** The Governor’s Budget includes \$13,500,000 in 2024-25 from the State Highway Account to support the transition and onboarding to the FI\$Cal system. Caltrans needs to transition to FI\$Cal because the current system the department is currently using is no longer supported by the vendor and is at the end-of-life. As such, Caltrans has been in the process of shifting to FI\$Cal. For example, in the prior year budget, Caltrans received \$6,637,000 in one-time funding to start planning the transition. This request is a continuation, and includes 34 limited-term positions for reviewing, analyzing, and updated business and technical gaps, business requirements and business processes, identifying system interfaces, data conversion, testing, training, reporting, cybersecurity, communication, and organizational change management as well as consulting services for organizational change management, data conversion, data reporting, and testing.

**Staff Recommendation:** Approve as budgeted.

**Issue 13: Transportation System Network Replacement**

**Governor’s Budget.** The Governor’s Budget includes \$4,204,000 in 2024-25 from the State Highway Account to replace the Transportation System Network. The Transportation System Network (TSN) is a safety data system that collects collision data, highway inventory, traffic volumes, and other roadway data. Currently, the Caltrans TSN only includes data from the State Highway System (SHS). However, the federal government requires states to collect roadway inventory information for all public roads, and not just on the SHS. As a result, Caltrans has begun developing and planning a replacement for the TSN, beginning in 2021-22. This request includes eight limited-term positions (5.5 for system development and implementation and 2.5 for maintenance and operations) as well as one-time system development cost of \$1,982,000 and a system operations and maintenance cost of \$737,000.

**Staff Recommendation:** Approve as budgeted.

**Issue 14: Wildfire Litigation**

**Governor’s Budget.** The Governor’s Budget includes \$4,378,000 in 2024-25, 2025-26, 2026-27, and 2027-28 from the State Highway Account for wildfire legal defense. In recent years, the Caltrans Legal Division has faced increased workload due to wildfire litigation. In the 2021 Budget, the department received \$2,756,000 on a three-year limited-term basis to address such workload. In those years, the Legal Divisions expenditures ranged from \$1.1 million to \$2 million and utilized seven positions annually. Caltrans expects increased staffing and litigation costs over the next several years as the wildfire litigation enters the discovery and trial phases, as there will be subpoenas, depositions and expert witness expenses incurred to determine the liability to Caltrans. The following litigation expenses may include, but are not limited to depositions, court reporters, reprographic services, aerial photography, jury consultants, trial support, and attorney fees.

**Staff Recommendation:** Approve as budgeted.

**2665 HIGH-SPEED RAIL AUTHORITY****Issue 15: Central Valley Segment - Acquisition**

**Governor's Budget.** The Governor's Budget includes a capital outlay appropriation of \$6 million from the High-Speed Rail Property Fund for right-of-way acquisition, using excess parcel proceeds. The High-Speed Rail Authority (HSRA) has to purchase land in order to construct the high-speed rail system. Sometimes, HSRA is required to purchase a full parcel when only a partial parcel is needed. In these cases, the HSRA must later sell the excess portion. The Authority received direction from the FRA on March 6, 2023, indicating that the Authority could avoid returning federal funds associated with the sale of excess parcels, if it expended those funds on new right-of-way purchases. HSRA estimates excess property sales revenue will range between \$38 to \$95 million, and \$5 to \$12 million specifically for parcels purchased with federal funds. This request would allow HSRA to reinvest excess such revenue into the purchase of new parcels within the Central Valley Segment.

**Staff Recommendation:** Approve as budgeted.

**Issue 16: Form to Function Budget Adjustments and Proposition 1A Cap Increase**

**Governor's Proposal.** The Governor's Budget includes \$13.5 million (\$13.3 million Greenhouse Gas Reduction Funds and \$279,000 Proposition 1A Bond Funds) and 67.0 positions to shift consultant resources to state staff on an ongoing basis. If approved, this request will allow HSRA to save \$22.2 million, for a net decrease of \$8.7 million. Shifting to state staff is aligned with a California State Auditor's recommendation from 2018, which found that HSRA was overly reliant on consultants to perform key functions for the project. In addition, the Authority requests trailer bill language to adjust the administrative cap of Proposition 1A from 2.5 percent (\$225 million) to 5 percent (\$450 million) of the \$9 billion appropriation as specified in the language of Proposition 1A through Streets and Highway Code section 2704.08(h). This cap has not been adjusted since 2008, and given the continuing administrative workload the HSRA expects in the coming years, the Authority requests to increase the statutory cap to 5 percent.

**Staff Recommendation:** Approve as budgeted.



**2720 CALIFORNIA HIGHWAY PATROL****Issue 17: Convert Administrative Positions from Sworn Personnel to Non-Uniformed Personnel**

**Governor's Proposal.** The Governor's Budget includes permanent position authority for 34 positions to support CHP's administrative functions. Currently, these positions are filled by uniformed personnel, mainly out of need and availability. However, if these positions are instead filled by non-uniformed personnel, it provides several benefits to the state: (1) returning officers to the field; (2) less staff turnover, since uniformed personnel can only remain in administrative assignments for four years; and (3) cost savings, given that these professional staff cost less than uniformed personnel.

**Staff Recommendation:** Approve as budgeted.

**Issue 18: Augmentation for Retention of Conflict Counsel**

**Governor's Proposal.** The Governor's Budget includes \$4 million from the Motor Vehicle Account (MVA) for retention of outside conflict counsel to represent the California Highway Patrol (CHP) and its officers in civil litigation cases arising from officer-involved shootings.

**Background.** AB 1506 (McCarty, Chapter 326, Statutes of 2020) requires the Attorney General (AG), as the state prosecutor, to investigate incidents of officer-involved shootings that result in the death of an unarmed civilian. As a result, the AG has determined that its investigation of CHP officers involved in shooting incidents resulting in the death of an unarmed civilian creates a conflict in the AG's representation of the CHP and its officers in civil litigation arising from those incidents. Because the AG will not represent the CHP in those incidents, additional funding is required to cover the costs associated with the retention of outside counsel.

**Staff Recommendation:** Approve as budgeted.

**2740 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES****Issue 19: Cybersecurity Program Resources**

**Governor's Proposal.** The Governor's Budget includes \$7,408,000 in 2024-25, \$7,314,000 in 2025-26, and \$4,864,000 ongoing from the MVA for five permanent positions, information technology (IT) security consulting services, as well as IT security tools and training to improve the Cybersecurity Program. Audits and independent security assessments by the California Department of Technology Office of Information Security and the California Military Department has found that the DMV currently has moderate cybersecurity risk. This proposal will support the DMV to comply with State mandated security requirements and address risks identified in various audit and assessment findings.

**Staff Recommendation:** Approve as budgeted.

**Issue 20: Enterprise Content Management (ECM) Project**

**Governor’s Proposal.** The Governor’s Budget requests \$3,279,000 from the MVA in 2024-25 to continue implementing a department-wide Enterprise Content Management (ECM) System. This project will allow the DMV to consolidate document resources by maintaining a centralized repository that integrates with existing systems. The ECM solution will also streamline business processes while increasing data security. In the prior year budget, the DMV received \$3,433,000 from the MVA in 2023-24 to support the ECM project. Currently, the DMV expects to complete the implementation of the ECM project by March 2025.

**Staff Recommendation:** Approve as budgeted.

**Issue 21: REAL ID Automated Document Verification (RADV)**

**Governor’s Proposal.** The Governor’s Budget includes \$7,472,000 from the MVA in 2024-25 and \$5,472,000 ongoing to support the REAL ID Automated Document Verification (RADV) process.

**Background.** RADV allows customers to upload the identity and residency documents necessary to apply for a REAL ID Driver License or Identification Card prior to arriving at the field office. This allows DMV to ensure the customer has the correct documentation needed for the transaction, which decreases the customer’s time in a field office and return visits. The RADV process was originally funded in the 2021 Budget Act—DMV received funding for six temporary IT positions through 2023-24. Currently, RADV is utilized by approximately 40 percent of all REAL ID customers. To support RADV, the DMV requests funding for IT positions, software and vendor support contracts, consultant contracts, and program support positions.

- **IT Resources.** The DMV requests \$1,027,000 ongoing to convert the six temporary IT positions to permanent to support and maintain RADV, and potentially expand the use of RADV to Virtual Field Office, Digital Mailroom, Lien Sales, Disabled Parking Placard recertification, and accounts payable invoices processing.
- **Software and Vendor Support Contracts.** The department requests \$2,800,000 ongoing for AWS hosting services and software and vendor support costs to maintain, modify, and improve the current process flows for various customer services.
- **Consultant Contracts.** The department requests \$2,000,000 one-time for consulting services, to support and onboard permanent staff to manage RADV.
- **Program Support Positions.** The department requests \$1,645,000 ongoing for 15 positions to manually review, analyze, and process documents.

**Staff Recommendation:** Approve as budgeted.

## Public Safety and the Judiciary

### 0250 JUDICIAL BRANCH

#### Issue 22: Statutory Statewide External Audit Program

**Governor’s Proposal.** The Governor’s Budget includes \$1.3 million Trial Court Trust Fund in 2024–25, increasing to \$1.5 million Trial Court Trust Fund in 2028–29 and annually thereafter to support independent, external audits of the trial courts as required by Section 77206 of the Government Code.

**Background.** Current statute requires independent audits of the revenues, expenditures, and fund balances under each trial court’s control on a four-year cycle. These audits are performed by the State Controller’s Office (SCO). These audits focus on each trial court’s compliance with the state’s financial rules for the revenues, expenditures, and fund balances under the trial court’s administration and control.

The cost of these audits was determined by the SCO through a six-court pilot, which included two small, two medium, and two large courts: Amador, Tehama, Yolo, Sonoma, San Mateo, and Sacramento. After that pilot, through the fiscal year 2022–23, the SCO had completed 23 additional audits. This funding request addresses the long-term costs of auditing 14 to 15 trial courts per year, as required by statute, beginning in 2024–25 and annually thereafter.

**Staff Recommendation:** Approve as budgeted.

### 0690 OFFICE OF EMERGENCY SERVICES

#### Issue 23: California Earthquake Early Warning Program: Contract Encumbrance Period Extension

**Governor’s Proposal.** The California Office of Emergency Services (Cal OES) is requesting to change the California Earthquake Early Warning (CEEW) Program’s funding authority from the current one-year encumbrance period to a two-year encumbrance. This request does not require additional funding.

**Background.** The CEEW System is a public alerting system that uses ground motion sensors located at seismic stations across the state to detect earthquakes before shaking occurs. It is an earthquake safety tool, involving interrelated hardware, software, and communications.

