

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 1
ON HEALTH AND HUMAN SERVICES

Assemblymember Hector De La Torre, Chair

MONDAY, APRIL 24, 4 PM
STATE CAPITOL, ROOM 126

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ITEMS TO BE HEARD

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 1: PROVIDER RATE INCREASE

A three percent cost-of-living increase will provide for specified service programs for which the Department of Developmental Disabilities sets rates: community care facilities, community-based day programs, habilitation service programs, respite agencies, and vouchered respite. In addition, a three percent cost-of-living increase will be provided for specified contracted services programs; supported living, transportation, look-alike day programs. Those rate increases are intended to maintain continuity of services to consumers and families and help promote provider stability. The three percent rate increase will cause Departmental expenditures to increase by \$67.801 million (\$46.1 million General Fund).

In California there are 4,600 community-care facilities (serving 22,845 clients), 552 habilitation services programs (serving 17,685 clients), 1,647 day programs (serving 50,664 clients) and 136 respite agencies and vouchered respite service serving 29,3180. Over the last 16 years, rate increases have not been consistent. The cumulative effect of the inconsistent rate increase has been exacerbated by the rate freeze. In the 2002-03 fiscal year, the Department of Developmental Services initiated a multi-year strategy to reduce the rate of overall growth of the developmental disabilities program. Expenditure growth in the 2001-02 fiscal year was approximately 13 percent. The strategy was to impose a variety of immediate temporary reserves (e.g. freezes on the rates for new programs).

The measures have been successful in reducing the rate of growth of the Department of Developmental Services budget. In 2002-03, before any measures went into effect, the purchase of services growth rate was thirteen percent. In the 2005-06 fiscal year, the growth estimated to be 9.3 percent. During the span of those years the Department of Developmental Services budget increased \$726.3 million. There is some evidence that the community services delivery is being effected. There may be other factors that contribute to the program closures. The Department has exercised its authority to adjust rates for 518 vendors, 477 of which have been transportation providers.

The Department believes a three percent rate increase is needed to maintain continuity of services and promote provider stability. For the 2006-07 fiscal year, the Department will require for any rate increase in excess of three percent, the regional center must demonstrate that the approval is necessary to protect the client's health or safety, and the Department must have granted prior written approval.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 2: COST CONTAINMENT**

Beginning in the 2002-03 fiscal year the Governor and the Legislature adopted a variety of cost saving measures. First in the area of Regional Center Operations there was an increased number of days that could elapse before Intake and Assessment had to be completed, from 60 days to 120 days; there was an increase in the caseworker caseload, from 1:62 to 1:66 and an unallocated reduction was passed. In the Purchase of Services area, the Governor and the Legislature adopted additional cost containment measures. The Non-Community Placement Program limitation on funding was instituted. Also, there was rate freeze for Day-Programs and In-Home Respite. There was a rate freeze on contracted services. Similarly, Habilitation Services Rate Reduction and Freeze was enacted. In addition was a SSI/SSP pass through that was frozen. A change in the Eligibility Definition was also enacted. A unallocated reduction in the Purchase of Services was adopted. A co-payment for some services was adopted by the Legislature. And, finally there was an unallocated reduction in the Purchase of Services Budget. The Administration has proposed an additional measure to begin in the 2006-07 fiscal year.

In the 2002-03 fiscal year, the state saved \$10.427 million dollars through two of the cost containment measures. In 2003-04, the cost containment measures saved \$64.523 million. The two year cumulative savings were \$74.457 million. In the 2006-07 budget year the Department forecasts it will achieve \$155.438 million. Overall, the state will have achieved \$497.316 million in cumulative savings from the cost containment measures from 2002-03 through 2006-07 budget year.

The consequences of continuing the freezes are unknown. The data does not exist. The effects of the rate freezes can only be assessed through inference. One statistic of some significance is the rate of growth of the Purchase of Services and the rate has declined from 13 percent per year to 6 percent per year. That is during a time when the number of clients entering the Regional Center System is growing unabated. In addition, the growth rate in the number of clients with Autism Spectrum Disorder will increase dramatically.

