

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR

WEDNESDAY, MAY 16, 2018
10:00 A.M. –STATE CAPITOL, ROOM 127

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ITEMS TO BE HEARD

ISSUE 1: CHIEF PROBATION OFFICERS OF CALIFORNIA: SUSTAINABLE REHABILITATION FOR

The Chief Probation Officers of California will provide an overview of the proposal.

From the Chief Probation Officers of California:

“This proposal – through the provision of \$30 million in one-time state grants – seeks to provide probation departments the resources and flexibility to adapt their facilities to meet the acute needs of the youth they now serve. It is in the state’s best interest to see these facilities used in innovative ways to improve the outcomes for our youth and their communities. *The Sustainable Rehabilitation for Youth Act* would establish a grant program to provide resources for local probation departments to re-purpose and adapt their facilities to more comprehensively meet the needs of their community.”

Staff Recommendation: Hold Open

0250 JUDICIAL BRANCH

ISSUE 2: LANGUAGE ACCESS PLAN AUGMENTATION

The Judicial Council will provide an overview of the proposal.

MAY REVISION PROPOSAL

The Judicial Branch requests an ongoing augmentation of \$4 million General Fund and three positions to continue to advance the implementation of the Strategic Plan for Language Access in the California Courts, adopted in January 2015. Specifically, the augmentation will go towards infrastructure and foundational items requested in the Judicial Branch Language Access Plan that are listed below:

- 1) Electronic and stationary signage;
- 2) Court interpreter credential review;
- 3) Language access training;
- 4) Language access infrastructure and equipment; and
- 5) Staff to administer the programs, distribute funding to the courts for equipment and infrastructure, and maintain the online Language Access Toolkit.

Staff Recommendation: Hold Open.

ISSUE 3: JUDICIAL BRANCH CAPITAL OUTLAY
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The Judicial Council will provide an overview of the proposal.

MAY REVISION PROPOSAL

The Judicial Branch requests \$971.9 million in additional lease revenue fund authority for the construction phase of the following court construction projects:

Glenn County: Renovation and Addition to Willows Courthouse	\$33.3 million
Riverside County: New Mid-County Civil Courthouse	\$75.8 million
Sacramento County: Sacramento Courthouse	\$459.8 million
Sonoma County: New Santa Rosa Criminal Courthouse	\$160.7 million
Stanislaus County: New Modesto Courthouse	\$237.2 million

LAO ASSESSMENT AND RECOMMENDATION
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The Legislative Analyst's Office (LAO) recommends rejecting the May Revise proposal to increase the judicial branch's 2018-19 lease revenue bond authority by \$972 million. This is because this additional authority will likely not be needed in 2018-19, as the five projects that would be financed by these bonds will generally be completing pre-design construction activities at that time. As such, it is premature to provide the judicial branch with this additional authority.

January Proposal

In January, the Administration proposed using lease revenue bonds backed by the General Fund, rather than the Immediate and Critical Needs Account, to finance the construction of ten trial court projects totaling approximately \$1.3 billion by 2019-20. Under the Administration's January proposal, the 2018-19 Budget would provide the judicial branch with:

- 1) The authority to sell \$343 million in lease-revenue bonds to begin to finance the construction of five projects in 2018-19; and
- 2) \$32.2 million to complete pre-construction design activities for three of the five projects proposed to move into construction in 2019-20.

The authority to sell the remaining \$972 million in lease-revenue bonds (May Revision proposal) to finance the five projects proposed to move into construction in 2019-20 would be provided as part of the 2019-20 budget.

Staff Recommendation: Hold Open.

0690 OFFICE OF EMERGENCY SERVICES

The Office of Emergency Services will provide an overview of the proposal.

ISSUE 4: CALIFORNIA PUBLIC SAFETY MICROWAVE NETWORK**MAY REVISION PROPOSAL**

The Office of Emergency Services (OES) requests \$15 million State Emergency Telephone Number Account funds and 10 positions in Fiscal Year 2018-19, to begin a five year plan to upgrade the California Public Safety Microwave Network, from a legacy technology, to modern ethernet radios and multi-protocol label system technology. The total project for the five year plan would cost \$78.3 million State Emergency Telephone Number Account funds and 17 positions. The network provides connectivity for public safety radio systems that link responders and dispatchers and the ability to support the Next Generation 9-1-1 system.

BACKGROUND

The current analog microwave network has been in service for more than 50 years spanning the entire state of California with over 300 microwave locations. The statewide microwave network enables greater communication coverage area for first responders given the vast topology of California. Although the current microwave network has been adequate to this point, OES states it is in need of a major upgrade and the lack of redundancy and replacement parts for aging equipment makes the emergency microwave network vulnerable to catastrophic failure. Additionally, the requirement to provide a backup wireless network for the state's 9-1-1 Public Services Answering Points cannot be supported with the current analog network. This proposal is contingent upon approval of trailer bill language regarding the SETNA fee structure.

Staff Recommendation: Hold Open.

ISSUE 5: NONPROFIT SECURITY GRANT PROGRAM

The Office of Emergency Services will provide an overview of the proposal.

MAY REVISION PROPOSAL

The Office of Emergency Services requests \$500,000 Anti-Terrorism Fund in 2018-19 to enhance the California State Nonprofit Security Grant Program (NSGP), which provides funding support for physical security enhancements to nonprofit organizations that are at high risk of a terrorist attack.

The Federal Emergency Management Agency's NSGP guidelines limit the NSGP grant funding to the specific UASI-eligible urban areas. Providing state funding to enhance the federally funded NSGP opened up the program to sub-recipients who were not located in Urban Area Security Initiative-eligible urban areas and therefore were not eligible for federal NSGP grants, but who otherwise meet eligibility requirements. In 2017-18, OES received 106 applications for NSGP funding for a total of \$7 million in funding requests. Of the 106 applications, the NSGP was able to fund only 28 sub-recipients with the \$2 million state appropriation, resulting in an unfunded need of \$5 million.

Staff Recommendation: Hold Open.

ISSUE 6: EMERGENCY RESPONSE OPERATIONS**MAY REVISION PROPOSAL**

The Office of Emergency Services requests \$1.57 million General Fund and eight positions in Fiscal Year 2018-19, and \$1.52 million General Fund in 2019-20 to support local agencies and coordinate emergency response activities. The request for positions is described below:

Law Enforcement and Homeland Security Branch: 2 Coordinator, Law Enforcement (Assistant Chief) positions The Assistant Chiefs will collaborate with all levels of government and provide increased information sharing for the three OES Regions and other programs with emergency management responsibilities. These positions will also assist with enhancing the project oversight and technical assistance to these centers.

Regional Response and Readiness: 6 Emergency Services Coordinators that will support regional operations and response to disasters. These positions will enhance the 24 hour, 365 day-per-year emergency response capabilities and support span of control and adequate emergency management coordination.