When the CEEW Program was established, Cal OES received annual one-time appropriations to support the CEEW System. Beginning in fiscal year 2016-17, \$10,000,000 in General Fund appropriations were allocated to contractors for sensor installation, social science research, education and outreach efforts, and research to improve telemetry and mass alert distribution. Since that time, California has identified the CEEW System as a core public safety function and added \$15,750,000 to the program in 2018-19, \$16,300,000 in 2019-20, \$17,283,000 in 2020-21,

and \$17,283,000 in 2021-22. In 2022-23, the Legislature provided \$17,086,000 to Cal OES in ongoing General Fund to support the CEEW System.

As OES continues to improve and implement aspects of the CEEW System, the complexity of the projects makes it difficult to encumber funds within one year, as currently required. A longer encumbrance period will support CEEW System implementation throughout the state by allowing for multiyear investments and contracts.

**Staff Recommendation:** Approve as budgeted.

#### **Issue 24: Gun Buyback Program Reduction**

**Governor’s Proposal.** The Governor’s Budget proposes to eliminate \$21 million General Fund intended for a gun buyback program at Cal OES.

**Background.** The 2022 Budget Act included \$25 million General Fund one-time for the Board of State and Community Corrections to administer grants to local law enforcement agencies for gun buyback programs. In 2023, \$21 million of this funding was moved Cal OES for the same purpose. The Governor’s Budget proposes to revert this funding.

**Staff Recommendation:** Approve as budgeted.

### **0820 DEPARTMENT OF JUSTICE**

#### **Issue 25: Charitable Trusts Enforcement Workload**

**Governor’s Proposal.** The Department of Justice (DOJ) requests 3.0 positions and Registry of Charities and Fundraisers Fund spending authority of \$860,000 in 2024-25, \$832,000 in 2025-26, and \$832,000 annually thereafter to support increased workload in the Registry of Charities and Fundraisers resulting largely from statutory changes, which require organizations to be in good standing in order to receive donations from platform fundraisers.

**Background.** The DOJ has supervisory authority over charities, charitable trustees, and professional charitable fundraisers as set forth in the Supervision of Trustees and Fundraisers for Charitable Purposes Act (“the Act”, Gov. Code section 12580, et seq.). In 1959, the Legislature mandated that DOJ operate a Registry of Charitable Trusts (renamed to Registry of Charities and Fundraisers, effective January 1, 2024), and for charities and fundraisers to register and file annual reports with the Registry. The Act requires charitable organizations, charitable trustees, professional fundraisers, fundraising counsel, commercial coventurers, and charitable fundraising platforms to register and file annual reports with the Registry (Gov. Code sections 12581, 12584, 12590, 12599-12599.2, 12599.9). The Registry is a self-funded program supported by fees paid by its registrants. DOJ has the authority to deny, suspend, and revoke registration of fundraising and charitable organizations that fail to comply with the annual registration and reporting requirements; investigate charities and fundraisers for other abuses such as illegal or improper use of charitable funds; and file cease and desist orders and administrative and civil actions against noncompliant charities and fundraisers.

Charities that are listed as delinquent, suspended, or revoked are not able to receive donations from platform fundraisers (AB 488 [Irwin], Chapter 616, Statutes of 2021), which has led to an increase in charities trying to restore good standing, and increased workload for legal staff. Legal staff have also experienced an increased workload responding to public inquiries related to the registration status of charities in poor standing.

**Staff Recommendation:** Approve as budgeted.

#### **Issue 26: Tribal Key Employee Licensing Workload**

**Governor’s Proposal.** The DOJ Division of Law Enforcement, Bureau of Gambling Control (BGC) requests 6.0 permanent positions and \$874,000 from the Indian Gaming Special Distribution Fund in 2024-25 and ongoing to maintain the Tribal Key Employee Licensing workload.

**Background.** The BGC regulates legal gambling activities in California. Tribal key employees are employees in a California tribal casino in a supervisory or management capacity, who are empowered to make discretionary decisions regarding gaming operations. These employees must be approved by the Tribal Key Employee Unit at BGC, which is required to conduct background investigations on applicants to determine whether the applicants are suitable to be licensed for association with a gaming operation. All applications must be acted upon within 180 days of the date of submission.

The current number of positions within this unit does not provide the minimum level of support needed to handle ongoing incoming workload. Without permanent positions to fulfill the workload of the Tribal Key Employee Unit, workload will continue to backlog, and the BGC will be at risk for not meeting their mandated timeframes. As of November 30, 2023, there are 441 applications over six months old. An increase in tribal casinos has contributed to an increased workload for the Tribal Key Employee Unit, but staffing levels have not changed since 2011-12.

**Staff Recommendation:** Approve as budgeted.

### **5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION**

#### **Issue 27: Technical Adjustments**

**Governor’s Proposal.** The California Department of Corrections and Rehabilitation (CDCR) requests a reduction of \$290,000 General Fund in 2024-25 and ongoing to correct the miscoding of positions from the 2023-24 May Revision Housing Unit Conversion Standard Adjustment resulting in an increase of \$82,000, a reduction of \$365,000 to reflect Prison Industry Authority janitorial savings from the California City Correctional Facility closure, a reduction of \$7,000 to correct the miscoding of funds, and various net-zero realignments within CDCR programs.

**Staff Recommendation:** Approve as budgeted.

**Issue 28: Amendments to Clemency Statutes Trailer Bill Language**

**Governor’s Proposal.** The Governor’s Budget includes two pieces of trailer bill language related to record transmittal:

- *Amendments to Clemency Statutes: Capital Case Records.* Removes certain requirements for the courts to send hard copies of specified documents and transcripts to the Governor, and instead requires electronic transmittal of specified documents (but not the complete transcript).
- *Amendments to Clemency Statutes: Certificate of Rehabilitation.* Removes the requirement for individuals seeking a certificate of rehabilitation to give notice of the filing to the Governor’s Office (GO). The GO would still receive a copy of any order granting a certificate of rehabilitation. Requiring an additional notice upon filing imposes additional burdens on the individuals and increased workload for the GO.

**Staff Recommendation:** Adopt placeholder trailer bill language.

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS****Issue 29: Extension of Medication-Assisted Treatment Grant Program: Reappropriation and Trailer Bill Language**

**Governor’s Proposal.** The Governor’s Budget includes a reappropriation of \$10 million in Medication-Assisted Treatment Grant funds originally authorized as part of the 2022 budget. The reappropriation would extend the availability for encumbrance and expenditure through June 30, 2027, and extend the reversion date to June 30, 2029. The Governor’s Budget also includes statutory changes to extend the due date of the final report to July 1, 2028.

**Staff Recommendation:** Approve as budgeted and adopt placeholder trailer bill language.

## ITEMS FOR DISCUSSION

### 0690 OFFICE OF EMERGENCY SERVICES

#### Issue 30: Emergency Preparedness and Response Planning Report

##### Panelists

- Eric Swanson, Deputy Director, Finance & Administration, Cal OES
- Christine Curry, Chief Deputy Director, Cal OES
- Jared Sippel, Principal Fiscal and Policy Analyst, Legislative Analyst's Office (LAO)
- Vy Nguyen, Principal Program Budget Analyst, Department of Finance
- Tess Scherkenback, Staff Finance Budget Analyst, Department of Finance

**Background.** The 2022-23 Budget Act (Provision 4 of Item 0690-001-0001 of the Budget Act of 2022, [Chs. 43, 45, and 249, Stats. 2022]) required Cal OES to submit a report as follows:

The Office of Emergency Services shall submit a report to the budget committees of the Senate and the Assembly and the Legislative Analyst's Office by February 1, 2024. The report shall outline the assumed types and levels of risks that the department's emergency preparedness and response planning contemplates, the department's operational framework for determining the appropriate resource capabilities and capacity necessary to address the assumed risk, how the department's existing resources fit within that framework, and general areas of emergency preparedness and response that may need further development. The report shall also include, at a minimum, the following: (1) a description of the department's existing emergency response capacity and resources, including a description of how federal, other state, and local resources are deployed to support the state's emergency response and how those resources are considered when determining the Department's resource and capacity needs, (2) state emergency response goals, objectives, and metrics where appropriate, including, but not limited to, response capacity for emergencies, multiple simultaneous emergencies, and prolonged emergencies, (3) a description of the state's ability to meet the identified emergency response goals, objectives, and metrics where appropriate, including, but not limited to, regional response capabilities to handle all hazard emergency situations and for key emergency response activities, (4) a description of any gaps in the Department's current response capacity that prevent or delay meeting its emergency response goals, (5) an assessment of how the resources approved in the Budget Act of 2022 support the Department's ability to meet its emergency response capacity goals and gaps identified in this report, and (6) a description of the existing programs dedicated to mitigation of disaster related risks and how they align with the core mission of OES.

The 2023-24 Budget Act adjusted the report as follows:

In the report being provided pursuant to Provision 4 of Item 0690-001-0001 of the Budget Act of 2022 (Chs. 43, 45, and 249, Stats. 2022), the Office of Emergency Services shall also include an assessment of how the resources approved in the Budget Act of 2023

support the office’s ability to meet its emergency response capacity goals and gaps identified in the report. Notwithstanding Provision 4 of Item 0690-001-0001 of the Budget Act of 2022 (Chs. 43, 45, and 249, Stats. 2022), the required report, as amended by this provision, shall be submitted to the budget committees of the Senate and the Assembly and the Legislative Analyst’s Office by March 1, 2024.

A brief summary of some of the key points from the report is below.

***Identifying and Assessing Hazards.*** Cal OES analyzes hazards and their associated risks based on impact (including severity and vulnerability), and whether it is a natural hazard or not (e.g. a wildfire versus an urban structure fire). Examples of high-impact natural hazards include earthquakes and extreme heat.

***Disaster Response, Recovery, Mitigation, and Planning.*** Disaster response refers to the actions taken immediately after a disaster occurs. The next phases include recovery, hazard mitigation, and planning. These steps cover rebuilding, strategies to reduce the risk that a similar disaster would occur again, and planning for potential similar or other disasters in the future. Cal OES also completes After Action Reports to analyze the response and document lessons learned.

***Mutual Aid.*** California operates using a Standardized Emergency Management System (SEMS), which creates a standard, consistent organizational structure and enables coordination between local, regional, state, and federal entities. At the local level, the California Master Mutual Aid Agreement (MMAA) allows cities, counties, and tribal governments to share resources as needed during disaster response. The agreement obligates each signatory entity to provide aid to each other during an emergency without expectation of reimbursement. At the federal level, the Emergency Management Assistance Compact (EMAC) further allows sharing of personnel and equipment between states.