Below are several cost containment policies that have been adopted by the Administration and the Legislature. As discussed above no data exists to assess the consequences of each of the cost containment measures. But, given the substantial rapid decline in the rate of growth of the overall Purchase of Services budget at the same time there is significant growth in caseload, untoward affect scan be inferred. The Department will soon begin a study to assess the effects of the cost containment measures. To address those likely effects, staff recommends the removal of the caps on the following items:

1. The shift from 60 to 120 days for intake assessment, \$4.465 million in savings in the budget year
2. Caseworker to client ratio, \$29.544 million in the budget year savings from reducing the caseworker to client ratio from 1:62 to 1:66 ;

3. Non-Community Placement Plan Start up Funding, \$5.962 million in savings in the budget year;
4. Day Program and In-Home respite, \$3.696 million in savings in the budget year;
5. SSI/SSP Pass-Through , \$4.341 million in savings in the budget year;
6. Change in Eligibility Definition, \$2.074 million in savings in the budget year, the Department is working to re-estimate the amount and effects of this measure;
7. Purchase of Services Unallocated Reduction, in lieu of Purchase of Services Standards savings of \$7.0 million in savings in the budget year.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 3: REGIONAL CENTER COST CONTAINMENT: PURCHASE OF SERVICES CONTRACT REDUCTION**

The Administration has proposed the imposition of Purchase of Services Standard. For the last four years the Administration has proposed the adoption of Purchase of Standards to the Legislature. Each year for the last four years, the Legislature has rejected the Statewide Purchase of Standards. Employing a different tack, for the 2006-07 fiscal year the Department states it will negotiate regional center contract language that will impose additional responsibilities for controlling the growth of Purchase of Service expenditures.

The Department expects to negotiate regional center contract to control the Purchase of Services expenditures. The language would address the following:

- Requiring the use of the least costly vendor that will meet the client's needs
- Clarify parent's responsibility for purchasing services
- Specifying the preference for using the less costly group, as opposed to individual services if the client's needs can otherwise be met
- Require regional centers too inform families/clients annually of the services purchased on their behalf
- Ensure regional centers to use and internal review process prior to authorizing the purchase of services
- Prohibit the purchase of specific items/services that are in conflict with state and federal law, and Federal OMB circular

Commencing with the 2002-03 fiscal year, the Department initiated a strategy to reduce the rate of growth of the developmental disabilities program expenditures. The rate of growth was approximately 13 percent per year. The short term measures to restrain the rate of growth for programmatic expenditures are listed above. The short term measures have reduced the rate of growth from 13 percent to 6 percent. The Administration has attempted to enact various cost containment measures through trailer bill language, the attempts have been rejected by the Legislature. Therefore, the Administration is attempting to administratively implement selected permanent cost control measures using the regional center contract. The proposal would increase staffing at regional centers by 65 positions with 61 of them being clinical. The staffing would increase operations cost by 65 positions.

The Department estimates the Purchase of Services will save approximately \$3 million General Fund in 2006-07; \$21.130 million General Fund in 2007-08; and \$31.695 million General Fund 2008-09 when implemented.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 4: CLOSURE OF AGNEWS**

The planning process for the closure of Agnews started in fiscal year 2003–04. The Department utilized participation from internal and external stakeholders to develop a plan that would result in an orderly transition of consumers into alternative services and supports. In October 2003, the teams completed their recommendations and reports that served as the basis for the Plan. The Bay Area regional centers, San Andreas Regional Center (SARC), the Regional Center of the East Bay (RCEB), and Golden Gate Regional Center (GGRC), and Agnews played a significant role in developing the Plan. After several public meetings in fiscal year 2003–04, the Plan was submitted to the Legislature in January 2005, and approved with the enactment of the Budget Act of 2005. The Department recently announced the closure will occur in June 2008.

The population of California's developmental centers has decreased over time mirroring national trends. In the case of California, this decrease in the use of institutions began when the community-based system was initiated in 1969 under the newly established Lanterman Mental Retardation Services Act, now called the Lanterman Developmental Disabilities Services Act (Lanterman Act). The Lanterman Act promotes the provision of services in the least restrictive environment and emphasizes community settings as the preferred living option for most consumers. The total developmental center population declined dramatically as the community system expanded, falling from a high of 13,355 individuals in 1968 to the census of 3,052 individuals by November 30, 2005. Declining populations made it possible for the Department of Developmental Services (Department) to cease using three state hospitals that had served both persons with developmental disabilities and those with mental illness. DeWitt State Hospital was closed in 1972, Stockton Developmental Center in 1995, and Camarillo State Hospital and Developmental Center in 1996. Patton and Napa State Hospitals were both dedicated specifically to the care and treatment of persons with mental illness. Two other state facilities serving persons with mental illness were closed during this period: Modesto State Hospital in 1970, and Mendocino State Hospital in 1973.