**LAO ASSESSMENT AND
RECOMMENDATION**

This proposal would fund additional Law Enforcement and Homeland Security Branch and Regional Response and Readiness staff. In the past, the Legislative Analyst's Office (LAO) has raised concerns about the justification of the level of proposed additional staff in these areas. The proposal is difficult to assess with the information provided as to whether this is the appropriate level of ongoing staffing, particularly given the compressed time frame of the May Revision.

LAO Recommendation

To the extent that the Legislature desires to fund these staff increases, the LAO recommend doing so on a two-year limited term basis in order to provide the Legislature with an opportunity to re-evaluate the staffing level with the benefit of additional time and information from OES.

Staff Recommendation: Hold Open.

ISSUE 7: HAZARD MITIGATION PROGRAM WORKLOAD INCREASE

The Office of Emergency Services will provide an overview of the proposal.

MAY REVISION PROPOSAL

The Office of Emergency Services (OES) requests 23 positions and \$3.22 million Federal Trust Fund for three years starting in Fiscal Year 2018-19 to manage increased workload in hazard mitigation activities.

The Federal Emergency Management Agency (FEMA) provides funding to states through the Hazard Mitigation Assistance grant programs, which provide funding for eligible mitigation activities that reduce disaster losses and protect life and property from future disaster damages. One of these programs is the federal Hazard Mitigation Grant Program (HMGP). In California, these funds are administered by the OES HMGP Unit. Eligible applicants include state agencies, local governments, special districts, and some private non-profits. The request for positions is listed below:

HMGP Unit. 12 positions to support administering the FEMA HMGP, establishes mitigation priorities, determine program eligibility requirements after a presidential disaster declaration and implement measures to reduce losses from natural hazards throughout the state.

Monitoring Unit. 1 position to provide technical assistance and guidance, gauge compliance with federal and state policies and regulations, assist with a plan for corrective action, and ensure expenditures submitted are allowable and appropriate.

Grants Processing Program. 2 positions to support various activities include oversight of processing grant obligations and reimbursement requests

Correspondence and Documentation Quality Control Units. 3 positions to prepare responses to, track, and maintain records and correspondence pertaining to the HMGP.

Accounting, Fiscal/Budgets, Information Technology, and Audits Units. 5 positions to support activities including payment processing, travel assistance and reimbursement, and accounts payable and receivable functions.

**LAO ASSESSMENT AND
RECOMMENDATION**

This proposal would fund additional staff on a three-year limited term basis, to support the state's administration of an estimated up to \$600 million in federal funds for hazard mitigation, that are anticipated to be allocated to California as a result of several recent federally-declared disasters.

While the Legislative Analyst's Office (LAO) does not raise specific concerns with the requested staff and funding amounts, it notes that the Hazard Mitigation funds represent

a large one-time source of funding, the significant majority of which has not been allocated. Notably, the state (through OES) administers the Hazard Mitigation funds, which can be used by state agencies, tribes, non-profits, and local governments. These funds are intended to reduce the risk and impact of future disasters and can support various activities, such as mitigating flood and drought conditions and wildfire risks. The LAO further notes that the budget includes substantial funding—from the General Fund and various special funds—for activities that could potentially be funded using these Hazard Mitigation funds instead, thus freeing up these funds for other high priorities.

LAO Recommendation

The Legislature may wish to ask the Administration: (1) what the current process is for determining which projects will be funded; (2) which May Revision proposals—particularly for levee maintenance and wildfire prevention—could be funded by Hazard Mitigation funds; and (3) why this source of funding was not proposed for those activities.

DOF Response to LAO Questions

1) What the current process is for determining which projects will be funded?

Response: “When the Hazard Mitigation Grant Program (HMGP) comes available, Cal OES sends out a Notice of Funding Opportunity inviting eligible sub-applicants (State agencies, local governments, special districts, private non-profits, and federally recognized tribes) to submit a Notice of Interest (NOI) for any eligible mitigation activity. HMGP is available statewide to any eligible sub-applicant. Once the NOI closes, Cal OES reviews the NOIs for eligibility and sub-applicants are notified if their NOI is approved or denied. Sub-applicants with approved NOIs may submit full sub-applications to Cal OES. The full sub-application is an 18 page document that requires specific detail about the scope of work, budget, work schedule, environmental, maintenance, etc. Once the full sub-application is received by Cal OES, HMGP staff review the sub-application for technical and programmatic feasibility. The Federal Emergency Management Agency (FEMA) required Benefit Cost Analysis is also verified for accuracy and consistency of supporting documentation. The sub-application is scored according to several criteria and all sub-applications are ranked from highest to lowest. The highest scoring sub-applications are recommended to FEMA for funding. Specific priorities may be recommended for funding out of rank order.”

2) Which May Revision proposals—particularly for levee maintenance and wildfire prevention—could be funded by Hazard Mitigation funds?

DOF Response: “It is our understanding that the LAO is referring to the \$100 million General Fund for levee deferred maintenance and \$160 million Greenhouse Gas Reduction Fund for forest health projects. However, due to FEMA’s grant requirements, these projects cannot be funded by federal Hazard Mitigation Grants. See below for additional information.”

3) Why this source of funding was not proposed for those activities?

DOF Response: “Levee deferred maintenance is not eligible under HMGP. FEMA’s Hazard Mitigation Assistance (HMA) Guidance (Part III, Section E.2- Ineligible Activities, Page 43) states: “Projects that address, without an increase in the level of protection, the operation, deferred or future maintenance, rehabilitation, restoration, or replacement of existing structures, facilities, or infrastructure (e.g., dredging, debris removal, replacement of obsolete utility systems or bridges, maintenance/rehabilitation of facilities, including dams and other flood control structures) are ineligible.”

Eligible wildfire Mitigation activities are limited to Defensible Space (creating perimeters around homes, structures, and critical facilities), Ignition Resistant Construction (eave vents, ignition resistant siding and roofing materials, etc.), and Hazardous Fuels Reduction within 2 miles of at-risk structures. FEMA’s HMA guidance (Part III, Section E.2- Ineligible Activities, Page 43) specifically prohibits forest management, prescribed burning or clear-cutting, creation and maintenance of fire breaks, access roads, or staging areas, and irrigation systems under HMGP. We do note that Cal OES has received dozens of NOI’s throughout the state for hazardous fuels reduction projects in Wildland Urban Interface areas and within 2 miles of at-risk structures.”

Staff Recommendation: Hold Open.

ISSUE 8: RECOVERY PROGRAM WORKLOAD INCREASE

The Office of Emergency Services will provide an overview of the proposal.

MAY REVISION PROPOSAL

The Office of Emergency Services (OES) requests 81 positions and \$8.4 million Federal Trust Fund and \$2.8 million General Fund for three years, starting in 2018-19, to manage increased workload related to disaster recovery activities.