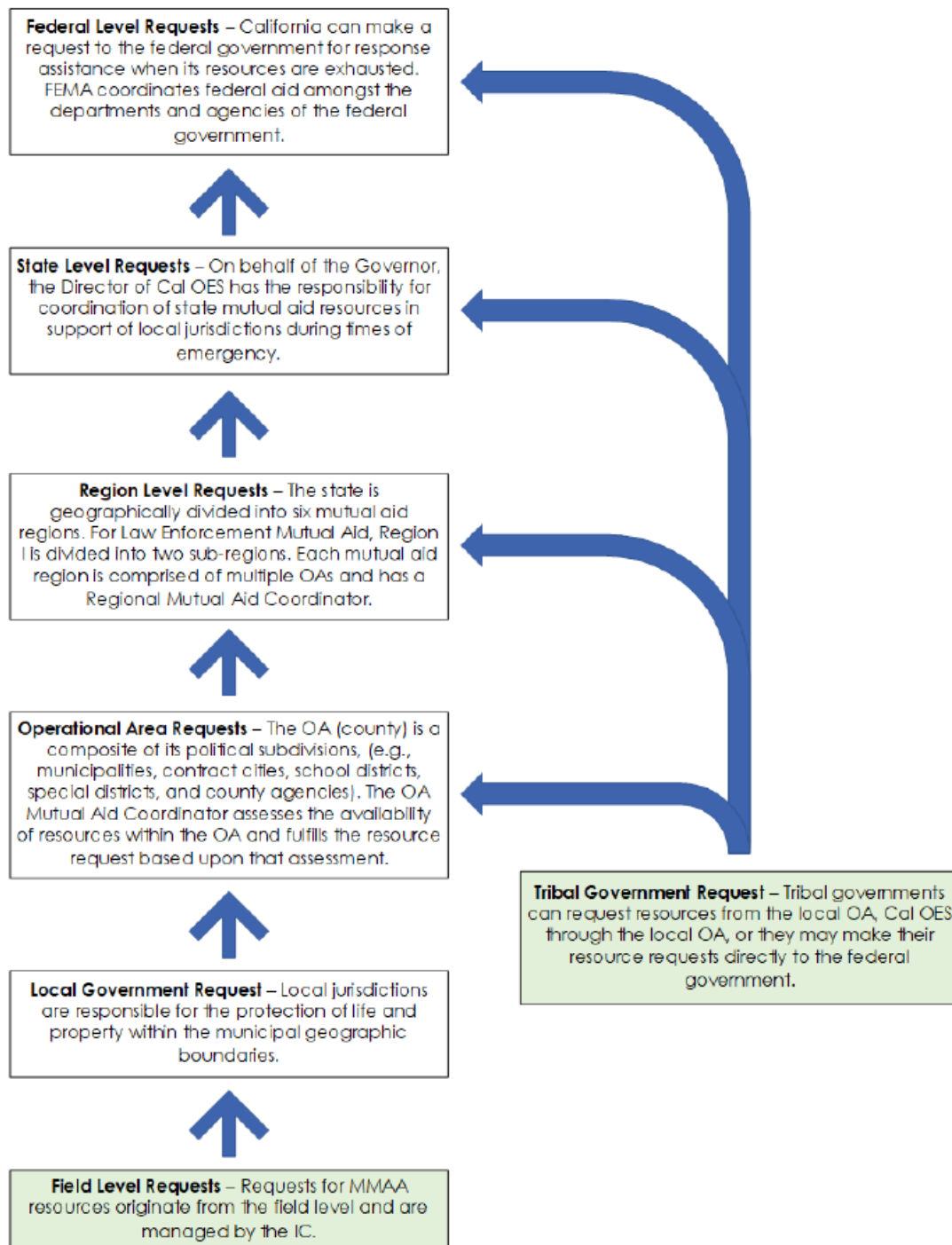
***Response.*** California has a State Emergency Plan (SEP) which outlines how to respond to emergencies in California and is updated every five years. Following the SEP, emergency responders set response-related goals, priorities, and strategies. Core priorities include: saving lives, protecting public health and safety, protecting property, and preserving the environment. Responses to large-scale events are coordinated by a Unified Government Group (UGG) convened and led by Cal OES along with the Governor’s Office, Cabinet Secretaries, Department Directors, and federal agency officials, and tailored according to the nature of the emergency. The pathway for resource determination is outlined in the chart on the following page.

***Cal OES Roles and Responsibilities.*** For state-level disasters, Cal OES coordinates resources through the State Operations Center (SOC). Cal OES also has the authority to mission task any and all state agencies to support activities to prevent, respond to, recover from, and mitigate the effects of disasters. Some state agencies have pre-assigned emergency responsibilities.

***California State Warning Center (CSWC).*** The CSWC is staffed 24 hours a day, seven days a week to identify potential and emerging threats to California and provide alert notification to all levels of government. The CSWC also coordinates the information needed to determine the potential impact of a threat and provides updates and monitors the situation until it is resolved. The 2022



Budget Act included additional resources for the CSWC, including funding to create a mobile, backup unit.



*Incident Support.* The Budget Act of 2021 provided funding for Cal OES to establish a permanent incident support teams. Cal OES also requires all employees to be available to “activate” to the SOC or deploy to a local Emergency Operations Center (EOC), incident command post, recovery

operation, or other disaster sites throughout the state, in response to emergencies. All Cal OES employees, regardless of position or level, participate in these activations as needed.

In addition, Cal OES has specialized response teams, including the following:

- Office of Access and Functional Needs (OAFN)
- Office of Tribal Coordination
- Office of NGO/Public Private Partnerships (including the Business Operations Center and the Utilities Operations Center)
- Public Safety Communications
- Victim Services
- Public Information
- State Threat Assessment Center

*Regional Coordination and Support.* Cal OES has three regions (Coastal, Inland, and Southern) that work with each of the 58 counties, or Operational Areas (OAs). Region staff maintain relationships with county emergency management day to day and during emergencies.

*Fire and Rescue.* Cal OES Fire and Rescue coordinates the California Fire and Rescue Emergency Mutual Aid Plan, hazardous materials prevention and response programs, regional urban search and rescue and swiftwater search and rescue teams, among other duties. The Fire Integrated Real-Time Intelligence System (FIRIS) program provides real-time, aerial information, such as fire perimeters, to partner agencies during fires and other disasters, such as landslides.

*Law Enforcement.* Cal OES Law Enforcement coordinates with local, state, federal, and tribal law enforcement stakeholders in response to incidents and security events throughout California. Cal OES Law Enforcement plans, trains, and coordinates emergency response for Search and Rescue (SAR), Coroners' mutual aid, and other law enforcement emergency activities amongst California's 58 counties and more than 600 law enforcement agencies. Cal OES also administers the Law Enforcement Mutual Aid Fund, designed to reimburse law enforcement agencies that respond to disasters and emergencies outside their jurisdictions for their extraordinary costs.

*Warehousing.* Cal OES leads the Logistics Task Force, which was formed in response to supply chain disruptions during COVID-19 to manage demands for emergency supplies and equipment, and runs a warehousing program. The warehousing program maintains fluctuating quantities of supplies, including but not limited to: masks and other personal protective equipment, cots, blankets, water, ready-to-eat meals, medical stations, field office kits, staging area kits, and 2 million sandbags. Cal OES has 8 trailers to facilitate the movement of supplies during incidents.

*Disaster Mitigation.* Disaster mitigation includes various planning, training, and alert programs that prepare the state to withstand the impacts of disasters. Cal OES prepares a state-level Continuity of Operations Plan, reviews local emergency operations plans, and assists various other state agencies with their disaster planning, and provides training and exercises through the California Specialized Training Institute. Cal OES also leads the Earthquake Early Warning System, in collaboration with numerous entities, to provide rapid alerts of eminent earthquakes, before shaking occurs.

Cal OES also has numerous programs that focus on protecting communities through infrastructure improvements, nature-based risk reduction, and other risk-reduction strategies. After disasters, in addition to funding for the immediate response, the Federal Emergency Management Agency (FEMA) provides funding to the affected communities to invest in mitigation efforts. Cal OES develops and maintains an enhanced State Hazard Mitigation Plan, which qualifies the state to receive additional funding for that purpose. Cal OES helps locals prepare and apply for federal funding for hazard mitigation and manages FEMA's Hazard Mitigation Assistance programs.

***Opportunities to Improve Emergency Response Capacity.*** In the report, Cal OES identified the following gaps and opportunities for improvement in response capacity:

- Ongoing and consistent community outreach
- Local emergency and mitigation planning capacity and resources
- Training and credentialing opportunities for local and state partners
- Public information and warning systems, including in multiple languages and with broad accessibility for individuals with Access and Functional Needs
- Regional support
- Search and rescue capacity and specialty knowledge and equipment
- Mutual aid related to animal care and sheltering needs
- Capacity to respond to large, complex, and concurrent fires year-round
- Logistics
- Hazard mitigation financial support for local communities
- Emergency housing and other basic living needs following disasters

**Staff Comment.**

*Information about local capacity.* Given the reliance on mutual aid discussed in the report, more clarity may be needed on the level of insight Cal OES has on the resources and capacity of locals.

*Other Cal OES duties.* The Legislature may wish to consider how Cal OES's other programs, such as victim services, fit into its core mission of emergency response.

**Staff Recommendation:** This item is informational, and no action is needed.

**0552 OFFICE OF THE INSPECTOR GENERAL  
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION**

**Issue 31: Staff Misconduct Process Implementation Update**

**Panelists**

- Caitlin O'Neil, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Amarik Singh, Inspector General, Office of the Inspector General
- Chris Chambers, Director, Division of Internal Oversight and Research, CDCR

The Department of Finance is available for questions.

**Background.** In recent years, CDCR has made several changes to its process for handling allegations of staff misconduct, also known as the staff complaints process. These changes were largely in response to a series of reports from the Office of the Inspector General (OIG) and court orders in the *Armstrong* case.

***Current Process for Handling Allegations of Staff Misconduct.***

CDCR defines a staff misconduct grievance as an allegation that staff violated a law, regulation, policy, or procedure, or acted contrary to an ethical or professional standard<sup>1</sup>. CDCR receives most of these through the general grievance process (also sometimes referred to as the 602 process), which also includes routine grievances and other requests. For example, a routine grievance could be that the temperature in a cell is too hot, whereas an allegation of staff misconduct would be that staff are deliberately raising the temperature in the cell as retaliation or punishment.

CDCR's Office of Internal Affairs (OIA) screens grievances for allegations of staff misconduct, and conducts investigations of the most serious allegations. Routine grievances and less serious allegations of staff misconduct are returned to the prisons to be handled (although they may be elevated back to OIA). The final determinations and disciplinary actions are decided by the hiring authority (typically the warden of the institution).

In detail, the process works as follows:

1. *Intake, Screening, and Routing.*
  - Grievances are collected by the prison's Office of Grievances, and screened for any urgent issues (i.e. anything that would require an immediate response) within one business day.

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<sup>1</sup> The definition used to also contain "that would more likely than not subject a staff member to adverse disciplinary action (such as a reprimand, pay reduction, suspension, or dismissal) if it were found to be true," but this is subjective and was removed in the most recent regulations.

