

**AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION**

Assemblymember Warren Furutani, Chair

**WEDNESDAY, MAY 26, 1:30 PM
STATE CAPITOL, ROOM 437**

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CONSENT ITEMS

0250 JUDICIAL BRANCH

ISSUE 1: SACRAMENTO COURTHOUSE REVERSION

The Judicial Branch proposes a revision of the 35 courtroom Sacramento Criminal Courthouse project initially approved in FY 2009-10. The total project cost was estimated at \$509 million. The acquisition phase was approved, but the project scope has changed, necessitating this reversion. The Judicial Branch has submitted a revised request to the Joint Legislative Budget Committee for review. The revised proposal would provide for 44 courtrooms and is estimated to cost \$439 million.

5225 CA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 1: CDCR BUDGET TRANSPARENCY

On March 23rd, Senate and Assembly budget Subcommittees held a joint hearing to discuss three legislative proposals designed to create more transparency and accountability in CDCR's budget. At that time, the committees directed CDCR and staff to develop proposals to be considered by the Subcommittees in early May. The general descriptions of the three proposals are described below.

Budget Act Programs. One method of achieving increased visibility into and accountability of a budget is to increase the detail in the annual Budget Act. Specifically, the Legislature could break up the large appropriations into smaller appropriations and require CDCR to notify the Legislature whenever funds are moved between appropriations. This will give the Legislature the ability to designate funds for a specific purpose, be able to see that the funds are budgeted for that purpose, and rest relatively assured that the funds are not used for any other purpose. Any new structure would need to allow the Department to move funds between items, but with legislative notification. This structure would give the Department a level of flexibility consistent with current Budget Act provisions, eliminate the large appropriations, and give the Legislature increased visibility into how CDCR spends their budget.

Annual Report on Performance and Outcomes. Another approach to increasing budget transparency and accountability is to require the Department to present the Legislature with an annual report that details its performance and outcomes of key department programs. The structure of such a report could include the following characteristics: (1) focus on key outcome performance measures, (2) be linked to budget programs, (3) provide data on trends over multiple years, (4) establish department goals, and (5) be made publicly available on the department's website.

Inmate Population Budget Process. A third approach would be to transform the way the Department budgets for changes in the inmate population. Rather than using a blanket ratio of six to one to make population based adjustments, as is currently done, the CDCR could develop staffing ratios based on the level of inmate. For example, Reception Center, Level IV, and inmates in Specialized Housing (such as Security Housing Units) generally require greater custody attention and thus devotion of more resources than Level I, Level II, or even Level III inmates. Due to the varying levels of resources needed for each type of inmate, the ratios used to determine the resource need should tie more closely to the population changes by type of inmate. Importantly, this approach would allow the Department to cease using the Institution Activation Schedule - a population management tool - for the budgeting, a purpose for which it is ill-equipped and adds unnecessary complexity.

Staff Recommendations – Following are the recommendations to the Subcommittee for each of the three issues that are outlined above:

Budget Act Programs. Change Budget Act Item 5225-001-0001 from the current 12 budget programs to include the following 20 budget programs:

- (1) Corrections and Rehabilitation Administration
- (2) Corrections Standards Authority
- (3) Juvenile Operations
- (4) Juvenile Education, Vocations, and Offender Programs
- (5) Juvenile Paroles
- (6) Juvenile Health Care
- (7) Adult Corrections and Rehabilitation Operations--Institution Administration
- (8) Adult Corrections and Rehabilitation Operations--General Security
- (9) Adult Corrections and Rehabilitation Operations--Security Overtime
- (10) Adult Corrections and Rehabilitation Operations--Inmate Support
- (11) Adult Corrections and Rehabilitation Operations--Contracted Facilities
- (12) Parole Operations--Adult--Administration
- (13) Parole Operations--Adult--Supervision
- (14) Parole Operations--Adult--Community Based Programs
- (15) Board of Parole Hearings--Administration
- (16) Board of Parole Hearings--Adult Hearings
- (17) Education, Vocations, and Offender Programs--Adult--Administration
- (18) Education, Vocations, and Offender Programs--Adult--Education
- (19) Education, Vocations, and Offender Programs--Adult--Substance Abuse Program
- (20) Education, Vocations, and Offender Programs--Adult--Inmate Activities

This proposal provides a greater level of detail with respect to the budget authority for major areas of CDCR operations, specifically prison operations, adult parole, and offender programs.

Annual Report on Performance and Outcomes. Adopt the following trailer bill language:

(staff, administration, and LAO are continuing to work on developing the supplemental report language to identify the specific metrics): (a) It is the intent of the Legislature that the Department of Corrections and Rehabilitation shall regularly provide to the Legislature information on the outcomes of department operations and activities to allow it to better assess the performance of the department, including to both evaluate the effectiveness of department programs and activities, as well as assess how efficiently the department is using state resources. (b) No later than January 10 of each year, the Department of Corrections and Rehabilitation shall provide to the Joint Legislative Budget Committee an annual report on the outcomes of department operations and activities specified in the Supplemental Report of the annual budget act for that fiscal year. At minimum, for each performance measurement included, this report shall include data for the prior three fiscal years, as well as establish target performance goals for each measurement in the current fiscal year and in the department's long term strategic plan if included in the strategic plan. The department's annual report shall include an explanation for why it did not successfully achieve target performance goals in the prior year in those cases where that occurs. The Supplemental Report may identify changes in the reporting requirements. If no such changes are identified in the Supplemental Report, the reporting requirements shall be the same as those for the prior fiscal year. (c) The department shall also post the full annual report required by this section on its public website.

Inmate Population Budget Process. Adopt the following budget bill language:

5225-001-0001 - Provision X. The Legislature finds that the current process used by the California Department of Corrections and Rehabilitation (CDCR) to estimate the costs associated with projected changes in the inmate population is unnecessarily complex. This results in diminished transparency and public accountability for a process that frequently results in costs totaling tens or hundreds of millions of dollars annually. The unnecessary complexity also results in inefficient and wasteful use of state staff resources to produce the related documents. Based on these findings, when submitting its budget proposals related to projected changes in the inmate population, the CDCR shall not base its proposal on a methodology that utilizes the Institution Activation Schedule. Instead, the department shall utilize a formula that includes a ratio of one staff position for every 5.6 inmates. The department shall further consider using a methodology that provides a greater proportion of the resulting staffing resources to those institutions housing higher security and reception center inmates as long as the total, net staffing ratio remains 5.6 inmates per position.

Lastly, budget bill language should be adopted to provide flexibility to reconcile appropriations across budget programs.

ISSUE 2: CAPITAL OUTLAY REAPPROPRIATIONS

A Capital Outlay Finance Letter proposes the following project funding reappropriations:

1. **Deuel Vocational Institution Electrical Power Substation** - Project delays necessitate a reappropriation of \$1.3 million General Fund for working drawings and construction. The schedule for this project has been delayed because it was determined during construction that additional transformer alarm system adjustments and utility equipment costs were necessary. The reappropriation will ensure that construction funds remain available to complete the project.
2. **California Men's Colony Wastewater Collection Treatment Upgrade** - Construction has been completed, but the closeout of the contract with the contractor was delayed because of change orders, compensation requests for schedule delays, and other monetary demands of the contractor. A formal claim was filed in 2009, and the contractor also sued the state. Because of this, a reappropriation is necessary to ensure funding remains available at the closeout of the contract when these issues are resolved.
3. **California Institution for Men-Chino Solid Cell Fronts** - The purpose of this project is to replace 216 barred cell fronts and cell doors with solid cell fronts and doors in order to enhance safety and security of staff and inmates in the administrative segregation units. Primary construction was completed in 2009, and a temporary certificate of occupancy was granted by the fire marshal. However, modifications to the fire alarm system still require completion in order to receive the final certificate of occupancy. These modifications will be completed in the budget year, requiring a reappropriation of the remaining \$2.3 million in construction funds for this project.
4. **Statewide Small Management Yards** - The purpose of this project is to design small management yards for Security Housing Units and Psychiatric Services Units at five prisons: Pelican Bay State Prison, California State Prison-Sacramento, California State Prison-Corcoran, California Correctional Institution, and Valley State Prison for Women. Small management yards are enclosed spaces designed to provide out-of-cell time for individual inmates in lock-up units who are otherwise unable to recreate in recreation yards with other inmates. Design work is expected to be completed in June with construction not expected to begin until 2011-12. The Department is requesting reappropriation of the remaining \$278,000 in design appropriation for completion of the project and in case any design modifications are identified before construction begins.

ISSUE 3: CAPITAL OUTLAY REVERSIONS AND LIQUIDATION

A Capital Outlay Finance Letter proposes the following funding reversions for two projects and liquidation extension for one project:

Reversions

1. **California Rehabilitation Center-Norco Install Bar Screen** – This project has been terminated because a Memorandum of Agreement (MOA) between the city of Norco and CDCR transferred sewer and potable water services responsibilities to the city. Therefore, pursuant to the MOA, the city will install and manage the proposed bar screen.
2. **Salinas Valley State Prison Mental Health Services Building** – This project to construct a new mental health services building has been terminated because CDCR has developed a new long range mental health bed plan that no longer includes this project.