In 2016-17 and 2017-18 Cal OES responded to a total of 56 federal and state disasters. This request is for staffing to manage the increased workload. The request for positions is described below:

Public Assistance Program. 37 positions to coordinate recovery efforts, validate initial damage estimates, joint preliminary damage assessments, and additional administrative activities, such as write detailed situational reports, briefs, and long-term recovery assistance for all events.

Fire Management Assistance Grant and Disaster Closeout Programs. 11 positions to perform preliminary damage assessments for fire disaster affected public facilities, write initial project worksheets and damage survey reports, conduct applicant briefings, submit quarterly progress reports to FEMA to provide progress on open projects, and close all projects that received federal and state funding in disasters.

Grants Processing and Correspondence and Documentation Quality Control Programs. 12 positions to provide oversight and management of processing grant obligations and reimbursement requests, federal and state financial documents with federal, state, local, and private non-profit agencies and provide financial technical assistance to all sub-recipients.

Administration and Information Technology Units. 21 positions for activities including processing payments, travel assistance and reimbursement, accounts payable and receivable functions, hiring, performance and appraisals, leave balances, pay, and information technology support and grant tracking infrastructure.

Staff Recommendation: Hold Open.

ISSUE 9: REGIONAL HAZARDOUS MATERIALS RESPONSE PROGRAM

The Office of Emergency Services will provide an overview of the proposal.

MAY REVISION PROPOSAL

The Office of Emergency Services (OES) requests 5 positions and \$3.36 million General Fund 2018-19 and \$3.14 million General Fund in 2019-20 and 2020-21 to continue the implementation of the Regional Hazardous Materials Response program. This proposal will specifically provide the following:

- \$1.78 million for continued refresher and attrition training for local personnel staffing response vehicles.
- \$816,000 for maintenance and fuel costs for the vehicles.
- \$757,000 for OES staff to manage the oversight of the program.

BACKGROUND

California is the third largest refining state in the United States and is expecting a large influx of hazardous materials transported into and throughout California in the near future. From 2012 to 2013, the State of California had an increase of nearly five million barrels of oil by rail. Some of the oils being increasingly transported by rail, including "light sweet crude", are considered by federal authorities to have a higher volatility than heavier crude and have been involved in a number of high profile fiery train derailments. The increase in transporting this and other highly flammable hazardous material will result in a rising threat to California's population, environment, and economy. This hazardous material typically enters California through rural areas that are protected from fires and explosions by fire departments with limited resources. These fire departments typically are not equipped, staffed, or trained to safely manage large scale rail mishaps.

When these hazardous materials are transported by rail through suburban and densely populated urban areas, the danger to human life increases exponentially. Even larger professional fire departments with the capabilities to manage typical daily suburban and urban emergencies may be challenged or overwhelmed by rail mishaps involving volatile oils and other hazardous materials that can cause catastrophic fires or explosions. Across California, local response agencies lack the resources necessary to respond to the increased risk of derailments, explosions, fires, and accidental releases of hazardous materials. Existing law requires OES to serve as the central point in state government for the emergency reporting of spills, unauthorized releases, or other accidental releases of hazardous materials, and to coordinate the notification of the appropriate staff and local administering agencies that may be required to respond. Although OES has embarked on an effort to increase local emergency response capability, in identified gap areas by assigning 12 newly purchased OES Type II Hazardous Materials response vehicles to be strategically located in rural and metropolitan fire departments, this is only a beginning. With California's population

projected to consistently grow, the demand for these commodities and threat related to their transport will continue to increase.

Staff Recommendation: Hold Open.

ISSUE 10: SITUATIONAL AWARENESS AND COLLABORATION TOOL

The Office of Emergency Services will provide an overview of the proposal.

MAY REVISION PROPOSAL

The Office of Emergency Services (OES) requests \$353,000 General Fund, \$325,000 reimbursement authority, and two positions beginning in 2018-19 for the associated management, administration, and maintenance of the Situation Awareness and Collaboration Tool (SCOUT).

On February 26, 2018, the SCOUT Executive Committee approved a fee model in which SCOUT Participating Agencies will contribute their weighted share of fixed costs an all agency usage fees. OES currently has \$325,000 reimbursement authority for SCOUT, which is for CAL FIRE's current cost share. The proposed increase of \$325,000 reimbursement authority will provide flexibility for OES to receive additional reimbursements from local participating agencies.

BACKGROUND

SCOUT provides a consistent and coordinated statewide platform to share timely and accurate information during emergency management operations across multiple response partners, including local, tribal, state, federal, and supporting partners, which leads to improved community outcomes through enhanced response operations. This is a tactical tool that is used in the field to coordinate various disaster response efforts, including, but not limited to, evacuations, warnings, and shelters. As an operational, statewide emergency management tool, the SCOUT has a direct impact on the protection of life, property, and the environment in California. Since the SCOUT has been deployed at OES, workload has been related to training local agencies on the use of the SCOUT, getting local agencies access to the SCOUT, attending meetings, and managing contracts. There are currently no staff dedicated to the management, training, and support for the SCOUT, and the acting chief of the Response program has been managing the program at a high level.

OES has a backlog of local agencies waiting to get access to the SCOUT and has not been able to effectively train local agencies on its use. Dedicated staff to the system and program components is required to successfully sustain the existing SCOUT user community growth rate, specifically in program operations and technology maintenance, research and development, and training.

Staff Recommendation: Hold Open.

ISSUE 11: TBL DISASTER RESPONSE-EMERGENCY OPERATIONS ACCOUNT

The Office of Emergency Services will provide an overview of the proposal.

MAY REVISION PROPOSAL

The proposed trailer bill language amends Section 8690.6 of the Government Code to permit allocations to the Disaster Response-Emergency Operations Account (DREOA) to be used for activities that commence within 120 days and after proclamation of emergency by the Governor. The proposed trailer bill language also removes the sunset date included in statute. The specific proposed changes are:

Section 1. Section 8690.6 of the Government Code is amended to read:

"8690.6. (a) The Disaster Response-Emergency Operations Account is hereby established in the Special Fund for Economic Uncertainties. Notwithstanding Section 13340, moneys in the account are continuously appropriated, subject to the limitations specified in subdivisions (c) and (d), without regard to fiscal years, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a proclamation by the Governor of a state of emergency, as defined in subdivision (b) of Section 8558. These allocations may be for activities that ~~occur~~ **commence** within 120 days after a proclamation of emergency by the Governor.

(b) It is the intent of the Legislature that the Disaster Response-Emergency Operations Account have an unencumbered balance of one million dollars (\$1,000,000) at the beginning of each fiscal year. If this account requires additional moneys to meet claims against the account, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties to the account in an amount sufficient to pay the amount of the claims that exceed the unencumbered balance in the account.