In January 1994, the Department entered into an agreement to settle the Coffelt lawsuit, which alleged that the Department and several regional centers had not taken sufficient action to develop community-based services, thereby denying developmental center residents the opportunity to live in the community. The implementation of this agreement resulted in a reduction of the developmental centers' population by more than 2,320 persons between 1993 and 1998. This was accomplished by creating new community living arrangements, developing new assessment and individual service planning procedures and quality assurance systems, and by obtaining increased federal funding through the Medicaid Home and Community-Based Services (HCBS) Waiver.

The United States Supreme Court issued its ruling in *Olmstead v. LC* (1999) 527 U.S. 581. This decision stated that services should be provided in community settings when treatment professionals have determined that community placement is appropriate; when the individual does not object to community placement; and when the placement can reasonably be accommodated, considering the resources available to the state and the needs of others with disabilities. Since the decision, the federal Department of Health and Human Services, Centers

for Medicare and Medicaid Services (CMS), issued recommendations to the states requiring them to prepare comprehensive Olmstead plans to decrease dependency on institutional services. The increased emphasis on the provision of services in community-based settings derives from a service philosophy embodied by the above-mentioned legislation and court cases. It also reflects the development of resources and expertise available in the community service system to serve individuals with complex support needs.

The Schwarzenegger Administration sponsored AB 2100 (Chapter 831, Statutes of 2004) that authorized the Department to approve a proposal, or proposals, from the Bay Area regional centers to provide for, secure, and assure the payment of leases for housing for people with developmental disabilities. SB 643 (Chapter 551, Statutes of 2005) further amended this section to clarify the regional centers' ability to assure full payment of a housing lease based upon availability of the house for occupancy.

In conformance with the statutory requirements, the Bay Area regional centers have submitted, and the Department has approved, the Bay Area Housing Plan (BAHP) that details the proposed plan for development and ownership of the properties, management entities, and developer. The Department's review was completed in collaboration with the State Department of Housing and Community Development, the California Housing Finance Agency (CalHFA), and the Department of Finance (DOF).

As required by statute, BAHP must meet several conditions. The acquired, or developed, real property must be occupied by individuals eligible for regional center services. The property must be integrated with housing for people without disabilities. The regional center must have approved the proposed ownership, management, and developer entities, and the costs associated with the proposal must be reasonable. The proposal must include a plan for transfer at a time certain of the property ownership to an approved non-profit entity for use by individuals eligible for regional center services.

On September 22, 2005, the DOF submitted the BAHP and the expenditure plan to the Joint Legislative Budget Committee (JLBC) for review. The expenditure plan proposed using the \$11.115 million appropriated in the Budget Act of 2004 (SB 1113, Chapter 208, Statutes of 2004) and re-appropriated in the Budget Act of 2005 for the predevelopment costs associated with acquisition and development of housing to implement the BAHP. On November 8, 2005, the JLBC reviewed and concurred with the BAHP, provided that the Department submits monthly project status reports to the Legislature. The JLBC also concurred with the proposed expenditure of the \$11.115 million for the pre-development costs associated with acquisition and development of housing for residents leaving Agnews.

Under the BAHP, the Bay Area regional centers will contract with a developer to acquire, design, and develop housing for persons leaving Agnews. Three types of housing will be developed: SB 962 homes (also known as residential homes for persons with specialized health care needs), specialized residential homes, and family teaching homes.

In this new model, once the housing mortgage is paid in full, the provider's lease payment ceases. The property will be transferred to an approved non-profit entity for dedicated use by regional center consumers. An inventory of stable community housing designed to meet the special needs of individuals with developmental disabilities is thereby created. The Department will monitor and evaluate the effectiveness of the BAHP and carry out its roles and responsibilities under AB 2100.

The Bay Area regional centers will:

- Coordinate the program service delivery to support residents in the housing developed through the BAHP;
- Gather consumer housing requirements for current residents of Agnews; execute the Lease Assurance Agreements and arrange for Service Providers to execute the leases; and,
- Monitor and evaluate BAHP progress.