Liquidation

1. **Minor Projects: Farrell Litigation** – The Administration requests that the payment schedule for this project be extended because construction will be completed in June 2010, but some project invoices will not be paid until the next fiscal year. The extension of liquidation will ensure payment of project construction costs.

VOTE ONLY ITEMS

0250 JUDICIAL BRANCH

ISSUE 1: FACILITY MODIFICATION FUNDING

The Governor's Budget proposes a \$35 million two-year limited-term increase from the State Court Facilities Trust Fund (including \$5 million in Reimbursement Authority) to support facility modification projects.

BACKGROUND

SB 1732 (the Trial Court Funding Act of 2002) was enacted for the purpose of transferring the responsibility for trial court facilities to the Judicial Council. In December 2005, to address improvements to existing facility infrastructure, the Judicial Council approved a policy for the categorization and prioritization for court facility modifications.

Facility modifications, as defined by the Administrative Office of the Courts (AOC), are any physical modification to a facility that restores or improves the function of the facility; except when it is routine maintenance, increases the facility's gross area, or changes the use of the facility. Facility modifications range from major repairs to renovations and system renewals. Facility modifications are defined by the nature of work and not by dollar amount.

The AOC categorizes facility modifications into six priorities: 1) Immediate or potentially critical; 2) Necessary but not yet critical; 3) Recommended; 4) Does not meet current codes or standards; 5) Beyond rated life, but serviceable; and, 6) Hazardous materials, managed but not abated.

The Trial Court Facility Modification Working Group (Working Group) is charged with review and funding approval of facility modification projects. The Working Group meets bi-monthly to review facility modification requests and provide overall guidance to the AOC on the prioritization and funding of facility modifications.

The current facility modification budget for 2010-11 is \$50 million, plus \$10 million in reimbursements (for projects undertaken in shared-use facilities). The AOC reports that they currently have approximately 3,850 identified projects statewide.

COMMENTS

Staff notes that budget bill language has been recommended that would require the AOC to report quarterly on detail (including project description and cost) of facility modification projects.

In a prior hearing the Subcommittee approved an increase of \$1 million for this proposal.

ISSUE 2: STATE COURT FACILITIES TRUST FUND PROJECTS

The Governor's budget proposes \$845.7 million in Lease Revenue Bond Authority for the construction phase of seven projects. The State Court Facility Construction Fund will support the annual lease revenue bond debt service payments.

BACKGROUND

The seven projects are:

1. **Madera County – New Madera Courthouse (\$88.2 million).** Will support the construction phase of a new ten-courtroom, 99,879 square foot courthouse in downtown Madera in Madera County. This project will consolidate two court locations with seven courtrooms and addresses security and crowding issues currently facing the court.
2. **San Bernardino County – New San Bernardino Courthouse (\$304.7 million).** Will support the construction phase of a new 35-courtroom and 2-hearing room, 356,390 square foot courthouse in the city of San Bernardino in San Bernardino County. The project will consolidate court operations from nine facilities and will address space, security, and building issues currently facing the court.
3. **San Joaquin County – New Stockton Courthouse (\$243.3 million).** Will support the construction phase of a 30-courtroom, 282,763 square foot courthouse in Stockton and San Joaquin County.
4. **Riverside County – New Riverside Mid-County Region Courthouse (\$54.5 million).** Will support the construction phase of a new six-courtroom, 60,725 square foot courthouse in the city of Banning in Riverside County. This project replaces the existing two-courtroom facility in Banning.
5. **Tulare County – New Porterville Courthouse (\$81 million).** Will support the construction phase of a new nine-courtroom, 90,000 square foot courthouse in Porterville in Tulare County.
6. **San Benito County – New Hollister Courthouse (\$33.5 million).** Will support the construction phase of a new three-courtroom, 42,870 square foot courthouse in the city of Hollister in San Benito County.
7. **Calaveras County – New San Andreas Courthouse (\$40.4 million).** Will support the construction phase of a new four-courtroom, 39,878 square foot courthouse in the city of San Andreas in Calaveras County.

COMMENTS

These projects have all been approved through the acquisition, preliminary planning, and working drawing phases. Additionally, since the debt service will be supported by the State Court Facilities Trust Fund, the cost of these construction projects will not require General Fund support.

In a prior hearing the Subcommittee approved \$1 million for each of the seven projects.

ISSUE 3: IMMEDIATE AND CRITICAL NEEDS ACCOUNT PROJECTS

The Governor's budget proposes \$73.7 million (\$23.7 in Lease Revenue Bond Authority and \$50 million from the Immediate and Critical Needs Account Fund) support two court construction projects. The Immediate and Critical Needs Account Fund will support the annual lease revenue bond debt service payments.

BACKGROUND

The two projects are:

1. ***Solano County – Renovation to Fairfield Old Solano Courthouse (\$23.7 million)***. Will support the working drawings and construction phase for renovation of the Old Solano Courthouse to provide three-courtrooms for civil cases. The 29,900 square foot courthouse is now vacant and is one of the few standing historic courthouses in the State of California.
2. ***Alameda County – New East County Courthouse (\$50 million)***. Will support the state's contribution to the construction phase of a new 13-courtroom, 148,031 square foot courthouse in the city of Dublin in Alameda County. This project is for a shared use facility with the county. The county will finance and manage the design and construction of the project.

COMMENTS

Previous phases of these projects have been approved in prior budgets. Additionally, since the debt service will be supported by the State Court Facilities Trust Fund and the Immediate and Critical Needs Account Fund, the cost of these construction projects will not require General Fund support.

In a prior hearing the Subcommittee approved \$1 million for each of these projects.

5225 CA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 1: MENTAL HEALTH PROGRAM STAFFING RATIOS

The Governor's 2010-11 budget proposes \$9.8 million GF and 73 positions, growing over the next five years to 362.1 positions and \$77.2 million annually upon full implementation. These positions are in addition to 245.1 positions authorized for CDCR in the 2008-09 budget, for a total of about 607.2 mental health positions.

BACKGROUND

In 2006, the federal court in the *Coleman v. Schwarzenegger* case pertaining to inmate mental health care required the CDCR to develop a new methodology for determining future staffing levels necessary to provide constitutionally adequate mental health care. In response to this court order, the 2006-07 budget included \$750,000 for the CDCR to conduct a staffing analysis study along with statutory language that specified that the results of this study would be incorporated in the subsequent budget process. The eventual study, known as the Staffing Analysis Model (SAM), was completed by external consultants and presented to the Legislature in June 2007. In general, SAM takes into account the types of tasks that need to be completed to provide such care, as well as the time it takes and the classification of employees needed to complete these tasks.

Based on the results of this model, the 2008-09 budget authorized 404.7 positions for inmate mental health care—(1) 245.1 mental health positions under the authority of CDCR and (2) 159.6 nursing positions that were under the authority of the Receiver, but intended to provide mental health services. However, the 2008-09 budget did not appropriate additional funding for these positions. This is because CDCR indicated that the positions would be funded temporarily with salary savings due to large vacancy rates in mental health position classifications. At this time, the Department reports that none of the 404.7 positions have been filled. Moreover, the 2009-10 budget included an additional \$8 million to support staffing for mental health crisis beds based on the results of SAM.

The CDCR now reports that its mental health professionals do not believe SAM provides for adequate mental health staffing ratios. Furthermore, the CDCR reports that SAM requires the use of Excel spreadsheets that contain errors and results are difficult to verify or replicate. In order to address these issues, the Division of Correctional Health Care Services (DCHCS) Chief Deputy Secretary met and consulted with DCHCS mental health staff, other CDCR staff, and the Department of Finance to develop a new ratio-driven staffing model.

COMMENTS

The Legislative Analysts Office (LAO) raised the following concerns with this proposal:

Need for New Staffing Methodology Not Fully Justified. The CDCR perceives that SAM is now an unreliable model for estimating mental health staffing needs. The LAO's analysis indicates, however, that CDCR's logic for dropping SAM and moving to a new and more costly model is questionable.

Although the *Coleman* Special Master also raised a similar concern that some of the assumptions in SAM are flawed, he did find the model to be completely functional and adaptable. He recommended that the Department address the flawed assumptions and then continue using SAM. Moreover, a report prepared for the department by the consultants that developed SAM appears to contradict some of CDCR's assertions.

The LAO also notes that the department plans to use its staffing-ratio methodology only for determining the need for certain mental health positions (such as psychologists and psychiatrists). For other types of positions (such as nurses), the Department intends to continue using SAM. At this time, it is unclear why CDCR believes that two different staffing methodologies are warranted.

Vacancy Rates Remain High for Certain Mental Health Classifications. The LAO indicates that CDCR may not be able to effectively fill all of the requested positions in the timeline outlined by the Department, due to the high vacancy rates that currently exist for such positions. More than half of the 607.2 positions that the Department is seeking funding for over the next five years are for classifications with vacancy rates of more than 10 percent.