(c) Funds shall be allocated from the account subject to the conditions of this section and upon notification by the Director of Finance to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house.

(d) Notwithstanding any other law, authorizations for acquisitions, relocations, and environmental mitigations related to activities, as described in subdivision (a), shall be authorized pursuant to this section. However, these funds shall be authorized only for needs that are a direct consequence of the proclaimed emergency if failure to undertake the project may interrupt essential state services or jeopardize public health or safety. In addition, any acquisition accomplished under this subdivision shall comply with any otherwise applicable law, except as provided in the first sentence of this subdivision.

(e) Funds allocated under this section shall not be used to supplant federal funds otherwise available in the absence of state financial relief.

(f) The amount of financial assistance provided to an individual, business, or governmental entity under this section, or pursuant to any other program of state-funded disaster assistance, shall be deducted from sums received in payment of damage claims asserted against the state, its agents, or employees, for causing or contributing to the effects of the proclaimed disaster.

(g) Any public entity administering disaster assistance to individuals shall not receive funds under this section unless it administers that assistance pursuant to the following criteria:

(1) All applications, forms, and other written materials presented to persons seeking assistance shall be available in English and in the same language as that used by the major non-English-speaking group within the disaster area.

(2) Bilingual staff who reflect the demographics of the disaster area shall be available to applicants.

(h) Notwithstanding any other law, funds in the Disaster Response-Emergency Operations Account shall not be expended for conditions in the state's prisons, medical facilities, or youth correctional facilities resulting solely from the action or inaction of the Department of Corrections and Rehabilitation in administering those facilities.

~~(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date."~~

LAO ASSESSMENT AND RECOMMENDATION
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Current law allows the Department of Finance, upon notification to the Joint Legislative Budget Committee (JLBC), to make allocations from the continuously-appropriated Disaster Response-Emergency Operations Account for disaster response costs incurred by state agencies that *occur* within 120 days after a proclamation of emergency by the Governor. This proposed trailer bill language would modify statute to allow these allocations to be made to cover costs that *commence* (rather than occur) within 120 days. The language also removes the existing sunset on this authority of January 1, 2019.

While some cases may warrant a need for urgent disaster response activities to continue to take place beyond 120 days the Legislative Analyst's Office (LAO) expresses concern that allowing the use of these funds for activities that commence within 120 days could allow for activities to be funded for an extended period of time without Legislative notification or approval. In some cases, these activities may be more appropriately funded on a long-term basis through the traditional budget process.

LAO Recommendation

The LAO recommends maintaining the requirement that costs occur within 120 days, but allow for an extension to this timeframe—for example for up to another 120 days—

with an additional notification to the JLBC. This additional notification should include key information necessary for the JLBC to be able to assess the reasonableness of the request for additional time, including: (1) the estimated additional amount of time required; (2) the reason(s) for the additional time required; and (3) the reasons why the traditional budget process could not be used to request funding for the response costs that occur beyond the initial 120 day period.

Staff Recommendation: Hold Open.

ISSUE 12: HOMELESS YOUTH AND EXPLOITATION PROGRAM

The Office of Emergency Services will provide an overview of the proposal.

MAY REVISION PROPOSAL

The proposal provides \$1 million one-time General Fund in 2018-19 to the Office of Emergency Services for the Homeless Youth and Exploitation program.

**LAO ASSESSMENT AND
RECOMMENDATION**

The Legislative Analyst's Office (LAO), based on their conversation with the Administration, notes significant uncertainty regarding how these funds will be used. The Administration indicated that the homeless youth funding would go to California's existing Homeless Youth and Exploitation program, but expressed a lack of certainty regarding the details of how the funding would be allocated. The statute that guides the current Homeless Youth and Exploitation program specifies that funding should be provided to projects in four specific counties—Los Angeles, San Francisco, San Diego, and Santa Clara.

LAO Recommendation

The Legislature may wish to ask the Administration for more details on its plans for spending these funds, and the Legislature will want to ensure that those plans are consistent with its priorities. Furthermore, we note that these types of programs are also eligible to receive federal funds, including Victims of Crime Act (VOCA) and Violence Against Women Act (VAWA) funds, and have received funding from these federal sources in the past. Also, notably, in recent years, the State has received substantial increase in VOCA funds, and OES typically exercises broad discretion regarding how to allocate these funds. Accordingly, the Legislature may wish to ask the department about the federal funds that are available in 2018-19 and why they were not proposed for these augmentations.

Staff Recommendation: Hold Open.

ISSUE 13: DOMESTIC VIOLENCE SHELTERS AND SERVICES

The Office of Emergency Services will provide an overview of the proposal.

MAY REVISION PROPOSAL

The proposal provides an augmentation of one-time \$10 million General Fund in 2018-19 to the Office of Emergency services for domestic violence shelters and services.

**LAO ASSESSMENT AND
RECOMMENDATION**

The Legislative Analyst's Office (LAO), based on their conversation with the Administration, notes significant uncertainty regarding how these funds will be used. For example, there are a number of existing state programs that serve domestic violence victims. At the time of their discussion, the Administration could not identify the specific domestic violence program that would be funded with this augmentation and why that program was selected.

LAO Recommendation

Accordingly, the Legislature may wish to ask the Administration for more details on its plans for spending these funds, and the Legislature may want to ensure that those plans are consistent with its priorities. Further, these types of programs areas are also eligible to receive federal funds, including the Victims of Crime Act (VOCA) and Violence Against Women Act (VAWA) funds, and have received funding from these federal sources in the past. Notably, in recent years, the state has received substantial increase in VOCA funds, and OES typically exercises broad discretion regarding how to allocate these funds. For example, the 2014 VOCA award was \$52 million and the 2015 VOCA award was increased to \$232 million. Accordingly, the Legislature may wish to ask OES about the federal funds that are available in 2018-19 and why they were not proposed for these augmentations.

Staff Recommendation: Hold Open.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 14: MAY REVISION ADULT AND JUVENILE POPULATION ADJUSTMENTS

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the May Revision Population Projections.

MAY REVISION PROPOSAL

Includes total funding of \$12.1 billion (\$11.8 billion General Fund and \$313 million other funds) for the operation of the Department of Corrections and Rehabilitation in 2018-19.

Adult Population Adjustment

The May Revision requests a net decrease of \$21,826,000 and a net increase of 37.3 positions, which is comprised of a reduction of \$21,853,000 General Fund and an increase of \$28,000 Inmate Welfare Fund. The May Revision also:

- Projects the average daily adult population to be 130,197 in the current year and 126, 890 in the budget year, an increase of 120 in 2017-18 and a decrease of 522 inmates in 2018-19.
- Projects the average daily parolee population to be 46,273 in the current year and 48,535 in the budget year, a decrease of 698 in 2017-18 and 1,259 parolees in 2018-19.
- Decreases the population cost estimate by \$12.6 million General Fund in 2017-18 and 2018-19 combined.