- Grievances are sent to the Centralized Screening Team (CST) at OIA and processed within three to five business days. There, staff decide whether it contains: (1) a serious allegation of staff misconduct that requires investigation by the Allegation Investigation Unit (AIU) at OIA, (2) an allegation of staff misconduct that can be returned to the prison for a local inquiry, or (3) a routine grievance that does not contain any allegations of staff misconduct and can be returned to the prison. CST staff may also follow up with the person who submitted the grievance for more information if needed, and they log the grievance in the Allegation Against Staff Tracking System (AASTS).
2. *Investigation, Inquiry or Other.* Depending on the decision of CST, AIU will perform an investigation within 120 days, or a Locally Designated Investigator (LDI) will perform a local inquiry within 60 days. In the case of a local inquiry, the final report must be reviewed by an AIU Captain before the inquiry is completed. If the LDI establishes reasonable belief that an allegation occurred that is likely to lead to adverse action, the LDI is supposed to stop the inquiry and escalate the complaint directly to AIU. LDIs are also required to be at least one rank above the highest-ranking officer in the allegation.
  3. *Resolution.* The results of the investigation or inquiry are returned to the hiring authority for review and disposition. The reports only contain a finding of facts – it is up to the hiring authority to decide if an allegation of staff misconduct is sustained. Hiring authorities must order some action if an allegation of staff misconduct is sustained. The outcome is recorded in the AASTS.

*Source of Allegations.* CST screens grievances from the following sources: CDCR Form 602-1 (Custody Grievance), CDCR Form 602-HC (Health Care Grievance), and CDCR Form 1824 (Reasonable Accommodation Request). In addition, CST also accepts grievances filed by third parties, including from or on behalf of *Armstrong* plaintiffs, and from anonymous parties, CDCR staff, and families.

*Routing of Allegations.* The decision to route allegations of staff misconduct for either an OIA investigation or a local inquiry is based on the Allegation Decision Index (ADI). The index includes serious allegations related to use of force, Prison Rape Elimination Act (PREA), sexual misconduct and harassment, destruction of evidence, discrimination and harassment, and others. The ADI requires a “causal connection” between a staff member’s actions and a protected class or action before elevating allegations like discrimination and retaliation to OIA. It also specifies the minimum staff level (i.e. special agent, lieutenant, or sergeant) that should be assigned to the investigation.

*Employee Discipline.* The results of investigations and inquiries are returned to the hiring authority of the subject of the investigation – typically the warden of the institution. If the hiring authority believes adverse action is warranted (such as dismissal or suspension), they refer the case to the Central Intake Panel (CIP) at OIA, often referred to as the “989 process.” CIP reviews any information already collected and can refer the case for further investigation (including criminal investigation), or authorize the hiring authority to take direct disciplinary action without further investigation. In response to *Madrid* litigation, CDCR established the Employee Advocacy and

Prosecution Team (EAPT) in CDCR's Office of Legal Affairs (OLA) in 2005. EAPT staff attorneys provide legal support and guidance to CDCR throughout employee investigation and disciplinary processes. EAPT staff attorneys also may participate in the OIA investigation process if the allegation would be likely to lead to adverse action.

### ***OIG Oversight of the Staff Complaint and Employee Discipline Processes.***

The OIG was established in 1994 to provide independent oversight of California's prison system. Over the years, the OIG has been restructured and its duties changed multiple times, typically in response to court orders for oversight or legislative priorities. In particular, the Legislature removed much of the OIG's authority and resources in 2011, but some of has since been restored. The OIG is currently tasked with monitoring the staff complaint process and the employee discipline process. Specifically:

- *Staff Complaint Monitoring and Complaint Intake.* In 2019, OIG was tasked with monitoring the staff complaint process, and the 2019-20 budget package provided OIG with five positions and about \$780,000 in ongoing General Fund support for this purpose. The 2022-23 budget included an additional \$7.9 million in 2022-23 and \$15.1 million ongoing to provide contemporaneous monitoring of the new staff complaint process, including reviewing screening decisions and monitoring investigations.
- *Employee Discipline Monitoring.* The OIG has representatives on the CIP, although the final decisions are made by the OIA staff. However, in its public reports to the Legislature and Governor, OIG notes instances when its staff disagree with decisions made by OIA.

The OIG also monitors about 15 percent of the investigations conducted as a result of the 989 process, focusing on the more serious investigations, such as cases involving alleged dishonesty, use of force, and criminal activity.

In addition to monitoring the quality of the investigatory work, OIG monitors the performance of department attorneys involved in the investigation and discipline process and hiring authorities' imposition of discipline. OIG includes these findings in its public reports to the Legislature and Governor.

### ***Recent Concerns Raised by the OIG.***

In January 2024, the OIG published a special review stating that CDCR had improperly redirected backlogged allegations of staff misconduct to be processed as routine grievances<sup>2</sup>. The report states:

We are issuing this special review to shed light on one particularly problematic decision the department made when determining how to address a backlog of complaints it amassed under its prior process for handling incarcerated persons' allegations of staff misconduct. The decision violated both the department's regulations and its policy for screening and investigating grievances received from incarcerated people who alleged staff misconduct.

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<sup>2</sup> <https://www.oig.ca.gov/wp-content/uploads/2024/01/OIG-Special-Review-No-SR-23-01.pdf>

The department's decision came to our attention during the course of our monitoring when we received a departmental memorandum outlining a directive to convert backlogged grievances containing allegations of staff misconduct into "routine grievances" and redirect them for handling by prison grievance offices.

The OIG reviewed 595 backlogged grievances received by the Department between February 2022 and February 2023, which were closed pursuant to the decision referenced above. The OIG determined the following:

- *The grievances did contain allegations of staff misconduct that should have been handled by the AIU per department regulations.* The OIG reviewed 71 grievances that were redirected to the institutions, which all contained at least one allegation of staff misconduct that included complex issues requiring specialized investigative skills or resources, and should've been routed to OIA according to current departmental regulations and policies. Of these, grievance offices only escalated one case back to the OIA for investigation (and another person's grievance about the same incident was denied by a different institution's grievance office).
- *The department wasted and misallocated resources.* The OIG noted that by "deviating from its regulations, the department wasted resources and reverted to handling these allegations of staff misconduct as it did in 2021, before it received approximately \$34 million to restructure and improve its process." They also noted two examples where grievance office staff had already finished gathering facts, interviewing potential witnesses, and reviewing records, only for the grievance to be rejected because the responses were not completed on time.
- *The department had allowed the statute of limitations to take disciplinary action to expire in many of the cases.* State law generally requires the department to initiate discipline against peace officers within one year of discovery of the alleged misconduct. The OIG found 127 cases where the statutes of limitations had expired, meaning the department could not take disciplinary action even if sufficient evidence of misconduct was found. The OIG found 22 cases that contained serious enough allegations that, if substantiated, they could have resulted in discipline up to dismissal. The department also redirected 129 grievances with statutes of limitations set to expire within 60 days of the redirection, while CDCR policy states that investigations should be completed at least 60 days before expiration to enable to the department to initiate discipline if desired.
- *Upon return to the institutions, prison staff did not always adequately address or investigate the complaints.* In some cases, the grievance offices did not address all allegations contained in a grievance. In one grievance, an incarcerated person alleged a correctional officer threatened him, stating that he would have his sergeant "place [him] in administrative segregation, and beat the shit out of [him], and plant drugs on [him]." This allegation was not addressed in the grievance office's decision.

The OIG notes that in some grievances they reviewed, “it did not appear that grievance office staff attempted to gather evidence at all,” and that “grievance offices closed two grievances as duplicates even though they contained new allegations and a third as a duplicate even though it was not duplicative of another grievance.”

In addition, the OIG identified cases where the allegations of staff misconduct were investigated by staff ranked lower than the staff alleged to have committed misconduct (for example, a lieutenant was assigned to investigate a complaint against a warden). Regulations require locally designated investigators be ranked at least one classification higher than the accused staff member.

In addition, the department’s total processing time in the 71 cases reviewed ranged between 214 to 548 days, and it took the department more than a year to close 28 of the 71 cases (39 percent).

*CDCR Response to the Special Review.* In response, CDCR noted that as the new process rolled out, there was a period where allegations of staff misconduct identified by the CST were routed to either old Allegation Inquiry Management Section or the new AIU based on the institution the grievance came from (due to court instructions specific to certain institutions), and that AIMS developed a significant backlog. CDCR also alleged that the OIG confused components of the new and old processes in a misleading way, but the OIG responded that the Department had six weeks to review the draft report before it was released, and did not bring up this concern or any other factual inaccuracies.

CDCR also stated that they reviewed the backlog and determined that the grievances in question had been “incorrectly screened as including allegations of potential staff misconduct and assigned and routed to the Allegation Inquiry Management Section for inquiry rather than to local Office of Grievances for review and processing as routine grievances.” As noted above, the OIG identified numerous allegations of staff misconduct in the redirected grievances (at least one in each of the 71 grievances sampled), and disagreed with the department’s assertion that these were routine. In addition, the OIG notes that CDCR did not mention this review in the memorandum outlining the decision to redirect grievances, or in any discussions with the OIG about the decision, had no records of having conducted such a review, and justified the decision to the OIG as being necessary due to staffing and workload.

CDCR did acknowledge “responsibility for the reassigned grievances which exceeded statute of limitations dates prior to reassignment.”



*Annual Staff Misconduct Monitoring Report.* On April 25, 2024, the OIG released their annual monitoring report<sup>3</sup>. They determined the department performed satisfactorily when making screening decisions, poorly in completing inquiries, and poorly in conducting investigations and the employee disciplinary process:

- They monitored 6,953 complaints for which the Centralized Screening Team made screening decisions, and found CST performed in a superior manner in 4, satisfactory in 6,248 (90 percent), and poorly in 701.
- They monitored 113 inquiry cases completed by locally designated investigators and found the department performed in a superior manner in none, satisfactory in 36, and poorly in 77 (68 percent), of the inquiry cases.
- They monitored 121 staff misconduct investigations and the employee disciplinary process for those cases. The department performed in a superior manner in none, satisfactory in 44 (36 percent), and poorly in 77 (64 percent), of the investigations and the employee disciplinary process for those cases.

The report also raised a number of specific concerns:

#### *Centralized Screening Team*

- The OIG noted concerns with CST training. The OIG attended a CST training in August 2023, where they noted that, “At the start of the training, instructors explained the objective of the training was to avoid inappropriate referrals to the Office of Internal Affairs’ Allegation Investigation Unit. The training effectively discouraged the routing of grievances for investigations or inquiries and instead encouraged routing the grievances back to the prisons for a routine fact finding.” CST staff also noted that they are trained to interpret allegations stating, “I believe,” “I think,” or “I feel,” to be conjecture, and therefore routine rather than staff misconduct.
- CST routed complaints based on whether they believed the complaint to have merit. However, CST’s role is not to judge the plausibility of a complaint, but to identify allegations.
- The Department failed to properly utilize the clarification interview process in several cases.
- The Department has frequently failed to accurately summarize claims resulting in improper routing decisions and inquiries and investigations that are incorrectly scoped. For example, a 602 alleged that officers failed to provide a female officer for a strip search upon request by a transgender inmate, and that the officers trashed the cell in retaliation. CST did not identify any allegations of staff misconduct in their summary of the grievance.