Salary Savings Remain Available. As mentioned previously, the Department's initial plan was to fund the roughly 400 mental health positions authorized in the 2008-09 budget temporarily with salary savings. According to CDCR, none of these positions have been filled and \$46 million in salary savings from the vacant mental health positions has instead been spent on nursing registry. However, data provided to us by the Department indicate that actual salary savings from the vacancies in mental health staff in 2008-09 totaled about \$100 million.

Staff notes that the CDCR now reports that information reported to the LAO was not completely accurate and salary savings do not exist.

State Costs for Mental Health Care Have Grown Significantly. The Governor's budget proposes a total of \$385 million from the General Fund for mental health services in 2010-11. This is \$219 million more than the amount the state spent on such services in 2005-06 — more than doubling expenditures in this area. The increases in General Fund expenditures on inmate mental health care have largely been driven by

the need for additional staff (such as pharmacy technicians) and significant increases in employee compensation for existing staff (such as for psychiatrists).

Do to these concerns raised above, the LAO has recommended that the Legislature reject this proposal.

Staff notes that the Senate took action to authorize position authority requested, but do not authorize additional General Fund augmentation.

ISSUE 2: COLEMAN SHORT TERM AND INTERMEDIATE CUSTODY

The Governor's 2010-11 budget proposes \$6.7 million and 73.2 positions on a three year limited-term basis to provide custody staff for short-term and intermediate beds mandated by the *Coleman* court.

BACKGROUND

There are currently about 7,800 inmates in need of mental health treatment that requires some sort of specialized housing. More than two-thirds of these inmates are Enhanced Outpatient Program inmates who have significant enough mental health issues that they need to be housed in units separated from the General Population. The Department also has about 2,000 inmates who need other types of specialized mental health housing generally based on the acuity of their mental health condition.

In March of 2009, the *Coleman* court ordered the CDCR to develop proposals that meet the remaining short-term, intermediate, and long-range mental health bed needs. The Department developed various short-term and intermediate proposals to meet *Coleman* bed needs that include 13 projects at 8 prisons.

COMMENTS

The CDCR reports that the number of security staff requested in this proposal is based on the Prev-Mix methodology, which was used in the past to determine mental health care staffing levels. The department also indicates that additional security staff, such as escort, may be needed.

The LAO has indicated that it is awaiting an update of implementation plans for the short-term and intermediate projects.

ISSUE 3: CORRECTIONAL TREATMENT CENTER, SAN QUENTIN STAFFING

The Governor's 2010-11 budget proposes \$762,000 and 12 positions to fund the licensing of a 50-bed Correctional Treatment Center (CTC) with a 17-bed Mental Health Crisis Bed (MHCB) unit at San Quentin (SQ).

BACKGROUND

This proposal addresses a Coleman court concern regarding the shortage of beds which prohibit timely placement of inmate-patients to a higher level of care. The Mental Health Program Guide requires that an inmate suffering from an acute, serious mental disorder resulting in a serious functional disability, or who is dangerous to self or others, be transferred to a MHCB. Per the Mental Health Program Guide, such inmate must be transferred within 24-hours of referral.

Currently there are 336 MHCBs at 20 institutions. The 17-bed MHCB unit at SQ was developed and implemented to address a Coleman court directive regarding the delay in obtaining admission to crisis beds. The average wait list for admission to a MHCB over the first six months of the 2008-09 fiscal year was 18-20 inmates.

Last year, the Legislature approved the Department's 2009-10 April Finance Letter to staff the MHCB unit at the CTC at SQ. The positions approved in that request included 106.6 clinical and support positions.

COMMENTS

Title 22 and Title 24 regulations mandate minimum staffing levels for licensed facilities to ensure patient safety. The CDCR reports that the positions requested fulfill licensing and patient safety requirements. However, some of the positions requested (such as Office Techs) may not be mandated or could possibly be redirected from other responsibilities.

ISSUE 4: BUDGET PACKAGES AND ADVANCED PLANNING

The Governor's budget proposes \$2 million General Fund to perform advanced planning and prepare budget packages for capital outlay projects.

BACKGROUND

The range of capital outlay needs across CDCR facilities is broad and varied. The development of well documented and justified capital outlay requests for funding consideration in the annual budget act requires the development of budget packages. Additionally, the need arises to perform advance planning functions such as environmental reviews and site assessments to determine the feasibility of future capital outlay requests. To perform these functions, the CDCR has received past budget act appropriations.

Provisional language is included that limits this funding to projects that meet the following criteria: 1) the project being studied has not already received funding from the Legislature, and 2) the project is being prepared for funding consideration in either of the next two budget acts. In addition, the advance planning appropriation may also be used to develop scope, schedule and cost information for projects to be funded from lease-revenue bond authority contained in AB 900.

The 2010-2015 Five Year Infrastructure Plan for CDCR identifies 104 projects with approximate costs of \$1 billion. The project needs at these prisons range from infrastructure repair or improvement to expansion of facilities.

COMMENTS

The LAO has recommended that this project's funding come from the balance of the \$300 million AB 900 General Fund appropriation.

ISSUE 5: MINOR CAPITAL OUTLAY PROJECTS

The Governor's budget proposes \$3.2 million General Fund to support seven minor capital outlay projects at CDCR adult and juvenile facilities. In addition, Provisional language is proposed to authorize the expenditure of these funds for projects in excess of \$400,000.

BACKGROUND

The seven proposed projects are:

- 1. California Men's Colony-East, Mental Health Space Conversion (\$404,000).** This proposal is to convert a medical transcribing treatment office into Enhanced Outpatient Program treatment space. The project will construct four treatment rooms to provide the necessary treatment space to serve Administrative Segregation Unit inmates.
- 2. California Men's Colony-West Facility Level II Fence Improvements (\$682,000).** This proposal would upgrade an existing Level II perimeter fence. The project will add approximately 1000 lineal feet of fence, with gates. It would redirect inmates, visitors, and staff to a new pedestrian walkway, addressing an identified security deficiency.
- 3. Pelican Bay State Prison, Kitchen and Dining Room Conversion (\$565,000).** This proposal is to modify and expand the existing temporary Mental Health Care delivery area located in the Psychiatric Services Unit on the B facility at Pelican Bay. The current space lacks appropriate provisions for a safe, secure, and confidential working environment.
- 4. O.H. Close Youth Facility – Install Evaporative Coolers in Dayrooms (\$354,000).** This proposal is to install evaporated coolers in the living unit and dayrooms at O.H. Close Youth Correctional Facility. The dayrooms are used to provide education and treatment space as mandated in the *Farrell* Safety and Welfare Remedial Plan.
- 5. Ventura Youth Correctional Facility – Medical Exam Room and Office (\$392,000).** This proposal would construct a medical examination room and a medical office within the El Mirasol Living Unit at the Ventura Youth Correctional Facility to serve offenders in the Behavioral Treatment Program.
- 6. Ventura Youth Correctional Facility – Medical Exam Room and Office (\$392,000).** This proposal would construct a medical examination room and a medical office within the Monte Vista Living Unit at the Ventura Youth Correctional Facility to serve offenders in the Behavioral Treatment Program.

7. **Ventura Youth Correctional Facility – Medical Exam Room and Office (\$398,000).** This proposal would construct a medical examination room and a medical office within the Special Counseling Building at the Ventura Youth Correctional Facility to serve offenders in the Alborado Intensive Treatment Program Living Unit and Buena Ventura Specialized Counseling Program Living Unit.

COMMENTS

The LAO has recommended that this project's funding come from the balance of the \$300 million AB 900 General Fund appropriation. Staff notes that trailer bill language has been proposed by the Administration to raise the minor capital outlay threshold to \$800,000.

ISSUE 6: IT REAPPROPRIATION

An April 1 Finance Letter proposes to reappropriate \$1.7 million General Fund from the 2009 Budget Act for the Consolidated Information Technology and Infrastructure Program (CITIP).

The CITIP project was originally funded in the 2007-08 Budget Act and includes the installation and upgrade of IT infrastructure – the Wide Area Network (WAN) and Local Area Network (LAN) – at CDCR prisons and juvenile facilities. This infrastructure is necessary to support system-wide use of other IT projects currently under development and deployment, including the Strategic Offender Management System (SOMS) and the Business Information System (BIS). Due to budgetary restrictions on travel and overtime, installation of CITIP at some juvenile facilities will not be completed in the current year as previously planned. The Department currently estimates that the project will be completed in September 2010.

ISSUE 7: BOARD OF PAROLE HEARINGS COMMISSIONERS

The Administration proposes trailer bill language to change the composition and terms of commissioners on the Board of Parole Hearings (BPH). Currently, there are 17 commissioners appointed to the board, 12 of which hear adult matters, and 5 that hear juvenile matters. The Administration proposes to add an additional commissioner to reach 18 total with 15 hearing adult matters and 3 hearing juvenile matters. In addition, the commissioners currently serve three year terms with eight expiring one year and seven expiring the following year. The Administration proposes to change terms to four year terms with six terms expiring each year.

5225 CDCR HEALTH CARE

ISSUE 1: HEALTH INFORMATION MANAGEMENT

The Governor's budget proposes \$8.5 million General Fund (\$9.9 million in 2011-12) and 15 positions (12 limited-term) to implement improvements in Health Information Management (HIM).