Juvenile Population Adjustment

The May Revision requests that item 5225-001-0001 be decreased by \$259,000 and 1.7 positions, and reimbursements be increased by \$33,000. The May Revision also reflects as estimated average daily population of 646 wards in 2018-19, which is one more ward than projected in the Governor's budget.

Proposition 57 Impacts to Population Adjustments

The May Revision estimates that Proposition 57 will reduce the average daily adult inmate population by approximately 5,800 in 2018-19 and approximately 11,200 in 2020-21. As of May 3, 2018, the prison population was at 134.6% of design capacity which is below the federal court-ordered population cap of 137.5% design capacity.

The implementation of Proposition 57 and other population reduction measures will allow CDCR to eliminate the use of out-of-state-beds from its long-term court compliance strategy. Revised estimates include the removal of all inmates from both out-of-state facilities—Mississippi by the end of May 2018 and Arizona by the end of January 2019.

Staff Recommendation: Hold Open.

ISSUE 15: HEPATITIS C TREATMENT FUNDING

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

CDCR requests an augmentation of \$105.8 General Fund million annually for three fiscal years beginning in 2018-19, and ongoing through 2020-21 to enable California Correctional Health Care Services (CCHS) to fully implement the expansion of the hepatitis C virus (HCV) treatment program. This funding will result in a total budget of \$165 million for HCV in FY 2018-19. After FY 2020-21, the baseline HCV treatment funding will be evaluated and adjusted as needed to meet the needs of the projected population to be treated. This request would allow CCHCS to expand HCV treatment to all inmates infected with the disease, regardless of their stage of progression, consistent with new treatment guidelines issued in December 2017. The additional resources would allow CCHCS to increase the number of patients treated for HCV from 2,300 in 2017-18 to an estimated 6,600 patients per year in 2018-19 through 2020-21.

Following this period of expanded treatment of HCV patients, prevalence of HCV among CCHCS' patient population is expected to reach a steady state, leading to a reduction of treatments required. This proposal addresses the need for HCV treatment among CCHCS' patient population, the effectiveness of new HCV treatments, the community standard of care, and options for bringing down HCV prevalence among CCHCS' patient population.

BACKGROUND

Chronic HCV infection is a major causal factor in the development of end-stage liver cirrhosis, which is a leading cause of hospitalizations and death in incarcerated patient populations, including in the CDCR adult institution population. Prevalence of HCV among CCHCS' patient population is estimated to be 16.4 percent, which is much higher than in the community (1 percent), and is comparable to that of the Veterans Administration which ranges from 6.6 to 21.7 percent. Estimates of HCV prevalence are likely underestimations of the true prevalence of HCV in California's prison system, since most infections are asymptomatic. The United States Centers for Disease Control estimates each reported HCV case represents 13.9 actual cases.

Historically, chronic HCV treatment required up to 48 weeks of medication, had significant side effects, and had limited effectiveness. However, significant advances in HCV treatments have occurred over the past five years with the release of a new class of medication called direct-acting antiviral agents. There are now an increased number of medications available for treatment, treatments can be completed in a shorter duration (typically within 12 weeks), have fewer side effects, and are more effective. The possibility of curing 95 to 99 percent of the infected population is now available with these new treatment regimens, regardless of the patients' stage of disease.

There is urgent need to reduce HCV prevalence, and associated morbidity, mortality, and costs related to advanced liver disease among CDCR's adult institution population. As of September 2017, the prevalence of HCV infection, based on positive serology and detectable viral loads for those inmates who were tested, was 16.4 percent or 16,365 patients (out of 99,647 patients tested). If the prevalence of 16.4 percent is applied to the 33,418 inmates who have not been tested, the additional number of inmates potentially eligible for treatment is 5,480, which totals 21,845 eligible patients. Of the nearly 22,000 inmates infected with HCV, approximately 10 percent have stage 3 or 4 liver fibrosis or other co-morbidities necessitating treatment in the next 12 months, with the remaining patients, primarily with stage 0-2, being eligible for treatment within 3 to 5 years.

There are five primary reasons necessitating the need for program expansion:

- 1) Prevalence among CCHCS' patient population is much higher than other organizations.
- 2) CCHCS' population tends to be sicker, and treating HCV-infected patients as soon as possible is essential to prevent progression to advanced liver disease and HCV-related morbidity and mortality, which reduces health care costs.
- 3) Treating, and curing, HCV reduces prevalence and public health risks (risk of transmission to inmates, staff, and the community).
- 4) While medication costs are expected to come down next fiscal year, future changes in costs cannot be predicted.
- 5) Following this aggressive treatment schedule, by 2021-22 HCV prevalence among CCHCS patients is expected to reach a steady state, and the number of patients being treated will be reduced, meaning the overall cost for HCV can be reevaluated.

Staff Recommendation: Hold Open.

ISSUE 16: CONTRABAND INTERDICTION PROGRAM

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

The California Department of Corrections and Rehabilitation requests \$9.1 million General Fund in 2018-19 and \$8.3 million General Fund in 2019-20 to implement a two year Contraband Interdiction Program at the California Substance Abuse Treatment Facility. The program will deploy contraband interdiction devices at the front entrance areas, employ a staffing complement to operate the devices, expand California Substance Abuse Treatment Facility's canine teams, conduct enhanced vehicle and institution searches, and institute a Medication-Assisted Treatment program to respond to the opioid crisis.

LAO ASSESSMENT AND RECOMMENDATION

According to the Legislative Analyst's Office (LAO), the proposed program would deploy various strategies, including: (1) adding additional canine teams; (2) adding staff and equipment to scan people, bags, and packages entering the institution; and (3) instituting a medication-assisted treatment (MAT) program, which provides inmates with medication and counseling to treat substance use disorders. These resources would allow CDCR to monitor the two entrances at SATF and conduct canine searches 24-hours per day. The proposal also includes funding to contract with an evaluator to test whether the combined effect of these strategies reduces drug use and improves prison management at the institution.

LAO Recommendation

The LAO recommends that the Legislature reject the funding proposed for the pilot for the following reasons:

- ***Program Appears Relatively Costly.*** While we acknowledge that drug use and contraband are serious problems in CDCR facilities, the strategy proposed by the department would be extremely costly if expanded statewide. Specifically, we estimate that statewide expansion of the proposed program would cost hundreds of millions of dollars annually and require hundreds of additional correctional staff to operate. Furthermore, we note that the proposed pilot costs more than *ten* times as much on a per prison basis as a different drug interdiction pilot program conducted between 2014-15 and 2016-17 that was found to successfully reduce inmate drug use at certain prisons.
- ***Program Appears Difficult to Evaluate.*** We appreciate the administration's decision to pilot and evaluate the proposed intervention, rather than proposing a broader implementation without a pilot. However, we find that the pilot is not

designed to allow for a meaningful evaluation. For example, the pilot: (1) does not include random drug testing of inmates to measure underlying drug use at SATF and comparison institutions, meaning it would be difficult to assess whether the program is affecting inmate drug use; (2) is not designed to test which specific strategies are effective, only whether the entire package of interventions is effective; and (3) includes only one institution making it difficult to evaluate whether a similar package of interventions would be effective at other institutions.