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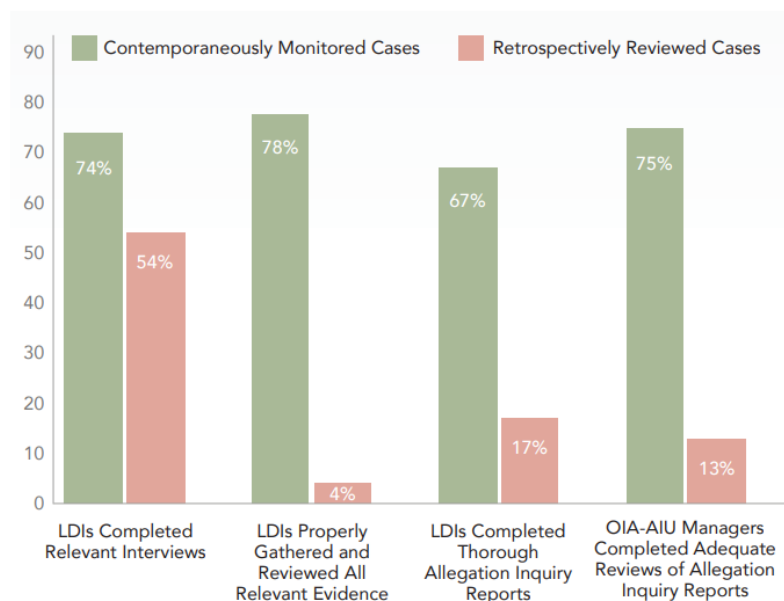
<sup>3</sup> <https://www.oig.ca.gov/wp-content/uploads/2024/04/2023-Report-on-the-OIGs-Monitoring-of-the-Staff-Misconduct-Complaint-Screening-Inquiry-Investigation-and-Employee-Disciplinary-Processes.pdf>

- Departmental medical subject matter experts frequently conducted a fact-finding analysis that contradicted policy. OIG found that nursing consultants who assisted in screen grievances reviewed files and otherwise making conclusions about allegations that were not the role of the CST.

#### *Local Inquiries*

- The Department's local inquiries are compromised because hiring authorities do not consistently assign appropriately ranked investigators or properly evaluate investigators for potential conflicts of interest.
- The Department refuses to audio-record interviews, which results in the loss of evidence vital to the investigators, the office of internal affairs' allegation investigation unit, and the hiring authority.
- The Department's policy regarding video retrieval inappropriately limits investigators' ability to obtain potentially relevant video-recorded evidence.
- Investigators failed to interview all pertinent witnesses and identify relevant evidentiary documents.
- Hiring authorities made final decisions that were inconsistent with evidence.
- The Department consistently failed to meet its own 90-day goal to resolve staff misconduct local inquiries.
- The Department failed to adequately communicate with the OIG, thereby preventing the OIG from performing its statutorily required monitoring functions.
- The Department performed worse in cases not contemporaneously monitored by the OIG (see figure on the next page).

**Figure 3. The Department Performed Better in Cases That the OIG Contemporaneously Monitored**



Source: The Office of the Inspector General Tracking and Reporting System.

### *Investigations and Employee Discipline*

- Some Office of Internal Affairs investigators conducted biased and/or incomplete investigations. The OIG notes that in their annual report from last year, “we discussed that investigators failed to perform necessary interviews in 30 percent of the investigations we monitored in 2022. Despite our published findings, we observed a similar trend in staff misconduct investigations in 2023.” They also note that 20 percent of OIA investigations are closed without conducting any interviews.
- Office of Internal Affairs investigators failed to secure video evidence in some investigations. Here is an example cited in the report:

In another case, on May 19, 2023, the department received an allegation that an officer entered an incarcerated person’s cell and touched the incarcerated person’s genitals every two days between April 7, 2023, and May 19, 2023. On June 5, 2023, the Office of Internal Affairs’ Allegation Investigation Unit assigned an investigator to the case and, on July 3, 2023, reassigned the case to a different investigator. The second investigator did not conduct the first interview for the investigation until August 7, 2023, more than 90 days after the majority of the alleged incident had occurred. Despite repeated recommendations from the OIG to timely obtain relevant video-recorded evidence, the investigator failed to obtain any video-recorded evidence before the department destroyed the recordings.

- Office of Internal Affairs investigators used poor investigative techniques when using video evidence in investigations.

- Office of Internal Affairs investigators failed to ensure the confidentiality of investigations. The OIG found investigators failed to maintain confidentiality in 22 of the 121 investigations, or 18 percent, that the OIG monitored and closed in 2023.
- Department attorneys performed poorly in nearly 50 percent of staff misconduct cases monitored by the OIG, including drafting few disciplinary actions, not litigating any evidentiary hearings before the state personnel board, and providing incorrect or poor advice in almost one-third of all monitored cases.
- Prison wardens performed poorly in half the staff misconduct cases monitored by the OIG, including making poor findings in 19 percent of cases monitored, delayed conducting an investigative and disciplinary findings conference for over a month in 52 percent of cases.
- Departmental staff entered or failed to correct inaccurate information about some of its staff misconduct cases in its database.

The OIG report also includes the following recommendations:

*Centralized Screening Monitoring Team Decisions*

- The department should clarify departmental policy in writing to require screeners to ask the complainant questions during a clarification interview to obtain sufficient information to ultimately make an informed screening decision about the allegation.
- The OIG recommends the department focus more quality-control attention on claims initially identified as routine matters. The OIG also recommends the department establish clear policy requiring medical subject matter experts review only claims related to medical treatment, and custody subject matter experts review claims related to custody and correctional issues, such as use of force, even when the person alleged to have committed misconduct is a medical employee.
- The OIG recommends the department require locally designated investigators to complete a conflict-of-interest review and acknowledge that they do not have an actual or potential conflict of interest before an inquiry begins. The OIG recommends the department adopt its already-existing conflict-of-interest form, used by the Office of Internal Affairs.

*Staff Misconduct Local Inquiry Cases*

- The OIG renews the recommendation made in the 2022 annual report that locally designated investigators audio-record all interviews.
- The OIG recommends that the department amend its policy to permit investigators the independence and authority to identify, obtain, and review all video-recorded evidence that they have determined to be potentially relevant to their inquiry.

- Hiring authorities should receive training on how to conduct thorough reviews of allegation inquiry reports and on departmental policy to ensure that they make proper staff misconduct determinations.
- The OIG recommends the department implement a policy requiring locally designated investigators and hiring authorities to complete the local inquiry process within 90 days of the date the Centralized Screening Team receives an allegation.
- The OIG recommends that the department develop, implement, and maintain a policy and process to require meaningful communication with the OIG during the course of each local inquiry to enable the OIG to perform its statutorily required monitoring activities. The OIG also recommends that the department hold employees accountable for failing to communicate with the OIG.

#### *Staff Misconduct Investigation and Employee Disciplinary Cases*

- The OIG recommends that the department require all members of an Office of Internal Affairs investigation team, including managers, to complete conflict-of-interest forms and recuse themselves from working on investigations in which they have a conflict of interest with—or bias for or against—any of the subjects or witnesses of an investigation.
- The OIG recommends that the department eliminate the use of summarized investigation reports which allow investigators to close staff misconduct investigations without conducting any interviews.
- The OIG recommends that the department expand its video-recording retention policy by increasing the minimum retention time for all recordings to one year to ensure that relevant video-recorded evidence is available for staff misconduct investigations.
- The OIG recommends that investigators determine the independent recollection of a witness before presenting him or her with video evidence.
- The OIG recommends that, during recorded interviews, Office of Internal Affairs investigators properly document which video file and which portion of the video file—including a time stamp—the investigator presents to the subject or witness during an interview.
- The OIG recommends that the Office of Internal Affairs conduct interviews in confidential settings. The OIG recommends that the Office of Internal Affairs investigators order subjects and witnesses to maintain the confidentiality of investigations while investigations are pending.
- The OIG recommends that the department issue a specific policy concerning the time frame in which a hiring authority, such as warden, must conduct an investigative and disciplinary findings conference after receipt of an Office of Internal Affairs investigation report.

- The OIG recommends that the department require its investigators, department attorneys, and wardens, or staff designated by a warden, to enter and maintain accurate information in its staff misconduct database. Moreover, the OIG recommends that the department establish a clear policy as to which departmental personnel are responsible for updating and maintaining specific information in the database to ensure that the records are timely and accurate.

### *Previous Reforms to the Staff Complaint Process.*

Historically, allegations of staff misconduct were handled within the prison. Staff were responsible for screening claims to identify those that contained allegations of staff misconduct, conducting inquiries into those allegations, and reporting the results to hiring authorities (typically a warden). Unless the hiring authority determined that the report warranted a referral to OIA for potential disciplinary action, these allegations were not referred outside the prison and did not rise to the attention of OIA or OIG.

*OIG Oversight.* In 2019, the OIG released a report on the staff complaint process at Salinas Valley State Prison. The OIG report found that the inquiries performed by staff at the prison were inadequate in most cases. The staff reviewers received little to no prior training and were not sufficiently independent from the staff involved in the complaint, among other issues<sup>4</sup>. The report recommended an overhaul of the staff complaint process, including reassigning inquiries outside the prison's command structure, and providing ongoing and comprehensive training to staff who may conduct inquiries, among other suggestions.

*Allegation Inquiry Management Section.* In response to the OIG's report, CDCR implemented a new system which replaced local inquiries with a central inquiry unit at OIA called the Allegation Inquiry Management Section (AIMS). This unit contained correctional lieutenants who were assigned to specific institutions, and whose sole responsibility would be conducting staff complaint inquiries. In this system, *any* grievance containing an allegation of staff misconduct was supposed to be sent to OIA. Inquiries typically ended when reasonable belief that staff misconduct occurred was established.

In February 2021, the OIG released a special review on the implementation of the new process<sup>5</sup>. It found that wardens only referred 23 percent of grievances that alleged staff misconduct to AIMS and continued to handle most allegations locally. The OIG again recommended a series of changes to the staff complaint process, including sending grievances directly to OIA, clarifying and simplifying the definition of staff misconduct and the criteria for routing complaints, and directing AIMS to handle a larger range of misconduct allegations. In addition, in a separate letter, the OIG expressed concern about CDCR's response to allegations stemming from the attorneys representing incarcerated persons in the *Coleman* and *Armstrong* class action lawsuits<sup>6</sup>.