The Department, the Bay Area regional centers, Agnews' staff, and the developer are in the process of preparing housing roll-out schedules based on consumer-centered planning underway at Agnews. The BAHP includes housing acquisition and development procedures that provide detailed information for selecting properties and for the design of a home specific to the services to be provided. The property selection process includes information such as neighborhood characteristics, perception of neighborhood safety, community integration, the availability of public transportation, and proximity of the property to medical services. Home design criterion includes such features as size, accessibility, and architectural features that can be customized to meet the needs of the individual. Customizing the home may include features such as widened hallways, reinforced walls, lowered countertops, and the use of protective building materials.

SB 962 sponsored by the Schwarzenegger Administration, and enacted on October 5, 2005, established SB 962 homes, also known as adult residential homes for persons with specialized health care needs. This type of residence is necessary to fill a critical gap in licensure categories for people with developmental disabilities who have a combination of specialized health care and intensive support needs. Examples of the health services that can be provided in a SB 962 home include, but are not limited to, nutritional support including total parenteral nutrition, gastrostomy feeding and hydration, renal dialysis, special medication regimes including injections, intravenous medications, management of insulin dependent diabetes, catheterization, indwelling urinary catheter management, pain management, and palliative care. The creation of this new type of Department of Social Services (DSS) licensed residential care facility, as a pilot project, will provide for community-based services in the Bay Area for up to 120 current Agnews' residents. The facility staffing requirements include licensed nursing staff on duty 24 hours per day, seven days per week, development of an Individual Health Care Plan for each consumer that is updated at least every six months, and at least monthly face-to-face visits with the consumer by a regional center nurse. Moreover, state costs for the residential, day programming and transportation services provided to HCBS Waiver participants are eligible for federal reimbursement. An independent evaluation of the pilot will be submitted to the Legislature by January 1, 2009.

AB 2100 amended statutes to add family teaching homes to the existing Adult Family Home Agency (AFHA) model. The associated Health and Safety Code was also amended. The family teaching home model will serve up to three adults in the individuals' home, while the teaching family lives in an adjoining home. The AFHA was first established in 1994 to provide a new cost-effective living option for adults moving from developmental centers into the community. It is a living option that enables adults to enter into partnerships with families as fully participating family members. The regional center contracts with the AFHA to recruit and train families, certify family homes, match individuals and families, provide ongoing support to families, and monitor family homes. The individual receives supports and services from the family, AFHA,

and the regional center according to his or her needs. Regional center staff visits the family home at least quarterly and evaluates the AFHA annually. Department staff periodically evaluates program implementation by the regional center and the AFHA.

To address the needs of Agnews' residents with behavioral challenges or other specialized needs, specialized residential homes that serve three or four persons are being developed. The homes are DSS licensed adult residential homes, which provide augmented staffing and professional services to address the unique needs of the consumer. SARC has developed six specialized residential services homes. Eight consumers are currently being served in these homes. Ten additional consumers will be transitioned into the homes by June 30, 2006. Specialized residential homes serve consumers whose needs cannot be appropriately met within the existing array of community living options. Consumers living in specialized residential homes have unique behavioral needs related, but not limited to, mental health and behavioral challenges. Specialized residential homes provide 24-hour on-site staff with specialized expertise in programming. In addition, these homes have the capability for on-site crisis response to meet scheduled or unpredictable needs in a way that promotes maximum dignity and independence. These homes provide supervision and direct care support to ensure the health, safety, and well-being consumers with challenging needs.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 5: PORTERVILLE KITCHEN – CAPITAL PROJECT**

The Department of Developmental Services (DDS) proposes to build and fully equip a new single story main kitchen at Porterville Developmental Center that will increase the food production and storage capacity, provide an efficient cook/chill food preparation/delivery system, and meet all health and safety codes. The project will also remodel 24 satellite kitchen/dining rooms in the residences to bring these facilities into health and safety code compliance.

The Department of Developmental Services requests \$23.734 million for the 2006-07 budget year. \$22.557 million of the total would be lease-revenue bonds. The funding would be to prepare preliminary plans, working drawings and construction of a new main kitchen at the Porterville Developmental Center. The kitchen would consist of 29,000 square feet and \$1.177 General Fund to prepare preliminary plans to renovate 24 satellite kitchens/dinning rooms in the residences to bring them into code compliance. The estimated costs for the total project are: Preliminary Plans, \$2.33 million; Working Drawings, \$2.823 million; and Construction \$37.998 million.