To the extent the Legislature is interested in pursuing a pilot, the LAO recommends that it direct the administration to propose a new pilot in January that is designed with the assistance of researchers to ensure that evaluators would be able to assess which specific drug and contraband interdiction strategies are most cost-effective.

Staff Recommendation: Hold Open.

ISSUE 17: OVERTIME BASE BUDGET ADJUSTMENT

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

The California Department of Corrections and Rehabilitation requests \$16.5 million General Fund in 2018-19 and ongoing to adjust the base overtime budget to reflect approved salary increases.

Since 2014-15, Bargaining Unit 6 base salaries have significantly increased, while the overtime budget has not been adjusted to reflect those increases. Correctional Officers, Sergeants, and Lieutenants have received salary increases totaling approximately 17 percent or approximately 18 percent compounded over the previous five years. In 2014-15, the Department's overtime authority supported roughly 2.6 million hours of overtime. In 2017-18, the overtime authority only supports 2.2 million hours of overtime. By providing the requested overtime increases, it restores CDCR's ability to purchase 2.6 million hours of overtime. To augment for the past increases, CDCR's overtime requires an increase of \$24.6 million. This need is offset by \$8.1 million due to the realignment of excess lump sum funding, resulting in an increase of \$16.5 million. This results in a total overtime budget of \$150.1 million. The augmentation will allow the overtime budget to support the employee compensation increases that have occurred annually, since 2014-15.

Staff Recommendation: Hold Open

ISSUE 18: TRAINING INITIATIVES

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

The California Department of Corrections and Rehabilitation requests \$12.9 million General Fund in 2018-19 and 5.0 positions, \$21.6 million General Fund in 2019-20 and 2020-21, and \$19.3 million General Fund in 2021-22 and ongoing to add training for peace officer and supervisory positions.

CDCR would provide investigator training for its special agents through Peace Officer Standards and Training (POST) courses. In addition, the Department would expand training for various other staff with the goal of promoting an organizational culture shift toward a focus on rehabilitation, effective and ethical leadership, and staff wellness. For example, CDCR would increase its Basic Correctional Officer Academy for cadets from 12 to 13 weeks and offer advanced management training for various supervisory staff. The Department indicates that these trainings would address issues such as implicit bias, ethical leadership, an employee's role in inmate rehabilitation, and stress resiliency.

LAO ASSESSMENT AND RECOMMENDATION

Given that CDCR special agents currently do not receive POST investigator training, despite having responsibilities similar to law enforcement officers who do, the Legislative Analyst's Office (LAO) thinks the proposal to provide special agents with such training is reasonable. The LAO has significant questions regarding the other aspects of the training proposed by the Department.

While such training could address challenges faced by the Department, the Administration has not provided sufficient information to assess whether it would be successful. For example, it is unclear what curricula and training materials the Department would use, whether the proposed training has been implemented successfully elsewhere, or why the Department believes it would be successful in California. Further, it is unclear whether CDCR has already developed curricula and training materials and would actually be able to begin offering trainings in 2018-19, as proposed. Finally, it is unclear whether the trainings could be offered in a more cost effective manner, such as by providing them in lieu of training that is no longer necessary.

Staff Recommendation: Hold Open.

ISSUE 19: CORRECTIONAL COUNSELOR 1 RATIO ADJUSTMENT

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

The California Department of Corrections and Rehabilitation requests \$13.5 million General Fund in 2018-19, and 89.2 positions to adjust the offender to Correctional Counselor I ratio from 150:1 to 135:1 to provide enhanced rehabilitation and program enrollment assistance to the offender population.

**LAO ASSESSMENT AND
RECOMMENDATION**

The Administration proposes \$13.5 million from the General Fund in 2018-19 to hire additional Correctional Counselor I (CCI) staff, who compile and maintain information about inmates (such as criminal and medical histories) and assist with assigning inmates to appropriate housing settings and rehabilitation programs. The funding for CCIs would be adjusted in future years to account for fluctuations in the inmate population. The Department indicates that these additional staff would reduce current CCIs' caseloads, allowing them to spend more time interacting with inmates on a one-on-one basis, and making more individualized recommendations to inmates with respect to their rehabilitative programming and reentry planning.

LAO Recommendation

The Legislative Analyst's Office recommends that the Legislature reject this proposal as the Department did not fully demonstrate the need to reduce CCI caseloads. For example, it is unclear why CCIs need more time to identify rehabilitation programs for inmates. Further, it is unclear why CCIs need to spend more time helping inmates plan for release when CDCR has separate staff who are responsible for this. Moreover, the Department has not provided any evidence to suggest that more one-on-one time between CCIs and inmates is needed. For example, it is not clear that CCIs are turning away inmates due to a lack of availability.

Staff Recommendation: Hold Open.

ISSUE 20: MEDICAL GUARDING AND TRANSPORTATION

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

The California Department of Corrections and Rehabilitation requests \$5.9 million General Fund in 2018-19 and ongoing and 42.7 positions to augment medical transportation custody positions at adult institutions.

Based on a review of third watch transportation overtime hours for March 2017 through February 2018 compared to the Access Quality Report, a report compiled by CCHCS, which tracks inmate's access to medical appointments, of the total unscheduled medical transports, 54 percent occur during third watch hours. When unscheduled emergency inmate transports occur during third watch, it results in either an overtime shift or a current on-site third watch staff being redirected from their assigned post to the emergency transports. When a staff member is redirected to perform these duties, the institution often times must modify or close inmate programs due to the reduced staffing available. As a result, the ability for inmates to participate in programs is negatively impacted as the programs are modified or cancelled due to the lack of custody staffing. CO overtime hours for medical transportation have increased by 47 percent from 2015-16 to 2017-18. Establishing a budgeted position specific to third watch medical transportation needs will also provide a consistent dedicated resource for such duties thereby reducing inmate program modifications.

LAO ASSESSMENT AND RECOMMENDATION

The Legislative Analyst's Office (LAO) notes this proposal is in addition to a January proposal for \$1.2 million and 8.4 positions for these purposes.

LAO Recommendation

CDCR has indicated that it plans to conduct a comprehensive review of the medical guarding and transportation needs at each institution. Accordingly, the LAO recommends that the Legislature direct the Department to provide it with the results of this comprehensive review when it becomes available. This would help the Legislature to determine whether medical guarding staffing levels need to be adjusted in the future.

Staff Recommendation: Hold Open.