*Armstrong Court.* In addition to the OIG reports, CDCR was directed to reform the staff complaint process as part of the *Armstrong* Remedial Plan (ARP). *Armstrong* is a class action lawsuit filed

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<sup>4</sup> [https://www.oig.ca.gov/wp-content/uploads/2019/05/2019\\_Special\\_Review\\_-\\_Salinas\\_Valley\\_State\\_Prison\\_Staff\\_Complaint\\_Process.pdf](https://www.oig.ca.gov/wp-content/uploads/2019/05/2019_Special_Review_-_Salinas_Valley_State_Prison_Staff_Complaint_Process.pdf)

<sup>5</sup> <https://www.oig.ca.gov/wp-content/uploads/2021/02/OIG-Staff-Misconduct-Process-Report-2021.pdf>

<sup>6</sup> <https://www.oig.ca.gov/wp-content/uploads/2020/01/Letter-to-Secretary-Diaz-The-Departments-Handling-of-Allegations-of-Staff-Misconduct-Raised-by-Inmates-Attorneys.pdf>

in 1994 on behalf of prisoners with disabilities that has resulted in continued court oversight and litigation. The court directed CDCR to develop measures to reform its staff complaint, investigation, and discipline processes; expand AIMS to handle alleged violations pertaining to other categories such as ADA, ARP, Health Care, Use of Force (UOF), and the Prison Rape Elimination Act (PREA), which were previously retained at the local level; and include a system for receiving complaints from third parties, including the attorneys representing class members in *Armstrong* and other lawsuits. On February 2, 2023, the U.S. Court of Appeals for the Ninth Circuit affirmed the district court orders related to the staff misconduct process, which the state had challenged were outside the purview of the case<sup>7</sup>.

*New Regulations.* In response to the concerns raised by the OIG report and the *Armstrong* court orders, CDCR amended its staff misconduct processes statewide. The new emergency regulations<sup>8</sup>, which went into effect January 1, 2022, were developed with feedback from OIG and the *Armstrong* plaintiffs.

CDCR made additional changes to the regulations in October 2022 without feedback from the court or plaintiffs<sup>9</sup>. These included moving the ADI from regulation to department policy, and requiring a “causal connection” between a staff member’s actions and a protected class or action before elevating allegations like discrimination and retaliation to OIA. The *Armstrong* plaintiffs objected to these changes, and the Court Expert noted that the proposed new standards were “difficult to apply in a consistent and objective manner”<sup>10</sup>.

Major changes in the regulation changes include:

- Routing all grievances through CST.
- Establishing the CST, the ADI, the AIU (which absorbed the old AIMS staff, and conducts full investigations rather than inquiries), and the AASTS.
- Requiring legal representation and advice to be provided by EAPT attorneys in cases referred to AIU, in anticipation of these cases being used as the basis for taking direct adverse action or having other implications on employee discipline.
- Eliminating the requirement to file allegations within 30-days. There is no longer a time constraint for submitting allegations of staff misconduct. There is still a 60-day time limit for submitting routine grievances.
- Requiring a hiring authority to render a determination in every allegation, and follow through with corrective or adverse action when an allegation is sustained.
- Removing of the “likely to lead to adverse action” requirement in the definition of staff misconduct.

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<sup>7</sup> <https://rbgg.com/ninth-circuit-affirms-use-of-body-cameras-and-other-remedies-and-reform-of-guard-disciplinary-procedures-in-california-state-prisons-in-ada-class-action/>

<sup>8</sup> [https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2021/12/Staff\\_Misconduct\\_Emergency\\_Reg\\_Approval\\_ADA-12.31.21.pdf](https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2021/12/Staff_Misconduct_Emergency_Reg_Approval_ADA-12.31.21.pdf)

<sup>9</sup> [https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2022/10/Regulations\\_Approval\\_NCR\\_22-06-1.pdf](https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2022/10/Regulations_Approval_NCR_22-06-1.pdf)

<sup>10</sup> [https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline\\_-10-3-22-581-3.pdf](https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline_-10-3-22-581-3.pdf)

***Implementation and Resources.***

CDCR initially planned to implement the new process statewide in stages, with the complete process implemented statewide by June 2023. However, in response to concerns raised by the *Armstrong* plaintiffs<sup>11</sup>, CDCR modified the timeline to fully implement the process at six specified prisons by September 2022, and phased in the process statewide by November 2023. The AIMS unit is no longer active.

*Workload.* From January 1, 2023, through December 31, 2023, the department reported receiving 183,051 complaints from incarcerated people, parolees, and third-party individuals or entities, which were routed as follows:

- 158,162 were classified as routine and returned to the local institution for processing.
- 12,520 included possible staff misconduct and were routed back to the institution for a local inquiry.
- 11,149 included possible staff misconduct and were routed to OIA for investigation.

*Recent Budget Action.* CDCR has \$64 million annually and 325 positions directly supporting the staff misconduct process. This includes significant adjustments made in the 2022 and 2023 budgets. The 2022 budget included \$34.4 million and 176.1 full-time equivalent positions in 2022-23 (based on funding a staggered implementation plan), \$34.9 million and 192 positions in 2023-24, and \$34.2 million and 192 positions ongoing to implement the new staff complaint process. The new process also absorbed \$9.8 million and 47 positions previously allocated to AIMS in the 2019 budget. These resources were used to create the CST, transition AIMS to AIU, expand EAPT within OLA, and increase staffing at local Offices of Grievances (OOGs). The 2023 budget included an additional \$9.6 million General Fund and 16 positions in 2023-24, \$9.3 million and 16 positions in 2024-25, and \$2.9 million General Fund and 16 positions in 2025-26 and ongoing to adjust the resources previously provided for the department's process for handling allegations of staff misconduct.

The 2023-24 Budget Act also required CDCR to submit a report to the Legislature by January 10, 2024, regarding implementation of the department's staff misconduct investigation process, including updates on recommendations implemented by the department identified in the Office of the Inspector General's 2022 Staff Misconduct Review Process Monitoring Report. In the report required by the 2023 budget, CDCR noted that they had created a Post-Investigation Review Panel to review AIU investigations. CDCR noted that they implemented two of the six recommendations made by OIG, and did not plan to implement the other four recommendations.

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<sup>11</sup> [https://rbgg.com/wp-content/uploads/Armstrong-Order-Re-Plaintiffs-Objections-to-Defts-Proposed-RJD-Plan-and-5-Prisons-Plan\\_-12-13-2021.pdf](https://rbgg.com/wp-content/uploads/Armstrong-Order-Re-Plaintiffs-Objections-to-Defts-Proposed-RJD-Plan-and-5-Prisons-Plan_-12-13-2021.pdf)



**Staff Comments.**

*Lack of improvement.* The OIG notes that many of same mistakes continue to be made by the Department year after year, and that many of recommendations are repeats of previous recommendations. The Legislature should consider how to incentivize the Department to make the necessary changes to improve.

*Serious use of force incidents.* The OIG reports cites several concerning examples of use of force incidents that were not properly investigated and/or did not result in employee discipline. This includes a situation where an officer held a person down by kneeling on their neck, even after other officers were holding the person down with their collective body weight. While the person was being held down on the ground, the officer then “pulled out his baton, and struck the incarcerated person on the head with the baton. A body-worn-camera recording showed one of the other officers telling the officer to put away the baton.” Despite this incident being on camera, the warden found that there was insufficient evidence to sustain an allegation of staff misconduct. Other examples cited include an incident where four officers allegedly kicked an incarcerated person and broke three of his ribs, and the OIA failed to perform any interviews, did not identify the officers involved, and did not indicate whether there were medical records that corroborated the incarcerated person’s injuries. Another incident had sufficient evidence that an officer struck an incarcerated person with a baton on the spinal area, against department policy, but the warden did not sustain the allegation. The severity of these allegations, and the lack of follow through by the department, is a cause for serious concern by the Legislature.

*Sexual assault and abuse.* The next issue on the agenda covers sexual assault and abuse in prisons. The Legislature should consider how the lack of accountability for serious incidents leads to a lack of reporting and contributes to further incidents of assault and abuse.

*Concerns of the Armstrong plaintiffs.* The *Armstrong* plaintiffs have raised concerns about the quality of the investigations performed by OIA<sup>12</sup>. These concerns include failure to review or analyze all relevant footage and failure to interview all relevant witnesses, including other incarcerated people who observed the incident and, in some cases, the subject of the complaint. The *Armstrong* plaintiffs typically focus on reviewing serious allegations referred to OIA, which should be handled by experienced investigators.

*Relation to employee discipline process.* At the end of the investigation, the findings are returned to the hiring authority to decide whether to sustain a finding of staff misconduct and pursue disciplinary consequences. The hiring authority, typically the warden, must sift through the significant evidence gathered during the investigation, typically without a clear summary of the evidence or a discussion with the investigator, and decide on the merits of the case. At this stage, not many cases monitored by the OIG have been completed, but early indications are that few findings of staff misconduct are being sustained. The *Armstrong* plaintiffs also reported to the court that only six percent of investigations reviewed at RJD resulted in sustained findings of misconduct. The Legislature should consider how these significant investments in a new investigation process can lead to actionable changes.

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<sup>12</sup> [https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline\\_-10-3-22-581-3.pdf](https://rbgg.com/wp-content/uploads/Dkt.-3433-Court-Experts-Quarterly-Report-on-Investigations-and-Discipline_-10-3-22-581-3.pdf)

*Timing of investigations and availability of evidence.* Under the new process, there is no time limit on submitting an allegation of staff misconduct. However, video is only available for 90 days after an incident, and it must be requested by the investigator and secured by the institution prior to that time. While CDCR maintains that nearly all allegations of staff misconduct are filed within 90 days of the event, a backlog of cases at OIA and difficulties identifying the relevant footage in time may lead to evidence being lost in some cases.

*Training and independence of local inquiries.* Local inquiries are performed by staff who are not trained as investigators, and who may be familiar with the parties involved in the complaint. The Legislature should consider how to ensure the integrity of these investigations.

**Staff Recommendation:** This item is informational, and no action is required.

**Issue 32: Sexual Assault Response and Prevention Working Group and Report Update****Panelists**

- Angela Kent, Associate Director, Female Offender Programs and Services, CDCR
- Amarik Singh, Inspector General, Office of the Inspector General
- Amika Mota, Executive Director and Co-Founding Member, Sister Warriors Freedom Coalition
- Emily Wonder, Advocacy Director, Sister Warriors Freedom Coalition

The LAO and Department of Finance are available for questions.