The kitchen and dining facilities were built in 1953. Many new regulations have been established. Fire, life safety and seismic codes have been developed to protect the health and welfare of the clients and staff. Very few upgrades or renovations have been done over the years to bring the kitchen/dining facilities into compliance with the current codes/regulations. The last upgrade to the food service program was in 1986 when all developmental centers were converted to "makeshift" cook/chill food production systems. This created a very inefficient main kitchen operation at the Porterville Developmental Center, creating unnecessary work for the staff and making it difficult to maintain food quality and required food temperatures.

In 1998 the Department contracted with Cini Little International, Inc. to assess the food service operations at each of the Developmental Center. Several deficiencies were found, including: a severe shortage of kitchen, storage and ware washing space; antiquated equipment that did not meet code; utility load issues that prevented the addition of new equipment, inefficient work flow; many manual systems that were time-consuming and required duplication of effort; unacceptable work environment and storage temperatures that could lead to possible food safety issues; and inadequate refrigeration space.

Additionally the Porterville Developmental Center received violations from Licensing Code violations from non-compliance. The violations may pose serious health risks to consumers and staff and, if not corrected, may result in serious illness or death of clients, increased worker compensation claims by the employees and fines for additional losses of federal financial participation.

The Legislative Analyst Office recommends the Legislature fund only preliminary plans for a new main kitchen at the Porterville Developmental Center. Doing so would necessitate a shift from lease-revenue bonds to the General Fund. The LAO recommends the Legislature not fund the satellite kitchens preliminary because the proposal does not specifically address the deficiencies that the department has noted; and the number of satellite kitchens could decrease within five years. The LAO recommends the Legislature wait to fund the working drawings and construction phase of the project until it has had an opportunity to review preliminary plans. The LAO only recommends funding the Porterville new main kitchen from the General Fund at a cost of \$1.136 million. Once a detailed cost estimate from the preliminary plans is complete, the Legislature could provide funding for working drawings and construction of the project from lease-revenue bonds

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 6: CADDIS

The new computer system of the Department of Developmental Services (California Developmental Disabilities Information System, CADDIS) continues to be a controversial computer project. Federal Funds are not being drawn down. It is estimated that as much as \$50 million in Federal Funds will have been lost because the system is not ready. The Regional Centers say they can collect the data to capture the Federal Funds now. Absent a computer system, the task would be very labor intensive and, according to the Regional Centers they would need additional resources to accomplish the task. In addition it is projected the System will require multiple tens of million dollars of General Fund to complete. The Department of Finance, by virtue of the Budget Act of 2005, was to respond to the Legislature on its plan for resolving the Systems problems.

The Developmental Disabilities System may face difficulties conducting the business of the system. Such things as impairment of case management, provider reimbursement, and monitoring of the fiscal status of the system may cause problems. In addition too those functions, the implementation of Self-Directed Services Directed Model was contingent upon implementation of the System. As a result, the implementation will take at least another year.

The Department of Finance was charged with delivering a report to the Legislature by October of 2005. In addition the Department was provided with resources for an independent project review to resolve the problem of CAADIS. In October the review of the consultant was provided too the Legislature. The Department of Finance's analysis of the report as well as the strategy to resolve the issue have not been provided. When the Department of Finance will provide its analysis and strategy is unknown.

The Department announced on Friday that is going to continue with the CADDIS System. The Department is asking the Legislature to re-appropriate \$2 million so that funding provided in 2005-06 budget can be utilized in 2006-07. The language from the Administration would give the Director of the Department of Finance the authority to augment the appropriation in any amount with oversight from the Joint Legislative Budget Committee. The Administration is committed to provide new and substantial information about the project.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 7: WORK PROGRAMS

Several groups have expressed concern about level of rates paid to day and employment programs. Day programs have not had many rate increases in the last 19 years. Employment programs have had four adjustments. The adjustments have been combined with a rate reduction or been at a lower rate than other programs. Therefore, the effects on the programs have been limited. The consequence is that chronic low wages and staff turnover has led to inconsistent accessibility and quality of the programs. According to the California Rehabilitation Association, the state has lost more than 3,000 jobs for people with disabilities since 2004. The Association says that this a direct consequence of the rate reduction enacted by the Administration and the Legislature in 2003.