ISSUE 21: HEALTHCARE SERVICES FOR REENTRY

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

The California Department of Corrections and Rehabilitation requests \$10.8 million General Fund in 2018-19 and ongoing to contract with either the Department of Health Care Services, or with third-party vendors, to provide healthcare services for reentry program participants.

BACKGROUND

CDCR operates several reentry facilities in the community to house certain CDCR inmates serving the final one or two years of their sentence. Until recently, inmates in these facilities were generally enrolled in Medi-Cal and received healthcare services from Medi-Cal providers near the reentry facilities. However, in January 2018, the federal Centers for Medicare and Medicaid Services found that these inmates were ineligible for Medi-Cal services. Since that time, CDCR has been paying for healthcare services for these inmates using existing resources on an as-needed basis.

**LAO ASSESSMENT AND
RECOMMENDATION**

According to the Department, the details of this contracting arrangement are still being developed, meaning the actual costs of providing healthcare services through such a contract are uncertain. In addition, since CDCR has only been paying for healthcare services on an as-needed basis for a few months, the ongoing cost of doing so is uncertain. As such, it is not clear which approach to delivering healthcare services is the most cost-effective.

LAO Recommendation

Given these uncertainties, the LAO recommends the Legislature reject the Governor's proposal and direct CDCR to continue to provide healthcare services to reentry facility inmates on an as-needed basis, until a more detailed proposal can be provided in January. This will give the Department time to clarify how much each approach would cost and whether there are other alternatives to providing these services.

Staff Recommendation: Hold Open.

ISSUE 22: CASE RECORDS TRAINING TEAM

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

The California Department of Corrections and Rehabilitation requests \$444,000 General Fund in 2018-19 and ongoing and 3.0 positions, to provide sentencing and computation training to all adult institutions.

In 2017-18, CDCR received three 2-year limited term Case Records Administrator (CRA) positions to address critical training needs related to the implementation of Proposition 57. These three training positions are referred to as Regional CRAs. These positions have been actively preparing training material and providing training to Case Records staff in all 35 adult institutions specific to changes in calculations as a result of Proposition 57 implementation. CDCR requires the permanent positions and funding to establish and maintain a standardized Case Records training model. This specialized and continued training is critical to ensure there is ongoing, accurate analysis of inmate legal records as well as correct interpretation and application of sentencing laws which affect inmates' sentence and release date calculations.

Staff Recommendation: Hold Open.

ISSUE 23: PSYCHIATRY REGISTRY FUNDING

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

CDCR requests \$18.1 million, on a two-year limited term basis beginning in fiscal year 2018-19, to offset the difference in cost between mid-step funding and contracted costs for registry psychiatrists in CDCR prisons. This request will also include Budget Bill language that specifies the requested funding will be used for psychiatry registry purposes and any remaining funds at the end of the year shall revert to the General Fund. The temporary funding will allow CDCR to meet their court order to maintain a fill rate of at least 90 percent of its authorized psychiatrist positions while pursuing other more durable staffing solutions to maintain compliance in future years.

The Department has attempted to achieve this fill rate with civil service employees (including on-site staff and telepsychiatrists) and registry. Nevertheless, with a nationwide shortage of psychiatrists, the department has had difficulty filling positions, resulting in a vacancy rate of over 40 percent of its 326 authorized positions. Currently, the department must hire 108 psychiatrists to satisfy the court's 90 percent requirement. In March 2017, following a request for bid process, a contract was awarded to a registry provider. The hourly registry rates in the winning contract fall within three tiers (\$265, \$285, and \$315), all of which are higher than the hourly mid-step rate (\$187) for full-time permanent civil service employees for which the Department receives funding. With the rate increase, the Department has been able to secure increased services of registry psychiatrists at Tier 1 at most of the institutions; however, at two institutions, California Health Care Facility and Salinas Valley State Prison, advancing to the Tier 2 rates has become necessary. Because the need for registry is so great, the difference between authorized funding and registry expenditures is significant.

Staff Recommendation: Hold Open.

ISSUE 24: COURT RESENTENCING PETITIONS

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of the proposal.

MAY REVISION PROPOSAL

CDCR requests \$2 million General Fund in 2018-19, \$1.9 million in 2019-20, and \$1.5 million in 2020-21 and ongoing to fully utilize California Penal Code (PC) section 1170(d)(1), which allows the Department to request the recall and resentencing of inmates who have exhibited exceptional conduct or whose records contain sentencing errors. This request includes funding for 13 permanent positions and 2, two-year limited term positions.

BACKGROUND

PC section 1170(d)(1) authorizes a sentencing court to recall a sentence and commitment previously imposed and to resentence an inmate, upon recommendation by the Secretary of CDCR, provided the new sentence is no greater than the initial sentence. The Department is proposing to implement a process for identifying and referring inmates for recall of sentence and resentencing under PC section 1170(d)(1). Specifically, the Department proposes to identify two categories of inmates for possible referral to the court:

- 1) Inmates who have displayed exceptional conduct; and
- 2) Inmates whose original sentence contains errors.

Staff Recommendation: Hold Open.

0820 DEPARTMENT OF JUSTICE

ISSUE 25: CYBERSECURITY PROGRAM RESOURCES PROPOSAL

The Department of Justice will provide an overview of the proposal.

MAY REVISION PROPOSAL

The Department of Justice, Division of California Justice Information Services, requests \$2.25 million General Fund in 2018-19, and \$1.94 million General Fund in 2019-20 and ongoing, along with six permanent positions, to provide additional resources to the cybersecurity program to ensure the information security of law enforcement networks throughout California. The additional resources will help safeguard the integrity and security of the California Law Enforcement Telecommunications System and other DOJ information assets and ensure that California's stringent laws related to cybersecurity are fairly and adequately enforced. The program aims to further protect California consumers by providing an additional avenue for reporting cybercrime. Currently, the majority of local enforcement agencies direct complaints of cybercrimes to the FBI, as they are not equipped to investigate the incidents at the local level. The program would allow citizens two ways to report cybercrimes to the DOJ Cybersecurity Program: (1) directly via the Attorney General's web site; and (2) through their local LEAs, who could direct reports to the DOJ as necessary.

Staff Recommendation: Hold Open.

ISSUE 26: CYBERCRIME INVESTIGATION TEAMS

The Department of Justice will provide an overview of the proposal.

MAY REVISION PROPOSAL

The DOJ Bureau of Investigation, requests \$5.6 million General Fund in FY 2018-19 and \$4.8 million General Fund in FY 2019-20 and ongoing, along with 19.0 permanent positions, to establish two investigative teams, one in the Northern California region and one in the Southern California region, focusing on cybercrimes, white collar crimes, and human trafficking crimes involving the use of technology.