**Background.** As of April 17, 2024, California held 3,759 women in custody, primarily at two designated women’s facilities: the California Institution for Women (CIW) and the Central California Women’s Facility (CCWF). Sexual harassment and assault is unfortunately present in women’s carceral settings. Recent prominent examples in California include the Dublin federal prison<sup>13</sup>, CCWF<sup>14</sup>, and Los Angeles juvenile facilities<sup>15</sup>, among numerous other examples. Compounding the problem, researchers have noted an overwhelming prevalence of sexual abuse histories within the population of incarcerated women, with some figures suggesting that 86 percent of all women who are incarcerated have experienced sexual violence in their lifetime and 77 percent had experienced partner violence.

*PREA and OIG.* The Federal Prison Rape Elimination Act (PREA) of 2003 was established to address sexual abuse in carceral settings. The U.S. Department of Justice issues national standards to eliminate sexual abuse in detention facilities, which CDCR must comply with or it risks losing some of its federal funding. California’s Sexual Abuse in Detention Elimination Act (SADEA) requires CDCR to have procedures to protect you from sexual abuse and to respond to reports of sexual abuse. Furthermore, prison staff are supposed to intervene if you appear to be the target of sexual harassment or intimidation.

The OIG serves as the ombudsperson for complaints related to SADEA and PREA, and reviews allegations of mishandled sexual abuse inquiries or investigations within correctional institutions.

*Sexual Assault Response and Prevention Working Group.* The 2023-24 Budget Act included \$1 million for CDCR and the Sister Warriors Freedom Coalition to establish a Sexual Assault Response and Prevention Working Group and an Ambassador Program. The budget also required CDCR to submit a report as follows:

By March 1, 2024, the Department of Corrections and Rehabilitation shall submit a report to the appropriate fiscal and policy committees of each house of the Legislature that includes, but is not limited to, discussion of the following: (a) protections for sexual assault

<sup>13</sup> <https://apnews.com/article/prisons-california-united-states-sexual-abuse-only-on-ap-d321ae51fe93dfd9d6e5754383a95801>;

<https://apnews.com/article/federal-prison-dublin-california-sexual-abuse-bureau-of-prisons-17731ecb5d0a14adf6011e853bf7e05d>

<sup>14</sup> <https://www.sfchronicle.com/politics/article/chowchilla-prison-lawsuits-18402440.php>; <https://www.sacbee.com/news/politics-government/the-state-worker/article271879907.html>; <https://www.sacbee.com/news/local/crime/article270470757.html>;

<https://prisonlaw.com/wp-content/uploads/2016/08/16.08.18-Prison-Law-Office-report-on-CCWF.pdf>

<sup>15</sup> <https://www.latimes.com/california/story/2023-12-28/district-attorney-reviewing-cases-against-la-county-probation-employees-accused-of-sex-abuse>

and harassment whistleblowers inside prisons or otherwise in the department's custody, (b) access to trauma-informed supports for incarcerated survivors, and (c) the process for handling allegations of staff misconduct that specifically involve allegations of sexual assault and harassment.

*Working Group Activities.* The working group consisted of leadership and staff from CDCR, advocacy groups, community-based organizations led by formerly incarcerated people, representatives from the ambassador groups, and individuals who have survived sexual assault in custody. Members of the group included California Coalition for Women Prisoners, Just Detention International, Justice First, Sister Warriors Freedom Coalition, Survived & Punished, and VALOR. Participation from CDCR was primarily provided by the Female Offender Programs and Services office with consultation from the Prison Rape Elimination Act Coordinator's office. The Sister Warriors reported that the working group spoke directly with over 700 people incarcerated at CCWF and CIW at town hall-style meetings, where people shared their firsthand experiences and perspectives<sup>16</sup>. Feedback was also collected via confidential legal mail and several small in-person group discussions.

***CDCR Report.*** A brief summary of the report prepared by CDCR is below.

*Protections for sexual assault and harassment whistleblowers inside prisons or otherwise in the department's custody.* The report notes the following protections:

- *Body Worn Cameras and Audio Video Surveillance System.* CDCR has implemented the use of Body Worn Cameras (BWC) and Audio Video Surveillance Systems (AVSS) in many of CDCR's institutions. Currently, BWCs and AVSS are utilized at both women's institutions.
- *Retaliation Headquarters Review.* CDCR notes that allegations of sexual misconduct and harassment are closely monitored by CDCR staff for a minimum of 90 days following a PREA incident in order to detect and prevent any retaliation against those who file complaints.

*The process for handling allegations of staff misconduct that specifically involve allegations of sexual assault and harassment.*

- *When an allegation is received.* CDCR notes that they have a zero tolerance policy for sexual misconduct. When allegations are received, CDCR begins an investigation, and then follows designated steps including the immediate separation of the victim and alleged perpetrator, the preservation of potential evidence, thorough medical assessments, obtaining detailed statements, and ensuring access to support services. CDCR refers appropriate cases to the local County District Attorneys' Offices for possible felony prosecution.

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<sup>16</sup> [https://www.sisterwarriors.org/prison\\_sexualassault\\_report](https://www.sisterwarriors.org/prison_sexualassault_report)

- *Mechanisms to Report Misconduct.* Grievances submitted by incarcerated individuals that contain possible PREA allegations are considered to be allegations of staff misconduct, and therefore are routed to the OIA's AIU for investigation.
- *Restricted Housing.* In instances of sexual misconduct that do not involve staff, the alleged perpetrator is placed in the Restricted Housing Unit (RHU) during the investigation. In some cases, the victim may be placed in RHU if the victim states that they still have safety concerns that cannot be resolved through a bed move and/or transfer to another facility.

*Access to trauma-informed supports in women's institutions.*

- *Increased Communication and Awareness with Incarcerated Population.* CDCR cites town halls, listening sessions, other engagement with the Inmate Advisory Council and the population around reporting, various audits, and other policies.
- *Peer Educator Programs.* This has led to a peer educators' program for conflict resolution and the reintroduction of a PREA peer educator program. The Department is in the process of establishing a peer educator program for conflict resolution, where residents in the housing area will help resolve disputes to reduce violent incidents and housing changes. The PREA Peer Educator program provides women's health educational resources to the incarcerated by offering pamphlets, ensuring educational posters are present in the institution, and meeting with incarcerated persons that have questions.
- *California Model.* The CDCR report notes that CCWF is a pilot institution for the implementation of the California Model, and there have been several initiatives to enhance the relationships between staff and the incarcerated population, such as an event for them to have lunch and play games together.
- *Collaboration with Community-Based Organizations.* CDCR notes that it is soliciting input from a number of external groups, such as the Moss Group, to improve its policies and trauma-informed programming and support.
- *Staff Training.* CDCR notes a number of courses for staff to learn about bystander intervention and working with the female population.

*Proposed Action Plan.* CDCR's report notes the following potential improvements:

- Expand Rape Crisis Centers partnerships to provide additional support to survivors throughout the process.
- Expand trauma-informed programming.
- Establish full-time PREA Compliance Managers at CIW and CCWF.
- Expand staff training.
- Ongoing dialogue and collaboration with incarcerated women and stakeholders.

***Community Report and Concerns.*** In addition to CDCR's report outlined above, various stakeholders included in the working group provided feedback and produced a separate report<sup>17</sup>. The report included five main categories of recommendations:

- Expedited release of survivors.
- Culture shifting, including:
  - Staff training and services.
  - Adjusting policies and practices that may retraumatize survivors and/or make reporting less likely (e.g. strip searches, forced housing transfers).
  - Community building within the incarcerated population.
  - Staff leadership development.
- Services for survivors.
  - Expanding the role of Rape Crisis Centers and increasing their onsite presence.
  - Peer Education programs.
  - Access to confidential hotlines and remote trauma services.
  - Increased access to community resources and legal supports.
- Investigation and reporting process.
  - Ensuring reporting is confidential to prevent immediate retaliation.
  - Independent reporting options.
- Accountability.
  - Whistleblower protections, especially in relation to transfers and strip searches.
  - Ensuring policy is being followed in regards to body-worn cameras.
  - External accountability for CDCR to respond to audits and OIG reports.

Stakeholders also reported concerns from their conversations around abuse by medical staff, the misuse of body-worn cameras, use of restricted housing for victims, use of excessive force, strip searches as retaliation, and denials of 602 forms for illegitimate reasons.

**Staff Recommendation.** This item is informational, and no action is needed.

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<sup>17</sup> [https://www.sisterwarriors.org/prison\\_sexualassault\\_report](https://www.sisterwarriors.org/prison_sexualassault_report)

**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION****Issue 33: San Quentin Rehabilitation Center Update****Panelists**

- Dave Lewis, Director, Facility Planning, Construction and Management, CDCR

The LAO and Department of Finance are available for questions.

**Background.** On March 17, 2023, Governor Gavin Newsom outlined a vision to overhaul the facility with a rehabilitation center<sup>18</sup>. On May 5, 2023, The Governor announced an advisory council in May 2023<sup>19</sup>, and funding proposal was included in the 2023 May Revision and approved in the final budget.

The resources approved include \$360.6 million one-time Public Buildings Construction Fund and \$20 million one-time General Fund to build a new center focused on rehabilitation, education, and workforce development and make various other facility improvements at San Quentin Rehabilitative Center (formerly San Quentin State Prison). The budget also included statutory exemptions to enable project completion by 2025, as outlined in Senate Bill 135 (Committee on Budget and Fiscal Review), Chapter 190, Statutes of 2023.

*Advisory Council.* The recommendations of the Advisory Council were released in a report in January 2024<sup>20</sup>. The report cited three key principles: focusing on reentry, normalizing the environment, and establishing a correctional culture focused on rehabilitation. The report included 10 lead recommendations and 44 specific recommendations in the following categories:

- Creating clearer and more coordinated rehabilitation and reentry pathways.
- Expanding programming.
- Debt reduction.
- Updating staff training and improving resources and conditions for staff.
- Improving facilities and conditions for the residents.
- Strengthening family and community engagement.

Two notable recommendations included reducing the population from 3400 to 2400 to end double-celling, and redirecting at least one-third of the funding from Building 38 to upgrade the campus and normalize the environment.

*Project Status.* In September 2023, CDCR contracted with McCarthy Construction for the educational and vocational center project. Design for the project has begun, and it is expected that demolition will begin in Spring 2024, with construction anticipated to start in Summer 2024 and be completed in January 2026. The scope of the educational facility was established and recognized by the State Public Works Board on March 8, 2024. As of December 2023, CDCR had not spent any of the \$20 million General Fund.