The Association is proposing:

- An increase of \$24.89 million in the Supported Employment Program;
- An increase of \$1.525 million in the Work Activity Program;
- An increase in Day Programs of \$17.1 million;
- An increase of \$6.025 million in the Supported Living Program; and
- An increase of \$15.0 million for shift to Permanent from temporary rates.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 8: HABILITATION SERVICES PROGRAM IMPLEMENTATION

The Department of Developmental Services proposes to convert a one year limited term position to a permanent position, \$70,000 General Fund. The staff member would continue implementation and monitoring of habilitation services provided to consumers with developmental disabilities and to ensure that services are of the highest quality. The staff person would continue to maintain a provider database of contacts regarding issues and concerns, requests for planning future trainings and technical assistance needed by service providers and/or regional centers.

Administrative responsibility for the Habilitation Services Program was transferred to the Department of Developmental Services from the Department of Rehabilitation effective July 2004. The two components are Work Activity Programs and Supported Employment Programs. Both of the programs are entitlement services for people with developmental disabilities.

In the transfer of the program, the Department amended the Home and Community Based Waiver and developed and implemented a new billing and payment methodology for habilitation services. Measuring outcomes from the delivery of habilitation services required the Department to also develop, implement and revise an electronic data collection process. The ongoing implementation of the process is necessary to meet statutory and regulatory requirements.

The Department believes the position necessary on an on-going basis to implement, monitor and revise these systems and provide reports as required. The position would continue to be responsible for monitoring service utilization, caseload accountability, fiscal management and federal billing.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES

ISSUE 9: CERTIFICATION INTERMEDIATE CARE FACILITIES

The Department of Health Services' decision to make initial intermediate care facility (ICF) a third-tier priority has extended the period between facility licensure and initial certification from three to five months to six to twelve months, depending on staffing of individual district offices and their workload. To assure the provision of appropriate services and avoid the need to relocate beneficiaries placed in new ICF programs additional funding is needed to fund the extended time period. The decision of the Department of Health Services to downgrade the licensing priority causes the Department of Developmental Services to expend \$2.0 million in the budget year.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 10: OFFICE OF PROTECTIVE SERVICES – HEADQUARTERS**

The Department of Developmental Services is requesting six positions and \$752,000, \$452,000 General Fund. The positions would be at Headquarters to develop and implement critical policies, training and management functions for a large, decentralized law enforcement organization. The proposal is the Headquarters portion of a broader request to meet the operational needs of the Office of Protective Services on a statewide basis as recommended by the Department of Justice in its review of the Department's law enforcement structure.

Historically, the law enforcement function within the Department was decentralized. Investigators and police officers reported to the Administrative Services Directors at the five Developmental Centers and to the Business Managers at the two Community Facilities. Fire services also reported to the Administrative Services Directors through the Developmental Center Chiefs of Plant Operations.

The Administrative Services Directors had no professional law enforcement training and supervised this function in addition to their many other administrative responsibilities. This resulted in limited oversight of law enforcement operations and reliance on poorly trained first-line police supervisors and investigators for management of police and investigative functions. A Specialized Investigators Unit operated from Headquarters to provide training and technical assistance to the Developmental Centers and Community Facilities investigators. Headquarters investigators conducted police applicant background investigations, internal affairs investigations and handled sensitive or high profile investigations of incidents occurring at Departmental Facilities.

In 2001, at the request of Senator Chesbro, the California Department of Justice conducted a review of police services of the entire Department of Developmental Services. The Department of Justice issued a report that concluded that law enforcement and fire services function of the Department of Developmental was in disarray and poorly supervised and managed. The Department of Justice recommendations relative to the Office of Protective Services Headquarters were:

- Implementation of a professional law enforcement structure;
- Provision of a law enforcement policy and procedures manual;
- Development of a specialized training program to increase job proficiency;
- Provision of adequate resources and equipment; and
- Tracking and analysis of workload to address the backlog of investigations.

The Department accepted the study and began implementation of the recommendations. The Department began to restructure the 212 existing police, investigation and fire personnel into a centrally managed public safety function consistent with the Department of Justice recommendations. The current chain of command reports from each Developmental Center or Community Care facility at Headquarters. The restructure and other efforts to address the Department of Justice's recommendations, took place through an informal redirection of the Developmental Center Program resources. The restructure was implemented without adding any new management or support positions and continuing the policy of re-directing resources within the Developmental Center Program budget. Consequently the Office of Protective Services is requesting what management and support positions be established. To effectively manage a statewide, 24/7 specialized police and fire operation.