BACKGROUND

On October 3, 2005 the court issued "Findings of Fact and Conclusions of Law Re Appointment of Receiver" which lists expert findings of major deficiencies in 15 California Prison Healthcare areas, Medical Records is one of these areas. The court found that "The medical records in most CDCR prisons are either in shambles or non-existent." Further, according to the court's findings, the CDCR medical records system made even mediocre care impossible. The "Analysis of Year 2007 Death Reviews" by a consulting physician, found that 14 inmate-patients died as a result of HIM-related issues. An additional 22 inmate-patients whose deaths were categorized as being "non-preventable" were also found to be lacking adequate health care records.

In June 2008, the Receiver presented a strategic plan called the "Receiver's Turnaround Plan of Action" (TPA), which was approved by the court. The TPA includes an objective that calls for the establishment of Standardized Health Records Practice and the creation of a roadmap for achieving an effective management system that ensures standardized health records are practiced in all institutions by February 2009.

On average over 500,000 medical, dental and mental health appointments are generated each month. As a result of each appointment, approximately three pages of filings are generated that must be integrated into the Unit Health Record (UHR) in a timely manner. The current procedures used to retrieve a UHR, get it to a scheduled appointment and return it to the HIM Department vary by institution. The lack of a standardize process can lead to additional workload.

According to this proposal, HIM resources have been and are insufficient to handle the required workload. Additional issues that prevent the HIM program from being successful include:

- Lack of Experienced Leadership;
- Poor Work Environments and Operational Inefficiencies;
- Policies and Procedures out of Date and not Comprehensive;
- Inconsistent and/or non-Standard Use of Information Technology;
- Poor Medical/Health Information Availability;
- Poor UHR Quality; and,
- Poor Release of Information Responsiveness.

COMMENTS

The Receiver's Office also has a HIM project proposed as one of the 19 projects listed in Issue 6 (19 Turnaround Plan Projects) below. This project relates more to changes in process and procedures, while the project that is included in the 19 Turnaround Projects relates to the electronic records IT infrastructure.

ISSUE 2: MEDICATION MANAGEMENT STAFFING

The Governor's budget proposes \$10.1 million General Fund and 145 License Vocational Nurse (LVN) positions to perform medication management functions in outpatient clinics.

BACKGROUND

The court has mandated that inmates are provided their medication in a timely manner. Currently, posts are being filled by registry and overtime, which are at a higher rate than salaried positions. In 2008-09, California Prison Health Care Services (CPHCS) spent \$59.4 million for nursing registry and \$40.7 million for nursing overtime.

Each institution is staffed with Registered Nurses (RNs), LVNs, and certified Nursing Assistants (CNAs) to provide nursing care. RNs are responsible for assessing, planning, implementing, and evaluating patient care, as well as performing nursing tasks that require a substantial amount of knowledge and/or technical skill. LVNs perform a broad range of technical tasks including administering medications and collecting subjective and objective patient data. CNAs perform simple nursing tasks such as assisting patients with transfers, ambulation, grooming, meal set-up and feeding, changing bed linens, obtaining vital signs, and assisting with restorative therapy.

This proposal indicates that the CPHCS is currently working on developing an alternative methodology for institutional health care staffing. This is proposed as an initial phase since medication administration is one of the driving factors of overtime and registry costs. CPHCS reports that it found that several prison systems utilize nursing staffing standards that are based on predetermined ratios. They determined that budgeting methodologies used by community health care delivery systems provided the best approach for developing nursing staffing standards based on workload. Community health care delivery systems establish staffing standards by assessing the volume of work for each clinical area.

COMMENTS

Staff notes that the projected reduction in overtime and registry driven by this proposal is expected to result in reduced contract medical costs as outlined in Issue 4 (Medical Services Contract Base Funding).

The LAO recommended withholding action on this proposal pending detailed plan on how to deal with the \$811 million unallocated reduction.

ISSUE 3: NURSING RELIEF FACTOR

The Governor's budget proposes \$23.5 million General Fund and 201.7 positions to cover nursing relief positions.

BACKGROUND

These resources are proposed to match the current level of training and leave requirements with the existing relief coverage. Currently, relief is being filled by registry and overtime. The proposed relief factor adjustments are: 1) Registered Nurses (RNs) from 1.66 to 1.77, and 2) Licensed Vocational Nurses (LVNs) from 1.71 to 1.75.

Since the Federal Receiver was appointed in 2006, pay increases were approved by the Department of Personnel Administration in order to fill the high level of nursing vacancies. The increase in staff has affected the leave credit accrual rate of medical staff.

A "posted" position is a specific work assignment performed by one individual at a time, on a specific shift or watch, and for a specific number of days per year. A post with full relief coverage provides staffing in the event of an employee's absence. The difference between a regular position and a posted position is that a regular position does not require coverage behind the employee when they are absent. In a typical post position, the post needs to be filled 24 hours a day, seven days a week. Posted positions require relief coverage to ensure the duties will be performed during times of absence.

COMMENTS

It is worth noting that the 2004-05 budget included \$99.5 million to increase the relief factor for correctional officers from 1.67 to 1.76. One of the principal justifications for that proposal was that it would reduce the Department's reliance on overtime and temporary help. At the time, the department reported running deficiencies for those purposes of \$79 million. Despite the Legislature's approval of the request, the department overspent its budget for custody positions by roughly \$350 million in 2007-08. This suggests that, despite the logic, providing additional relief positions does not necessarily result in reductions in overtime or temporary help (including registry) usage.

The Receiver's Office reports that measure will be in place to efficiently track and manage overtime and registry use going forward. Specifically, Business Information System (BIS) will track scheduling and hours worked of contract providers. BIS will also allow for a more efficient processing of invoices.

The LAO recommended withholding action on this proposal pending detailed plan on how to deal with the \$811 million unallocated reduction.

ISSUE 4: MEDICAL SERVICES CONTRACT BASE FUNDING

The Governor's budget proposes \$403 million General Fund in 2009-10 and \$208.9 million in 2010-11 and ongoing to augment the base funding for Medical Service Contracts.

BACKGROUND

Actions taken by the Receiver to remediate prison health care condition have included an increase in health care access and contract medical costs as inmates have been increasingly referred to outside medical care. Medical Services Contract expenditures have increased significantly over the last six years, from \$252 million in 2003-04 to \$845 million in 2008-09 (an average increase of over \$100 million per year). In the same time period, funding authority increased an average of \$31 million per year, from \$204 million in 2003-04 to \$358 million in 2008-09. CPHCS reports that the base was reduced to \$308 million in 2009-10 due to funding reductions.

Actual expenditures for the past several years show a continued trend of increased expenditures, primarily due to the increased access to outside providers. While the usage and costs for medical service contracts continues to increase each year, CPHCS has implemented cost containment measures to minimize and stabilize costs. With cost containment measures in place, CPHCS is projecting a reduction in costs for medical services contracts to \$712 million in 2009-10 and \$517 million in 2010-11. These measures include: 1) utilization management, 2) reimbursement rate cap, and 3) reducing reliance on registry and overtime.

COMMENTS

Staff notes that last year (2008-09) the Receiver's Office requested and received a supplemental appropriations bill to cover a funding deficiency related to these costs (\$487 million).

ISSUE 5: PHARMACEUTICAL AND MEDICAL SUPPLIES

The Governor's budget proposes \$45.8 million General Fund to augment the Pharmaceutical and Medical Supplies base funding for 2010-11.

BACKGROUND

Total costs for Pharmaceutical and Medical Supplies are projected to be \$203.1 million in 2010-11. Although growth in costs has slowed in recently, costs in these areas has substantially increased over the last five years from \$136 million in 2004-05. The base funding for Pharmaceutical and Medical Supplies consists of two separate components, with Pharmaceuticals accounting for 87 percent of total costs, and Medical Supplies making up the additional 13 percent. Medical Supplies consist of items such as prosthetics, eyeglasses, and laboratory supplies.

The Receiver's Office reports three main factors that have contributed to the increase in Pharmaceutical and Medical Supplies: 1) Poor Inmate Health; 2) Increased Drug Costs; and, 3) Increase in the Number of Prescriptions.

In 2007-08, the Legislature approved a three-year augmentation, ending in 2009-10, of \$45.8 million for base Pharmaceutical and Medical Supply funding. This proposal requests that the previously approved augmentation be continued for one additional fiscal year. An assessment will be made to determine the adequate amount of base funding needed to sustain the new Central Fill Pharmacy as that project nears completion. Once the Central Fill Pharmacy is operational, this proposal estimates \$5 million will be save by the decrease in inventory, shrinkage control, and waste reduction.

COMMENTS

This request is driven in part by the delay in the Central Fill Pharmacy. Staff notes that without this augmentation the Receiver's Office reports a base Pharmaceutical and Medical Supply budget for 2010-11 that is approximately \$63 million less than projected costs. Further, it is unclear how the \$811 million unallocated reduction contained in the Governor's budget will affect funding available for these services.