BACKGROUND

Many Americans have become more reliant on modern technology and the Internet to complete daily tasks, making them more vulnerable to cybercrimes such as security breaches, phishing, identity theft, and social media fraud. In 2013, cybercrimes accounted for an estimated \$400 billion economic loss in the United States. Cybercrimes have also become the second most reported economic crime. According to the 2016 Internet Crime Report from the Federal Bureau of Investigation (FBI), only an estimated 15 percent of the nation's fraud victims reported their crimes to law enforcement. This may, in part, be due to the lack of both a centralized reporting mechanism and the necessary resources at the local level for the investigation of the crimes. California needs a reporting mechanism for victims of today's technology based criminal activities; cybercrimes, white collar crimes and human trafficking crimes. The complexity of the investigations the DOJ undertakes will vary as depending upon the number of suspects and victims related to the offenses. According to the FBI's 2016 Internet Crime Report, California ranked first in the nation for several categories, including the number of victims (39,547), and monetary losses (exceeding \$255 million). In Calendar Year 2016, the National Human Trafficking Hotline Data Report for California had tips and leads from 4,184 phone calls, 494 electronic mail, messages, and 295 online tip reports. Of the total number of tips in California, there were 2,640 related to sex trafficking cases.

**LAO ASSESSMENT AND
RECOMMENDATION**

To the extent the Legislature believes that DOJ investigations related to cybercrimes are a General Fund priority, the LAO recommends that the Legislature modify the Governor's proposal to provide the requested resources on a three-year limited-term basis—specifically \$5.6 million in 2018-19 and \$4.8 million in 2019-20 and 2020-21. The LAO believes that providing ongoing resources is premature given uncertainty in: (1) the number of cases that will be investigated and prosecuted; (2) how long these types of cases will take; (3) the amount of time and resources needed for these cases; and, (4) the overall impact of DOJ efforts. They also recommend requiring DOJ submit a report by January 1, 2021 on various outcome measures, such as the number of cases

investigated and the outcomes of such case. This information will help the Legislature determine what level of resources should be provided on an ongoing basis.

Staff Recommendation: Hold Open.

ISSUE 27: SEX OFFENDER REGISTRY (SB 384)

The Department of Justice will provide an overview of the proposal.

MAY REVISION PROPOSAL

The DOJ requests \$10 million General Fund and 25 positions in Fiscal Year 2018-19 to begin the first-year implementation activities required to meet the mandates outlined in Senate Bill 384 (Weiner), Chapter 541, Statutes of 2017.

BACKGROUND

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

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

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

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

LAO ASSESSMENT AND RECOMMENDATION
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Given that the DOJ currently estimates that the project would cost around \$65 million over five years, the Legislative Analyst's Office recommends the Legislature direct DOJ to provide the following reports to increase legislative oversight of the project:

1. Implementation Plan. They recommend that DOJ submit a report outlining its plan for fully implementing the registry upon completion of Stage 2 of the California Department of Technology's Project Approval Lifecycle (PAL) process. This will provide the Legislature with more comprehensive information on how long the project will take, the steps needed to implement the new registry, and the total level of staff and resources needed to complete the project. This will help the Legislature determine whether it is comfortable with DOJ's implementation plan and what level of resources will be needed in the future before the project moves into the procurement phase in Stage 3 of the PAL process.

2. Annual Progress Reports. They also recommend that DOJ provide annual progress reports on key metrics to help monitor the status of the project. Examples of such metrics include tasks completed, changes to project costs or deadlines for project milestones, challenges or delays that have emerged, and issues or risks that may result in project schedule or budget changes. This would allow the Legislature to ensure the project remains on schedule.

Staff Recommendation: Hold Open.

ISSUE 28: STATEWIDE FORENSICS SERVICES

The Department of Justice will provide an overview of the proposal.

MAY REVISION PROPOSAL

The DOJ's Bureau of Forensic Services (BFS) requests a one-time General Fund augmentation of \$11.4 million to support statewide forensics services. Of the requested \$11.4 million increase, \$5.4 million is required to refresh critical laboratory equipment and \$6 million is required as a General Fund backfill for continuing annual declines in revenue to the DNA Identification Fund (DNA ID), which have caused a cash shortfall in the fund.

BACKGROUND

The change in the primary revenue source to the DNA ID Fund, based on fees on criminal penalties, is no longer feasible as revenues have dropped more than 23 percent in a very short time and are no longer adequate to support the forensics program. Historically, the state supported the forensic lab program with General Fund to make the service available to all law enforcement agencies statewide and provide equal access to justice for all Californians. The requested \$6 million General Fund augmentation will help bridge the funding gap caused by the continued DNA ID Fund's revenue decline. In order to begin refreshing critical laboratory equipment, the BFS requests \$5.4 million.

**LAO ASSESSMENT AND
RECOMMENDATION**

The Legislative Analyst's Office (LAO) notes that the requested funding only replaces a subset of equipment used by BFS. Accordingly, the LAO recommends the Legislature direct DOJ to report by January 1, 2019 on its larger plan for addressing its ongoing forensic equipment needs. Specifically, this plan should include an assessment of existing equipment and its age, equipment need, the expected life of the equipment, and the amount needed annually to replace equipment. This information will help the Legislature assess what level of resources may be needed in the future.

Staff Recommendation: Hold Open.

ISSUE 29: PROPOSITION 56 TECHNICAL ADJUSTMENT

The Department of Justice will provide an overview of the proposal.

MAY REVISION PROPOSAL

The proposal requests that Items 0820-001-3320 and 0820-101-3320 be eliminated. Expenditures previously budgeted in these items will be transferred to newly created continuously appropriated items, consistent with Proposition 56 and the provisions of the Revenue and Taxation Code section 30130.53 subdivision (c). Proposition 56, passed by the voters in November 2016, increased the excise tax rate on cigarettes and tobacco products, effective April 1, 2017. The excite tax increased by \$2 from 87 cents to \$2.87 per pack of 20 cigarettes on distributors selling cigarettes in California. Monies from the collection of the tax are deposited in the California Healthcare, Research, and Prevention Tobacco Tax Act of 2016 fund and related funds to implement the purposes of the Act.

**LAO ASSESSMENT AND
RECOMMENDATION**

The Legislative Analyst's Office (LAO) recommends rejecting this request. Although Rev & Tax Code 30130.53 states that the money is continuously appropriated, some of the allocations involve choices that are fundamentally incompatible with continuous appropriations. For example, according to Rev & Tax Code 30130.57(a), the California Department of Tax and Fee Administration shall receive "not more than 5 percent" of net revenue (Item 7600-001-3304). In last year's budget process, the Administration proposed and the Legislature approved an amount that was far less than 5 percent. With a continuous appropriation, it is unclear how this amount would be determined. Given adequate time, the Legislature might determine that continuous appropriation is suitable for some of the requested items but not for others. There is no need, however, to take any of the proposed actions at this time. The Administration can make these requests next January.

Staff Recommendation: Hold Open.