The LAO recommends approval of two Headquarters Positions. Specifically, it recommends the Legislature approve two of the six additional staff positions requested for DDS headquarters. Approval of the proposed new OPS chief and deputy chief would enable DDS to implement the Attorney General's most critical recommendations, including the creation of a stronger central chain of command. However, we recommend the rejection of the additional four headquarters positions proposed by the Administration because they go beyond what our analysis indicates is needed to establish a functional chain of command.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 11: OFFICE OF PROTECTIVE SERVICES**

The Department requests 81 of the 212 positions identified above for restructuring the Office of Protective Services organization to further the Department of Developmental Services efforts to implement the Department of Justice's recommendations for improving services. Of the 81 positions, 65 are for existing functions that are being funded through re-directions. Sixteen positions (6 are permanent and 10 are limited term) are new to address investigation workload for both an increase in number and complexity of investigations and for the backlog of investigations. The request applies \$503,000 (\$297,000 General Fund) to the proposed new investigator position.

The primary objectives are to:

- Properly reflect the reorganization that occurred based on a review conducted by the Department of Justice and recommendations for an improved management structure. The improvements to the Office of Protective Services have been accomplished informally through redirections. The budget proposal requests formal recognition of these changes in the Budget Act so that permanent appointments of staff can be made and staff can be trained.
- Address backlog of investigations and overall increase in investigation workload.
- Provide funding to cover the increase in officer's uniform that was negotiated in the bargaining units to recommend the Legislature formally adopt

The LAO withholds a recommendation on the Developmental Center positions. It withholds a recommendation at this time on all 81 additional positions requested by the administration to expand law enforcement operations in the Developmental Centers. The LAO believes some of the 81 positions may be required to comply with federal funding requirements. The Legislature, in the LAO's view, the Legislature should not act on this request until the Lanterman Developmental Center the Civil Rights of Institutionalized Persons Act case has been resolved. The resolution of the Civil Rights of Institutionalized Persons Act case at Lanterman could well result in significant requests for additional state resources to address the problems identified in that federal investigation. Given the nature of U.S. Department of Justice findings, it appears likely that federal authorities will require significant funding and staffing increases for Lanterman and perhaps eventually other Developmental Centers as well as potentially significant changes in Office of Protective Services' law enforcement operations. Absent a resolution of the U.S. Department of Justice matter, the Department's budget request for the expansion of Office of Protective Services personnel at the Developmental Centers is premature. We will continue to monitor this situation and advise the Legislature of our findings at the time of budget hearings.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 12: PORTERVILLE INTENSIVE BEHAVIORAL TREATMENT RESIDENCE**

An increase of \$1.2 million General Fund and 14.0 positions is included in the budget for 2006-07 to staff an Intensive Behavioral Treatment Residence (IBTR) in the Secure Treatment Program (STP) at Porterville Developmental Center. The purpose of this residence is to provide secure separation for up to 30 consumers who have been identified as the most dangerous to the rest of the STP population.

The IBTR will be located in a residential unit that is part of the existing buildings inside the Secure Treatment Facility. The area is physically separated by an additional fence from the mainstream of residences within the Secure Treatment Program. The purpose of the IBTR is to serve:

- A carefully selected group of consumers who currently reside in the Secure Treatment Program.
- Clients who have committed a felony act and would otherwise be housed in Tulare County Jail, or are awaiting the results of referral to the District Attorney for prosecution, and/or are preparing to stand trial.
- Clients who do not currently lie at Porterville Developmental Center but have been judicially committed through the court systems for admission to Porterville's Secure Treatment Program and have known antisocial, or assaultive behaviors that will require staffing 1:1 staffing to protect the safety of other clients.

The IBTR would be highly staffed, self-contained therapeutic treatment program, designed to provide selected clients an infusion of therapies. Although separated from the rest of the Secure Treatment Program, these clients would be expected to engage in a full therapeutic program. Moving the group of clients to separate living quarters it is expected that it will lower violence and noise levels and will provide greater safety and protection to the clients.

Currently, there are 68 clients in the Secure Treatment Program. The high number of clients in the program is a significant departure from the recent historical trend where there were approximately 20 clients committed.