ISSUE 6: 19 TURNAROUND PLAN PROJECTS

The Governor's budget proposes \$111.3 million General Fund and 11 positions in 2009-10 and \$235.4 million and 178 positions in 2010-11 to support 19 IT projects. Total project costs are projected to be approximately \$819.8 million and 1,137 positions through 2013-14 (\$406.9 million and 991 positions ongoing).

BACKGROUND

- 1. Health Information Management (\$2.2 million 2009-10, \$10.8 million 2010-11).** Project Scope includes: 1) stabilization of current Health Information Management (HIM) operations, 2) remediation of current paper based process, 3) integration of electronic record systems into HIM operations, and 4) implementation of a content management system to automate Unit Health Record (UHR) systems.
- 2. Access to Care (\$650,000 2009-10, \$494,000 2010-11).** Project scope includes: 1) implementation of a Primary Care Model Policy and Procedures, 2) redesign of the Access to Primary Care Policy and Procedures, 3) redesign of the Reception Center Policy and Procedures, and 4) redesign of the Chronic Disease Management Program.
- 3. Medication Administration Process Improvement (\$79,000 2009-10, \$246,000 2009-11).** The primary goal of this project is to increase efficiencies and reduce costs associated with the administration operations of pharmaceuticals. Project scope includes: 1) medication administration audit tool, and 2) process improvements.
- 4. Utilization Management (\$3 million 2009-10, \$4.3 million 2010-11).** This project will deploy the InterQual system and Utilization Management Database to implement a standardized, accessible, and mandatory decision support system to assist physician reviewers in determining if specialty service requests are medically necessary or not.
- 5. Laboratory Services Management (\$65,000 2009-10, \$10.2 million 2010-11).** This project's goal is to improve lab services business processes to better enable integration of other healthcare system improvements as they come online. Infrastructure improvements must also eventually support an enterprise Laboratory Information System.
- 6. Centralized Dictation and Transcription (\$773,000 2009-10, \$4.8 million 2010-11).** The purpose of this project is 1) to implement a model for centralized dictation and transcription statewide, and 2) improve the timeliness and accuracy of transcribed documents. This project will be piloted at four institutions.

- 7. Clinical Data Repository (\$9.6 million 2009-10, \$34.3 million 2010-11).** This project will compile health data (Clinical, Mental Health, and Dental) obtain from various sources into a uniform health information management system. This project will allow clinical health staff with immediate access to patient health information at the point-of-care.
- 8. Health Care Scheduling System (\$5.0 million 2009-10, \$6.9 million 2010-11).** This project will implement an enterprise-wide approach to health care scheduling within CDCR institutions that will be used for all scheduling of inmate activities related to health care appointments and will provide: 1) a single point of view of all scheduled inmate appointments; 2) Individual inmate calendars; 3) capability to track deadlines for each inmate; 4) capability for any authorized scheduler to schedule future appointments; and, 5) ability to schedule both individual and time block appointments.
- 9. Central Fill Pharmacy (\$1 million 2009-10, \$10.7 million 2010-11).** This project will implement a centralized pharmacy to consolidate orders, automate distribution of medications, reduce costs and waste, and improve tracking of orders and increasing patient utilization. The Central Fill Pharmacy will fulfill prescriptions for all 33 institutions. The facility will have automated inventory management, medication checks, and provide distribution by next day to all facilities.
- 10. GuardianRx Pharmacy Conversion (\$12.1 million 2009-10, \$7.7 million 2010-11).** Project will implement a computerized prescription software management system in all institutions to improve tracking, safety and dispensing of drugs.
- 11. Electronic Medication Administration Record (\$119,000 2009-10, \$13.3 million 2010-11).** The Electronic Medication Administration Record system will compliment the centralized pharmacy system and will track, log, and provide current prescription history at any point of service to employees at all 33 institutions.
- 12. Enterprise Clinical Imaging Project (\$4.9 million 2009-10, \$14.5 million 2010-11).** This project will provide appropriate and timely imaging and interpretation services for inmates at all CDCR institutions. The project will provide tools and infrastructure for CDCR clinical staff to diagnose and evaluate inmates in a timely manner.
- 13. Telemedicine Services (\$640,000 2009-10, \$8.5 million 2010-11).** This project will improve and expand telemedicine services. The projects goals are 1) to deploy a more cost effective and efficient telemedicine delivery model and 2) to demonstrate aggressive progress toward the target of 50% of off-site consultations being conducted via telemedicine.

- 14. Business Information System (\$9.4 million 2009-10, \$13.1 million 2010-11).** This project will implement the CDCR's Business Information System (SAP Financial, Supply Chain, and Human Resource Management) for Headquarters and the 33 adult institutions. The project will standardize, automate and integrate health care services financial, procurement, and human resource business processes.
- 15. Strategic Offender Management System – Project Management Documentation (\$5.2 million 2009-10, \$5.6 million 2010-11).** The Strategic Offender Management System (SOMS) is the central enterprise-wide IT system for maintaining inmate information. CPHCS is contributing to the SOMS budget because it will be a primary user of the system.
- 16. Data Center and End User Migration (\$5.1 million 2009-10, \$609,000 2010-11).** This project will migrate existing CPHCS staff and hardware to a new network, integrating Active Directory, local LAN to LAN connectivity, new network infrastructure and help desk support for CPHCS staff and applications.
- 17. Health Care Data Center (\$10.1 million 2009-10, \$35.2 million 2010-11).** This project will implement a data center to support the CPHCS network infrastructure. The project will integrate Active Directory, E-Mail, Call Center, Centralized Services, and Network Storage to support CPHCS organizational requirements.
- 18. Health Care Network Infrastructure (\$40.8 million 2009-10, \$53.6 million 2010-11).** This project proposes to design, build, and install a dedicated high-speed data network for Headquarters and all 33 institutions.
- 19. Mental Health Tracking System Upgrade (\$564,000 2009-10, \$398,000 2010-11).** This project will upgrade the Mental Health Tracking system by replacing 32 separate Access databases with a web application and single centralized database.

LAO Analysis. The LAO raised the following considerations relative to these projects:

Receiver's IT Plan Raises Significant Project Risks. The LAO's analysis indicates the 19 IT projects proposed by the Receiver generally address deficiencies identified by the *Plata* court and that are to be remedied in the Turnaround Plan. In addition, a few of the projects (such as telemedicine and the utilization management system) could potentially reduce future inmate medical care costs. However, the LAO finds that the Receiver's IT plan is overly ambitious in terms of its scope and is very costly. For example, the number and size of the IT projects proposed by the Receiver greatly exceed the number of projects that are normally managed by most state agencies at any one point in time. Moreover, many of the 19 projects proposed by the Receiver are interdependent on one another, increasing the risk of (1) a cascade of missed deadlines

and substantial delays in the completion of projects, and (2) significant cost overruns if any of the projects was not completed on schedule.

Receiver Unable to Account for Ongoing Funding for IT Projects. The state budget for each of the past three fiscal years has provided the Receiver \$45.6 million (for a total of about \$137 million) to support IT improvements. However, at the time of this analysis, the Receiver's office was unable to provide sufficient information in response to our questions on how these funds have been spent. For example, the office has not provided a detailed accounting on how much of the funds was spent on each of the 19 IT projects. Moreover, based upon the information given in support of these requests, the Receiver's office does not appear to account for this \$45.6 million in available funding in its 2010-11 IT budget request.

The LAO recommends the Legislature take the following budgetary actions:

Prioritize the Most Critical IT Projects. Recognizing the desire of the Receiver to develop and implement the 19 IT projects as early as possible, given the state's current General Fund shortfall, the state cannot afford to make a multiyear commitment of \$800 million to so many projects at once. Moreover, as discussed above, the LAO believes that the Receiver's IT plan is overly ambitious and poses significant risks. Thus the LAO suggest that the Legislature fund only the most critical IT projects in the budget year and delay funding for the less critical projects. Specifically, the LAO recommends providing funding for only those projects that (1) will provide the basic infrastructure needed for some of the other projects (such as the healthcare network, data center, and the clinical data repository) and (2) could result in significant operational savings (such as telemedicine and utilization management). The LAO estimates that this would reduce the Governor's budget request by about \$42 million (from \$111.3 million to \$69 million) in 2009-10 and by about \$153 million (from \$243.8 million to \$91 million) in 2010-11 (these estimates for the budget year recognizes that the \$45.6 million in the Receiver's base budget for IT is available to help support the costs of the projects). The additional resources needed to support the LAO's recommended projects over the next five years would be roughly \$300 million.

COMMENTS

Staff notes that the Receiver's Office has provided a breakout for 2009-10 of projects and activities that are or will be supported by the \$45.6 million in IT resources identified in the LAO's analysis. Staff is currently reviewing this information. However, more detail is required on how these funds will be spent in 2010-11 and beyond. It should also be noted that the Receiver's Office has indicated that all 19 of these projects are of priority and that they are, in fact, a result of narrowing down from a more comprehensive list of 40 projects.