<sup>18</sup> <https://www.latimes.com/world-nation/story/2023-03-17/california-will-remake-san-quentin-prison-emphasizing-rehab>

<sup>19</sup> <https://www.cdcr.ca.gov/blog/san-quentin-state-prison-transformation/>

<sup>20</sup> [https://www.cdcr.ca.gov/wp-content/uploads/2023/06/FINAL-San-Quentin-Report\\_1.3.24.pdf](https://www.cdcr.ca.gov/wp-content/uploads/2023/06/FINAL-San-Quentin-Report_1.3.24.pdf)

The project includes the demolition of the former California Prison Industry Authority (PIA) Warehouse Building 38 and design and construction of a new Educational and Vocational Center (Center). The Center is comprised of three primary buildings and various structures and facilities that support and/or are necessary for operation of the Center. To accommodate the expansion of existing programs and provide space for new programs, the new Center, which is planned for approximately 80,000 square feet, will include flexible classrooms, media and technology spaces, library space, counseling spaces, multi-purpose rooms, a store, a café, a central plaza with courtyard space or social gatherings, staff administrative offices, and restrooms for both staff and the incarcerated population. This project will also increase the amount of exterior gathering space available to the incarcerated population, which is relatively limited at San Quentin.

**Staff Recommendation.** This item is informational, and no action is needed.



**Issue 34: Free Voice Calling (SB 1008)**

**Governor’s Budget.** The proposed budget includes an additional \$7.4 million one-time in 2023-24 and \$8.2 million ongoing, resulting in a total of \$32.6 million in 2023-24 and \$36.7 million ongoing General Fund to implement SB 1008 (Becker), Chapter 827, Statutes of 2022 and provide free voice calling to incarcerated individuals. The increase reflects increased phone usage by the incarcerated population.

**Panelists**

- Tristan Lemon, Associate Director, CDCR
- Sylvia Dumalig, Information Technology Manager II, Enterprise Information Services, CDCR
- Edmond Blagdon, Deputy Director, Integrated Business and Technology Solutions, CDCR
- Caitlin O’Neil, Principal Fiscal and Policy Analyst, Legislative Analyst’s Office
- Joshua Wittmershaus, Staff Services Analyst, Department of Finance
- Allison Hewitt, Principal Program Budget Analyst, Department of Finance

**Background.** Numerous studies have demonstrated the benefits of contact between incarcerated people and their loved ones<sup>21</sup>. These include improved mental and physical health for the incarcerated person, as well as better behavior while incarcerated, more successful re-entry, and reduced recidivism rates. Increasing opportunities for communication is both humane and promotes public safety for the community.

In addition to in-person visiting and writing letters, there are various ways that people in prison can maintain contact with friends and family through electronic communication. These include voice calls, video calls, and electronic messages. Voice calls can be made from standard, hardwired telephones located at all prisons and portable tablet devices issued to each person. The department regulates the use of telephones and tablets among the prison population, such as the times of day when calls can be made.

Most communication services provided to the incarcerated population are provided by ViaPath Technology (formerly known as Global Tel Link or GTL)<sup>22</sup>. As of September 2023, ViaPath had provided tablets to the entire incarcerated population, which they can use for voice and video calling, text messaging, and other functions. Incarcerated persons receive some free services, including phone calls and limited messaging, and access to certain books and reading materials. They can also pay for additional services, including music, videos, audiobooks and additional communications (see table below).

SB 1008 (Becker), Chapter 827, Statutes of 2022 required CDCR to provide accessible, functional voice calls free of charge. On January 1, 2023, CDCR began implementing this requirement by paying all charges accrued for voice calls. Though CDCR does not directly limit the number of minutes people can use, it does continue to restrict when calls can be made for operational reasons. The bill also requires the Public Utility Commission to establish quality standards for incarcerated persons calling services.

<sup>21</sup> [https://www.prisonpolicy.org/blog/2021/12/21/family\\_contact/](https://www.prisonpolicy.org/blog/2021/12/21/family_contact/)

<sup>22</sup> <https://www.cdcr.ca.gov/family-resources/gtl-tablets/>

The prices charged to the incarcerated population for various services is listed in the table below<sup>23</sup>:

Communications Service	Rates
Telephone calls (nationwide)	Free
Telephone calls (international)	Free
Video calls	\$0.20 per minute
E-messages (inbound/outbound)	\$0.05
Video Message (inbound only)	\$0.05
E-Card (inbound only)	\$0.05
Photos (inbound only)	\$0.05
E-Books	Free
Games	Free
Music Pass	\$5.49/month
Premium movies	\$1.99/month
CDCR approved podcasts	Free
Streaming news and sports	\$0.75/month

**Contract Rates.** In March 2021, CDCR renegotiated the phone contract with ViaPath to reduce rates to 2.5 cents per minute for domestic calls, 7 cents per minute for international calls, and 5 cents per item or 2,000 characters of electronic correspondence. That contract is valid for six years, but CDCR was able to amend the contract with ViaPath after the passage of SB 1008 (Becker), Chapter 827, Statutes of 2022. CDCR will now pay ViaPath directly via a tiered pricing structure, and the rates will be the same for both domestic and international calls (see table below).

The new pricing structure is as follows:

Number of Minutes	Price	Price with taxes
0 – 45 million	2.5 cents/minute	2.9 cents/min
45 million to 75 million	2.2 cents/minute	2.5 cents/min
Over 75 million	1.9 cents/minute	2.2 cents/min
Plus monthly \$75,000 credit for 30 min of free calling per month		

In 2023, CDCR was required by the Sacramento County Superior Court and the California Supreme Court to vacate the contract with Viapath. CDCR entered into an emergency interim contract with ViaPath to keep all existing communication services fully operational until CDCR completes the bid process for a permanent contract for these services.

**Minutes Used and Budget Resources.** Based on calling data from January through March of 2023, CDCR estimated that about 93 million minutes would be used per month in 2023-24. However, there was some uncertainty in this estimate, as the number of minutes used fluctuates from month to month, and was impacted by the introduction of the tablets and the changes stemming from SB 1008.

<sup>23</sup> <https://www.cdcr.ca.gov/family-resources/tablets/>

Based on this estimate, the 2023 budget included \$28.5 million General Fund in 2023-24 to pay for voice calls. This funding was authorized on an ongoing basis with the understanding that CDCR would adjust the level of funding for calling charges through the department's biannual adjustment process. In addition, the budget act included provisional language allowing the Department of Finance to augment or reduce this funding amount based on actual or estimated expenditure data.

In October 2023, the incarcerated population used 123 million minutes of calling system wide. As of mid-November 2023, the department had spent \$12.2 million of the \$28.5 million budgeted for phone calling in 2023-24. CDCR reports that the prison population used about 119 million voice calling minutes in July 2023 and 125 million minutes in August.

Based on the assumption that the August minute usage level will hold flat throughout the remainder of 2023-24 and 2024-25, CDCR estimates it will need an additional \$7.4 million in the current year and \$8.2 million in the budget year. CDCR plans to update these estimates at the May Revision based on additional months of actual calling usage data. To address any current-year shortfall, the administration intends to use the authority provided by the provisional language (which is retained in the proposed budget) in the 2023-24 budget to augment the amount available for voice calls.

### **LAO Comments.**

*Funding Adjustment Methodology Does Not Account for Population Decline.* The prison population is projected to continue to decline. Specifically, on August 16, 2023, the population was about 95,700 and CDCR currently projects the average daily population in 2024-25 to be about 91,700—a 4,000 (4 percent) person decline. By not accounting for this population decline, the Governor's budget likely overestimates the number of calling minutes and associated funding that will be used in 2024-25.

### **LAO Recommendations.**

*Withhold Action and Direct CDCR to Update Methodology to Account for Population Changes.* The administration plans to update its estimate of the 2024-25 funding need at the May Revision based on additional months of actual calling usage. Accordingly, the LAO recommends the Legislature withhold action on the proposal until that time. Additionally, the LAO recommends that the Legislature direct CDCR to incorporate the effects of projected changes in the population into its methodology at the May Revision and in future biannual adjustments for voice calling costs. This methodology change would (1) help promote more accurate budgeting and (2) likely reduce the overall cost of the proposal in the budget year, freeing up General Fund resources that could be used to address the fiscal difficulties facing the state.

### **Staff Comment.**

*Concerns with the vendor and contract.* Concerns have been raised about the contract structure, which has CDCR paying by the minute for millions of minutes. In addition, the vendor, ViaPath, has been the subject of numerous settled lawsuits, including cases related to recording privileged conversations, illegal robocalling, overcharging, improper seizure of funds from accounts, and

racketeering and bribery<sup>24</sup>. Finally, concerns have been raised about the quality of calls provided by ViaPath, including dropped calls, crosstalk between different calls, and service outages (particularly on holidays).

**Staff Recommendation.** Hold Open.

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<sup>24</sup> <https://www.prisonpolicy.org/blog/2022/09/07/gtlsettlement/>;  
<https://www.prisonlegalnews.org/news/2016/aug/2/new-jersey-prison-phone-class-action-suit-against-global-tellink-continues/>;  
<https://www.prisonlegalnews.org/news/2018/apr/2/global-tellink-settles-mississippi-prison-bribery-case-25-million/>;  
<https://www.prisonlegalnews.org/news/2017/jun/9/global-tellink-agrees-pay-88-million-class-action-settlement/>;  
<https://www.themainemonitor.org/breach-of-attorney-client-privilege-in-somerset-county-sparks-outrage-in-maine-legal-community/>;  
<https://www.oregister.com/2018/08/23/phone-carrier-that-improperly-recorded-orange-county-jail-calls-did-the-same-thing-in-florida/>

**Issue 35: Rehabilitative Programming and Education Panel****Panelists**

- Professor Nigel Boyle, Pitzer College BA Pathways Program
- Romarilyn Ralston, Senior Director, Education Center for the Claremont Colleges
- Jason Bell and Aaron Greene, Project Rebound
- Christina Brown-Mendoza, Acting Executive Director, The Place4Grace

**Background.** CDCR partners with a number of nonprofit organizations and colleges to provide rehabilitative programming and higher educational opportunities for incarcerated individuals. The panel will feature perspectives on programming from the following three organizations.

The Place4Grace is a non-profit organization founded in 2009 with the mission to restore families and advocate for children impacted by incarceration. This program serves families and children of incarcerated men and women, focusing on family connection through literacy, art, music and restorative justice principles such as accountability, insight and empathy.

Pitzer College's Inside-Out program provides a pathway for incarcerated ("inside") students at the California Rehabilitation Center in Norco, CA, to receive a bachelor's of arts degree from Pitzer College through a series of classes that includes classes with "Outside" students enrolled at Pitzer College or one of the other four Claremont Colleges. This program provides benefits to currently and formerly incarcerated individuals to rebuild their lives as they see new possibilities for their futures.

Project Rebound empowers formerly incarcerated students and those who are impacted by the criminal justice system by advocating for access to higher education and offering support services promoting academic success, holistic development, increased graduation rates, and continued success beyond the classroom. This program provides a safe and inclusive space with guidance and mentorship in which they hold students to a high standard of academic excellence and community engagement. By participating in this program, formerly incarcerated and system impacted students will set the example as a beacon of hope to create systemic change for those following in their footsteps.

**Staff Recommendation.** This item is informational, and no action is needed.