The Department states the staff positions are needed to develop and provide this specialized, therapeutic program targeted root causes, with the goal of amelioration of unacceptable behaviors. The work in the IBTR would be acute but short term. It is expected that a client would move back to the general Secure Treatment Program within one year.

The budget also proposes to establish a Clinical Director who would handle the high level decision making and responsibility needed to lead and manage the increased workload that has developed as the Secure Treatment Program has grown, to conduct the planning that will be necessary to accommodate the anticipated expansion of the Secure Treatment Program and to perform daily management of the special problems and unique challenges in a secure, high risk and volatile environment.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES**ISSUE 13: AUTISM SPECTRUM DISORDER INITIATIVE**

The Department of Developmental Services requests an increase of one staff person, \$62,000 General Fund, in the Department's Headquarters to facilitate the expansion of the Autistic Spectrum Disorder Initiative. In addition, the Department requests \$2.5 million for the establishment of State and Regional Autistic Spectrum Disorder Resource Centers located at 38 community Family Resource centers and establish Regional Center Capacity. Each Regional Center would have a newly established position of Autistic Spectrum Disorder Specialist and a Autistic Spectrum Disorder Coordinator.

The Department of Developmental Services is proposing an expansion of the Autistic Spectrum Disorder Initiative. The Department of Developmental Services' Autistic Spectrum Disorder initiative was created in 1997 in response to the increasing numbers of persons diagnosed with Autistic Spectrum Disorder served by the Department. The Department seeks to expand the Autistic Spectrum Initiative to meet the immediate and future programmatic and fiscal challenges in serving those with Autistic Spectrum Disorder. The proposed activities include training on current best practice assessment and evaluation guidelines; development of best practice guidelines for intervention, treatment, and interagency collaboration; immediate resources to address the information needs of families and clients; and specialized expertise at regional centers to assist the local level implementation of the initiative.

The Regional Center specialist would be a psychologist and would coordinate and manage the clinical application of best practices guidelines. The person would assist case managers with clinical referrals, advise intake units on best practice guidelines for the screening, diagnosis, and assessment of individuals with Autistic Spectrum Disorder, and provide technical assistance to local clinicians and service providers specialize Autistic Spectrum Disorder. The persons at the Regional Centers also will contribute expertise to statewide clinical trainings.

The Regional Center Autistic Spectrum Disorder Program Coordinator would be the primary point of contact to the Regional Centers on Autistic Spectrum Disorder issues. Their role is to ensure coordination, communication, training an technical assistance with external stakeholders and agencies on Autistic Spectrum Disorder issues. The coordinator will work with parents, clients and provider groups to ensure current and evidence approaches to the Disorder are understood; and ensure and provide outreach and technical assistance that is culturally and age appropriate to assure the successful implementation of the best practice guidelines throughout the Regional Center catchment area.

ITEM 4300 DEPARTMENT OF DEVELOPMENTAL SERVICES FINANCE LETTER**ISSUE 14: CONSTRUCTION OF THE PORTERVILLE 96 BED EXPANSION AND RECREATION COMPLEX**

Add Item 4300-301-0660 to provide \$78.473 million for construction of the phase of the 96 Bed Expansion and Recreation Complex project. The Department states the appropriation is necessary because of the unanticipated increase in the price of raw materials and the demand for labor since the project was funded in 2003-04. Additionally, combining the existing Porterville 96 Bed Expansion Forensic Project and the Porterville Recreation Complex into a single appropriation for construction reduces the risk of further delay because if either project's bid exceeds the State Public Works Board augmentation authority both projects would be stalled. The project will alleviate an acute shortage of beds for court-committed individuals in the secured treatment program.

The Department proposes the following provisional language to Item 4300-301-0660

X. Notwithstanding any other provision of law, the project funded in schedule (0.%) of this item shall be the same project that was originally in Schedule (1) and Schedule (2) of the Item 4300-301-0660 in the Budget Act of 2003.

Add Item 4300-496 to revert the unencumbered authority in Item 4440-302-0660, Budget Act of 2003:

- 1. Porterville Recreation Complex Forensic-Preliminary Plans, Working Drawing, and Construction. The reversion of existing authority for the construction is associated with the request for new authority in Item 4300-301-0660.*
- 2. Porterville 96 Bed Expansion-Preliminary Plans, Working Drawings, and Construction for new authority in Item 4300-301-0660*