Further, the Receiver's Office indicates it has taken the following steps relative to project management and oversight in order to mitigate risk:

Each project has an executive sponsor who ensures appropriate clinical stakeholders are available to define requirements and implement their portion of the project. Projects are also assigned a sponsor, who is directly responsible for project implementation. Each project has a project manager who is trained in industry-standard project-management best-practices to improve probability of success. Some larger projects are assigned multiple project managers to manage sub-projects. Each week, the executive readiness council brings together executives directly involved in implementing the technical portions of each project along with project managers from interdependent projects to resolve issues and mitigate risk. On a bi-weekly basis, the Receiver's Turnaround Plan Executive Council meets to make strategic decisions regarding projects. The project management office has put in place a number of standards to improve project success. The project management office uses Office of System Integration Best Practice Templates as a basis for project documentation. The project management office reviews projects for critical interdependencies that may cause friction between projects.

Unallocated Reduction. The Governor's budget reduces \$811 million of support for the Receiver's Medical Services Program to reduce per-inmate medical costs to a level comparable to other states' correctional health care programs. For comparison in 2008-09, California spent an average of \$11,627 per-inmate compared to New York at approximately \$5,757 per-inmate, Pennsylvania at approximately \$4,418 per inmate, and Florida at approximately \$4,720 per-inmate.

The LAO recommends that the Legislature require the Administration to present a detailed plan on how the proposed \$811 million in savings will be achieved. This plan should include: (1) the specific proposals that the Receiver would implement, (2) a timeline of when each proposal would be implemented; (3) the estimated savings that would result from each proposal; (4) any statutory changes (or federal court actions to waive state legal requirements) that would be required in order to implement the plan; and, (5) an assessment on how previously adopted and pending proposals to reduce

the size of the inmate population would affect the need for the additional nursing positions proposed in the Governor's budget.

To date, the Receiver's Office has conveyed their intention to work to achieve savings in 2010-11. However, there has not been a detailed plan presented that shows how \$811 million in savings will be achieved.

Staff notes that the Receiver's Office has asked the Office of Audits and Evaluations to examine how California's inmate health care costs compare to other states. The committee may wish to ask the Receiver's Office for an update on the timing of this report.

ITEMS TO BE HEARD**ITEM TBL CA OLYMPIC TRAINING CENTER****ISSUE 1: LOAN FORGIVENESS**

The Governor's office requests Trailer Bill Language to delete the repayment requirement for a loan authorized by the Legislature in Government Code 7591 and 7592. The loan was for the construction of the Olympic Training Facility in Chula Vista, CA.

The California Olympic Training Center (OTC), located in Chula Vista, is one of three official U.S. Olympic Training Centers in the country. The San Diego National Sports Training Foundation (a non-profit organization) is the founder of the center.

In 1989, legislation was passed (Government Code Sec 7591) to loan the foundation \$15 million to construct the OTC. Legislation indicates that the loan shall be repaid in full no later than 20 years (February 22, 2011) from the date of receipt at a rate of interest equal to the average Pooled Money Investment Account rate over the period during which any portion of an allocated amount remains outstanding.

The Department of Finance believes that the non-profit organization who received the loan does not have any means to generate more income, and have very little assets/income to repay the loan with. They currently have revenue of only \$13,000 per year, and assets of around \$370,000.

The legislation also created commemorative license plates, the proceeds of which are used toward repayment of the loan. However, the amount received annually will never be sufficient to fully pay the loan, bringing in only about \$94,000 per year (not even enough to pay interest on the loan).

The Department of Finance argues that this loan is uncollectible, and removing from the books properly reflects our level of collectable debt. Further, these funds were not accounted for in revenue estimates in the Governor's budget.

COMMENTS

The proceeds from the special license plate will continue to provide revenue to the General Fund.

Staff believes that when the loan was originally authorized, they likely estimated more revenue from the special license plates than has been received. Because the loan was originally provided in legislation in the 80's, it is very difficult to ascertain the original intent of the Legislature. In 1996, through Budget Trailer Bill Language, the lien on the property associated with this loan was removed. It is not clear why, or at whose request, that was done.

Staff notes, that approving this loan forgiveness eliminates any pressure on the entity to work with affiliates (such as the US Olympic Committee) to help repay this loan, even in part.

ITEM 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION**ISSUE 1: DJJ POPULATION MANAGEMENT SOLUTIONS AN POPULATION ADJUSTMENT**

The Governor's 2010-11 budget proposes reductions of \$48 million (growing to \$64.8 million) and 525.9 positions due to changes to Division of Juvenile Justice (DJJ) policies, which included.

The Governor's May Revise restores \$37.4 million and 450.4 positions in 2010-11 due to significant revisions to the Governor's budget proposal.

The Governor's May Revise also reduces \$5.8 million in 2009-10 and \$22.3 million in 2010-11 due to changes in DJJ institution and parole populations. Including the Governor's budget total population driven reductions are \$7.8 million in 2009-10 and \$43.6 million in 2010-11.

BACKGROUND

Savings projected in the Governor's budget proposal were driven by the following:

Limit Jurisdiction to Age 21. Currently, wards can be placed in a DJJ facility up to age 25. The Governor proposes statutory changes to limit the age of jurisdiction to 21 for all wards committed to DJJ after June 30, 2010.

The DJJ is one of four jurisdictions in the country with control of commitments up to the age of 25. County jurisdictions end at age 21. With the passage of SB 81 (2007), a ward cannot be committed to the DJJ if:

"the most recent offense alleged in any petition and admitted or found to be true by the court is not described in subdivision (b) of Section 707, unless the offense is a sex offense set forth in paragraph (3) of subdivision (d) of Section 290 of the Penal Code."

Due to the impact of SB 81, the majority of youth are committed until the age of 25.

Transfer Eligible Wards to Prison. Under current law, certain wards in DJJ facilities are eligible for transfer to adult prison when they turn age 18. However, there are some wards who are eligible for transfer that remain at DJJ facilities. The Governor proposes to transfer some of these wards.

In addition to juvenile court commitments, the DJJ also houses E and M cases, which are superior court commitments. E cases are minors admitted to the DJJ based on an agreement between the DJJ and the Division of Adult Institutions. M cases are minors

ordered by the court to be housed in DJJ facilities until the age of 18. As of December 2009, there were 103 E and M cases in DJJ facilities that are over the age of 18.

Eliminate Use of "Time-Adds." The Juvenile Parole Board assigns each ward an initial parole consideration date. Currently, DJJ staff can delay the parole consideration date for disciplinary reasons, such as bad behavior. The Governor proposes to eliminate this practice (commonly referred to as time-adds).

The May Revision proposes the following changes:

No Longer Limit Jurisdiction to Age 21 – The Administration reports that savings could not be immediately realized and, therefore, they have removed this option from the proposal.

Limit Use of "Time-Adds" and Credits – Rather than eliminate the use of time-adds, the current proposal is to restrict the use of time-adds to a narrowed set of criteria and to increase restoration and program credits.

Transfer the Supervisorial Responsibilities for New DJJ Parolees to County Probation – Currently wards leaving DJJ facilities are supervised on parole by DJJ Parole Operations. The CDCR is proposing trailer bill language to change Welfare and Institutions Code Section 1753.2 to allow the department to enter into agreements with counties for the supervision of parolees. County probation officers would have the authority to enforce the conditions of release imposed by the Juvenile Parole Board. Revocation proceedings for suspected parole violators would remain the jurisdiction of the state. The state would provide counties with \$15,000 per parolee for probation monitoring and program needs. Counties would also have the option of requesting that current parolees be transferred to local jurisdiction.

DJJ Population - The CDCR provides the Legislature with a budget request twice a year, as part of the Governor's budget proposal in January and as part of the May Revision, that is designed to identify costs and savings associated with changes in department adult and juvenile caseloads. The May Revision proposes savings of \$5.8 million in 2009-10 and \$22.3 million in 2010-11 due to changes associated with juvenile caseloads. The projected DJJ populations are 1,399 (institution) and 1,520 (parole) in 2010-11.

COMMENTS

The LAO points out that, given that the average per capita cost of a DJF ward is over \$200,000 (the Governor's budget estimate was \$225,000), it is unclear why a projected reduction in the ward population would not result in a greater level of savings. Along these lines, Senate budget staff has suggested using a marginal cost of \$112,500, which would increase savings by \$9.2 million compared to the May Revision.

ISSUE 2: ADULT POPULATION ADJUSTMENT

The Governor's May Revision proposes \$27.1 million in 2009-10 and \$584.7 million in 2010-11 due to changes in adult institution and parole populations. Including the Governor's budget total population driven increases are \$653.2 million in 2009-10 and \$584.7 million in 2010-11.

BACKGROUND

The CDCR provides the Legislature with a budget request twice a year, as part of the Governor's budget proposal in January and as part of the May Revision, that is designed to identify costs and savings associated with changes in department adult and juvenile caseloads. Major drivers included in the May Revision population proposal include:

Caseload Adjustments. The department identifies several areas where it projects some change in underlying workload and caseload based on trend data available, for example related to parolee revocations and the mentally ill inmate and parolee populations. Unlike in the January budget request, the May Revision population estimates combine the projected impact of the current year legislative reforms with the projected underlying population trends. Because the May Revision takes a different approach to how it accounts for the impact of the population reforms, it is difficult for staff to compare the changes side by side.

Legislative Population Reforms. In total, the department's May Revision projections assume an additional \$101 million in costs due to unachieved savings associated with the legislative reforms. The January budget assumed \$367 million in unachieved savings. The lost savings assumed in the May Revision is primarily driven by the department's current estimates that it will achieve less than half of the budget year savings associated with implementing summary parole and credit changes. In addition, the department assumes no savings associated with commuting sentences of immigrants in state prison and transferring them to federal prison for deportation.

Local Assistance. The department requests significant one-time and ongoing funding to reimburse counties for costs related to housing offenders in local jails, particularly parole violators. The budget and May Revision request a total of \$81 million in one-time funding to offset a backlog of payments from the last year and current year. In addition, the department requests a one-time \$5.5 million augmentation for new prison commitments housed in county jails more than five days after notification to CDCR that the inmate needs to be transferred to prison, as allowed under current law. Historically, counties have not charged CDCR for these costs, but CDCR reports having begun to receive such invoices this year. Previously, the LAO recommended that the Legislature spread the one-time payments out over three years which would save the state \$54 million in the budget year.

Stark Activation as an Adult Facility. The department plans to convert the Stark DJJ facility (Chino) to an adult facility. As of March, all wards have been moved out of the facility to other juvenile facilities in the state, and inmates have begun to be transferred to the facility, particularly after the Fall riot at the California Institution for Men which resulted in significant damage to several housing units. The May Revision assumes that Stark will only be used for the first four months of the budget year based on a legal opinion the department received stating that the department cannot occupy the facility while AB 900 renovations are occurring. In January, the department had requested a net amount of \$42 million to operate the facility for the full budget year for 2,251 inmates. Under the May Revision, the department is requesting \$53 million to occupy the facility with 1,400 inmates for four months and move those offenders to other facilities for the remainder of the fiscal year.

Out of State Beds. The administration proposes to expand the number of inmates housed in out-of-state facilities by 2,336. There are currently about 8,000 inmates housed out of state now. Based on the January budget request, the LAO raised several concerns with this proposal, including that several of the positions and requested overtime funding was not fully justified, and that there have been delays in the implementation schedule. Based on those findings, the LAO recommended further reducing the department's request by \$547,000 in the current year and \$2.1 million in the budget year related to the overage of positions and overtime costs, and wait until the May Revision to see what revisions have been made to the implementation schedule.

COMMENTS

Staff notes that the Senate took the following actions related to CDCR's adult population proposal:

- 1. Legislative Population Reforms (-\$50 million).** The additional \$101 million in state costs assumed in the May Revision is based on department estimates that it will achieve less than half of the savings assume in the January budget for three significant budget proposals. Much of these lost savings, though, are due not to natural erosion but the failure to implement budget proposals enacted by the Legislature and Governor.
- 2. Stark Activation (-\$9.3 million).** The department's request for Stark assumes an average annual cost of \$63,000 per inmate during the time that inmates are housed in Stark before being transferred to other facilities. This is significantly higher than the average cost to house inmates normally, as well as being almost three times higher than the marginal overcrowding costs with which we normally budget population changes. Because Stark is operating as a new satellite facility of the California Institution for Men, it is probably appropriate to provide more funding than the marginal cost would provide, but \$63,000 per inmate is too high. By reducing these costs by \$20,000 per inmate per year for the time spent in Stark, the state would save \$9.3 million in the budget year.

3. **Out of State Expansion (-\$2.4 million).** While housing inmates out of state provides additional relief from overcrowding, staff recommends rejecting the proposal to expand at this time given the net costs of this proposal and the state's current fiscal shortfall. Moreover, projected declines in the inmate population make the need for out of state expansion less urgent at the current time.

ISSUE 3: REENTRY COURT DIVERSION PROGRAM

An April 1 Finance Letter proposes a net reduction of \$483,000 General Fund in 2010-11, growing to \$500,000 in savings in 2011-12, from establishing a pilot drug court program in San Diego County for parole violators convicted of new crimes.

BACKGROUND

Courts in most, if not all, counties in California operate at least one drug court. In 2008, there were a total 203 drug courts operating in California. Drug courts are designed to combine substance abuse treatment, regular court supervision and intervention, and a collaborative approach among stakeholders, including the courts, probation, public defenders, district attorneys, and treatment providers. Typically, criminal offenders are placed in drug courts in lieu of sentences to jail or prison.

Nationally, research consistently demonstrates that drug courts can be effective at reducing recidivism, as well as taxpayer costs, particularly for corrections. For example, a 2006 review of the literature by the Washington State Institute for Public Policy identified 57 studies of drug courts that, on average, found an 8 percent decrease in recidivism in adult drug courts which yielded an estimated \$4,700 in net savings per participant to taxpayers and victims of crime. Similarly, a review of drug courts in California by the Department of Alcohol and Drug Programs (DADP) found that in 2007-08 those drug courts funded by DADP reduced prison incarceration costs by \$69.3 million, yielding net savings of \$45.5 million that year.

The net savings identified assumes total savings of \$2.3 million from a reduction in the prison population of 100 inmates, offset by program costs of \$1.8 million. These program costs include \$1.5 million to reimburse San Diego County for program costs associated with substance abuse treatment (\$1.1 million), a mental health manager (\$135,000), a probation officer (\$147,000), and administrative overhead and sustainability funds (\$180,000). The county will provide the equivalent of \$762,000 in in-kind contributions to the program, including staff resources from the district attorney, public defender, probation, and sheriff, as well as costs associated with data tracking, jail costs, life skills training, and transportation costs.

The department also requests three positions (\$297,000) to manage and oversee the program for the state, as well as \$20,000 in one-time costs in 2010-11 to fund 400 hours of overtime to do case file reviews of recently incarcerated inmates to determine if they would be eligible for the program.

The LAO recommends that the Legislature approve the April Finance Letter to establish the reentry court pilot program, but assume an additional \$226,000 in net savings. (This amount assumes additional savings of \$462,000 to account for the fact that the proposal is over budgeted, which is partially offset by \$236,000 due to an estimated three-month implementation delay.) The LAO's analysis indicates that the base funding

for the proposal appears to be over budgeted by \$462,000. Rather than provide \$135,000 to support a Mental Health Manager, the LAO finds that the department could redirect one of its existing mental health staff positions to support the new program. The department is also requesting \$147,000 to support a probation officer even though San Diego County has already agreed to fund such a position. In addition, the LAO finds that the department's request for \$150,000 for "administrative overhead" for the county to monitor treatment contracts is unjustified, given that CDCR is also requesting three new staff positions specifically to oversee and administer the pilot program who could perform this function. It is also unclear why the department is requesting \$30,000 for "gate money" (which is given to inmates upon release from prison), since the purpose of the program is to divert parolees from entering prison.

In addition, the LAO recommends that the Legislature adopt supplemental report language requiring that the department report on the implementation of the pilot program, as well as on the program's outcomes and cost-effectiveness, to the Legislature. Specifically, the LAO recommends CDCR provide a progress report on the implementation of the program by January 10, 2011, and an evaluation report by January 10, 2012. Given that the program is proposed as a pilot, the LAO also recommends that the Legislature approve the three new CDCR staff positions on a two-year, limited-term basis.

ISSUE 4: LOCAL PUBLIC SAFETY BLOCK GRANT PROGRAM

The Governor's May Revise proposes net reductions of \$243.8 million in 2010-11 and \$349.1 million in 2011-12 by having felony inmates with terms of three years or less serve their term locally and providing locals with \$11,500 per offender.

In addition, the May Revise removes the Felony Prison Term Reform proposal that was included in the Governor's Budget.

BACKGROUND

The Administration is proposing to have non-sex offender, non-serious, non-violent offenders convicted with sentences of three years or less serve their felony sentences locally. Half of the institution savings achieved by the CDCR, approximately \$11,500 per offender, will be provided to counties through a system of block grants to fund evidence based programs and other probation and jail services in order to improve the success of felony probationers and reduce jail and prison incarceration. Additionally, the Administration proposes providing additional funding for and streamlining construction of local correctional construction projects to increase local capacity.

This proposal is projected to result in 10,602 felony inmates with terms of three years or less serving their time locally in 2010-11 and 14,927 in 2011-12. Each county will establish a Community Corrections Enhancement Fund which will be funded by the Community Corrections Enhancement Grant. The grant and allocation to each county's fund will be based on the ADP of felony inmates housed in that county's jail in the prior fiscal year. The rate per ADP will be half the incremental cost of housing an inmate in state prisons.

As established with existing law through SB 678, the Local Community Corrections Partnership will advise probation in the development of a Community Corrections Enhancement Program for that county. The program for each county will develop and implement Drug Courts, Alternative Custody, Day Reporting Centers, and/or other evidenced based programs.

In addition to the block grant, the Administration is proposing to provide \$300 million to construct new local juvenile correctional facilities and to authorize design build for AB 900 funded local jail construction to streamline the construction of local jail beds.

COMMENTS

Many proposals to reduce the state prison populations put forth in recent years have not taken local impact into consideration. This proposal is a good start in recognizing the continuum of the criminal justice system and it will be important for the state to continue to work with local partners going forward.

ISSUE 5: VEXATIOUS LITIGANTS

It is proposed that CDCR should take a more firm stand against litigants that consume state resources and tie up the courts with frivolous litigation. The department should take action to have such litigants deemed vexatious by the courts. Existing law provides for this process, all this action would do is require CDCR to use the law. This proposal would require CDCR to redirect sufficient resources to address any litigant, through the courts, that meets the definition of vexatious litigant.

BACKGROUND

CDCR is routinely sued by inmates and those that represent inmates. Sometimes this litigation is worthy, as is evidenced by the amount of money we now spend on medical, mental health and dental services on inmates. However, there is another subset of suits that do nothing but tie up the courts and waste resources at CDCR, the Department of Justice and the courts. In these cases, where a single actor is responsible for the regular filing of frivolous lawsuits, both state and federal law define vexatious litigant, provide a process to have a litigant declared vexatious, and provide an alternative legal review process.

For example, under California law, at any time during a trial, the Defendant may ask that the Plaintiff put up security to cover the costs of the defense in the case. If the court awards the security, and security is not furnished, the case will be dismissed. If the Defendant requests security prior to trial, and the security is granted by the court, the case will be stayed until the security is furnished. Furthermore, a court may, on its own motion or the motion of any party, enter a pre-filing order which prohibits a vexatious litigant from filing any new litigation in the courts of this state. The presiding judge of each court in the state maintains the authority to allow the vexatious litigant to file further suits. Below is proposed trailer bill language:

Government Code Section XXXX

It is necessary to limit the number of frivolous lawsuits and frivolous inmate appeals filed by inmates against the state through the courts. The Department of Corrections and Rehabilitation shall assign sufficient staff from existing resources to seek to have inmates, and/or parolees, and/or the representatives of inmates and/or parolees engaged in filing frivolous lawsuits against the state deemed vexatious litigants as defined in Government Code Section 391 et. seq., and consistent with 28 U.S.C. Sec. 1915A et. seq. The department shall enforce the provisions of Penal Code 2932.5 and retract 30 days of work time credit awarded any inmate found to be a vexatious litigant. Finally, the department shall ensure that all court fees are collected from inmates pursuant to Government Code 68635.

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ISSUE 1: TRIAL COURT FUNDING

Due to funding reductions contained in recent budgets and workload increases that have not been provided in recent budgets, the Administrative Office of the Courts has worked with Legislative staff and other stakeholders to develop a plan that would fund California's trial courts at a level sufficient to operate full-time and prevent further layoffs of court employees.

BACKGROUND

The 2009-10 Budget included a \$393 million unallocated reduction to trial court funding. Although some of this reduction was covered by fee increases (\$58 million from the following increases: Court Security Fee (\$10), Court Reporter Fee (\$5), and Misc. Post Judgment Fee (\$10)) and \$100 million was restored by the Administration, a large part of the 2009-10 solutions were one-time. As such, Legislative staff, the courts, and other stakeholders have agreed on the following solutions for 2010-11, which total \$261.6 million:

- One-time transfer court construction balances (\$98.4 million)
- One-time transfer of other court fund balances (\$31.6 million)
- \$10 court security fee increase (\$40 million)
- Summary judgment fee increase from \$250 to \$500 (\$6.2 million)
- Telephonic hearings fee of \$20 (\$6.0 million)
- \$40 per citation fee on automated traffic enforcement (\$28 million)
- First paper fee increase (\$40, \$40, \$20) (\$40.1 million)
- Pro hac vice fee increase from \$250 to \$500 (\$0.8 million)
- Parking fee surcharge increase of \$3 (\$10.5 million)

Trailer bill language is being proposed to effectuate these actions as well as:

- Lift the sunset on the existing \$10 court security fee
- Sunsets first paper filing fees on June 30, 2013 with a moratorium in the meantime and;
- Fee increase directed to fund court operations;
- Trigger that would reduce the filing fee if General Fund to court is reduced;
- Propose statutory provisions to ensure courts do not implement local closures and service reductions unless required by fiscal constraints, prevent disproportionate impact of any reductions on civil cases consistent with the US and California constitutions, and civil efficiency reforms.
- Sunset of Security fee on June 30, 2013
- Make changes to Judicial Council criminal fees task force.

COMMENTS

This proposal represents collaborative work of stakeholders to ensure California's courts are kept open and access to justice is provided in a manner that meets the expectations of the public.

ISSUE 2: AUTOMATED SPEED ENFORCEMENT

The Governor's budget proposed a new revenue source generated from penalties imposed on drivers who are caught speeding through the use of automated speed enforcement (ASE) systems. Estimated revenues of \$338 million would allow for a \$297 million General Fund reduction to the Trial Courts. In addition, the Administration proposes to use \$41 million to augment funding dedicated to trial court security. 15 percent of the total fine revenue is proposed to go to counties to administer the program.

The May Revise proposed to increase General Fund for support for trial courts by \$90.8 million to account for loss revenue due to this proposal not being adopted in the Special Session. The May Revise also proposed increasing the trial court security fee to augment funding for trial court security.

BACKGROUND

According to the Administration, the ASE systems would operate similarly to the existing automated red light enforcement systems. For example, when a driver speeds through an intersection, automated cameras would take a photograph of the driver, as well as the license plate of the vehicle. The Administration indicates that many of the roughly 600 automated red light enforcement systems that currently exist throughout the state could be modified to also identify individuals speeding through intersections—regardless of whether the traffic signal light was red. This is because most of existing systems currently have the capability to track a vehicle's speed.

As is the case with the existing automated red light enforcement systems, a photograph capturing the alleged violations, as well as any pertinent data (such as the speed of the vehicle), would generally be transmitted to the private vendor that installed and monitors the ASE system. The vendor would then review the information based on criteria established in an agreement with the local government operating the system. For example, a vendor could be directed to ignore violations that are below a certain threshold above the posted speed limit (for example, driving less than 5 mph faster than allowed). Following this review process, the vendor would transmit to the local jurisdiction all alleged violations that meet these criteria for them to determine whether to issue a citation. Under the Governor's proposal, and similar to the existing systems for red light enforcement, only designated peace officers in the local jurisdiction would be authorized to issue the citation.

COMMENTS

There have also been concerns raised that the Administration did not take public safety implications into account when developing the ASE proposal.

ISSUE 3: COURT TRANSCRIPT UNIFORMITY

Trailer bill language has been proposed to provide uniformity and increase the transcript fee for court reporter transcripts. The language has been draft to take effect in the out-years after temporary civil filing fee increases have sunset.

BACKGROUND

The making of the official record of court proceedings is integral to the credible and efficient operation of the courts. Across the state, inconsistencies have long existed in transcript format and transcript charges.

Current law specifies that stenographic reporters be compensated at specific rates per 100 words (or “folios”) for original transcripts and reduced rates for transcript copies. By practice, these rates are typically modified by court-specific “folio multipliers,” used by individual courts and intended to provide a methodology for calculating the actual number of folios per page. Thus, for example, a court that uses a “folio multiplier” of 2.5, would assume that each transcript page contains 2.5 folio or (2.5 x 100) 250 words.

In 2002, the Judicial Council created the Reporting on the Record Taskforce to evaluate how court reporting services are provided. Among other things, the taskforce recommended the establishment of a uniform format for transcripts of court proceedings in order to move away from the practice of folio multipliers.

In 2007, Assembly Evans introduced AB 582, which was co-sponsored by court reporter employee organizations and associations, as a means of developing uniform guidelines. The sponsors of the bill worked with the Judicial Council and other stakeholders and made significant progress, nearly reaching an agreement on a uniformed page and page rate. However, due to the varying practices across the state, the development of uniform guidelines would have resulted in increased costs to the superior courts, which are responsible for purchasing transcripts in criminal proceedings.

In December of 2009, the California Supreme Court received a petition to review *Gomez v City of San Diego*. The principle complaint of the plaintiff was perception that the cost of the transcript was inconsistent with existing statute, because the folio multiplier did not match the number of words counted by the plaintiff. The California Supreme Court declined to review the case, but did send the matter to the Judicial Council for consideration and possible amendments to the California Rules of Courts.

COMMENTS

Court reporters have expressed concerns with recent events and the impact it will have on the profession. Specifically, the reporters are concerned with the recent actions of a single court to forgo the use of the folio multiplier and the Supreme Courts referral to the Judicial Council.

With the past introduction of AB 582, there appears to be a consensus that the best approach for moving forward is the adoption of a uniform page and per page rate to determine the cost of a transcript. However, as noted above moving to a per page rate would require an increase in cost. According to the Judicial Council, the estimates that the cost of the various provisions of AB 582 would increase state cost by nearly \$7 million annually.

Addendum**ISSUE 1: OUT OF STATE PROGRAM SUNSET ELIMINATION**

The May Revision proposes trailer bill language that would eliminate the July 1, 2011 sunset on the department's ability to transfer state inmates to out of state facilities. Staff recommends amending this proposal to extend the sunset date by three years to July, 1 2014.