

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER MIA BONTA, CHAIR

MONDAY, APRIL 24, 2023
2:30 PM, STATE CAPITOL – ROOM 437

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We encourage the public to provide written testimony before the hearing. Please send your written testimony to: BudgetSub5@asm.ca.gov. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

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VOTE-ONLY CALENDAR**0280 COMMISSION ON JUDICIAL PERFORMANCE**

VOTE ONLY ISSUE 1: SUPPORT FOR COMPLAINT PROCESSING

Support for Complaint Processing. The Governor's Budget requests \$189,000 General Fund and 1 position in 2023-24 and \$178,000 ongoing for an administrative assistant to counsel position to assist with new complaints resulting from a new online complaint process that began in 2021.

This item was on the agenda for the Subcommittee 5 hearing on February 27, 2023.

Staff Recommendation: Approve as Budgeted.

0552 OFFICE OF THE INSPECTOR GENERAL

VOTE ONLY ISSUE 2: ADDITIONAL CA REHABILITATION OVERSIGHT BOARD RESOURCES (SB 903)

The Governor's Budget proposes \$117,000 General Fund in 2023-2024 and ongoing and one position to support implementation of Chapter 821, Statutes of 2022 (SB 903).

This item was on the agenda for the Subcommittee 5 hearing on March 6, 2023.

Staff Recommendation: Approve as Budgeted.

VOTE ONLY ISSUE 3: SPRING PROPOSAL ADJUSTMENT STAFF COMPLAINT MONITORING UNIT

The Governor's Spring proposal requests an adjustment; an increase of \$12,000 ongoing and a decrease of 13 positions to reflect a modification of staffing levels and position classifications for the Office of the Inspector General's Staff Complaint Monitoring Unit, which is responsible for monitoring the California Department of Corrections and Rehabilitation's staff misconduct process.

Staff Recommendation: Approve as Budgeted.

7870 CALIFORNIA VICTIMS COMPENSATION BOARD

VOTE ONLY ISSUE 4: INFORMATION TECHNOLOGY STAFF

The Governor’s Budget proposes \$877,000 Restitution Fund and 4.0 positions in 2023-24 and \$789,000 and 4.0 positions in 2024-25 and ongoing to implement and maintain increased cybersecurity capabilities.

This item was on the agenda for the Subcommittee 5 hearing on February 27, 2023.

Staff Recommendation: Approve as Budgeted.

8140 OFFICE OF THE STATE PUBLIC DEFENDER

VOTE ONLY ISSUE 5: RECRUITMENT SUPPORT

The Governor’s Budget proposes \$280,000 and 2.0 positions ongoing to support to support OSPD’s efforts in recruitment and retention to diversify its staff.

This item was on the agenda for the Subcommittee 5 hearing on February 27, 2023.

Staff Recommendation: Approve as Budgeted.

ITEMS TO BE HEARD

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

ISSUE 1: OVERVIEW OF SB 2 PROPOSED TRAILER BILL (SPRING PROPOSAL)

The Commission on Peace Officer Standards and Training (POST) will provide an overview of their SB 2 proposed trailer bill.

PANELISTS

- Annemarie Del Mugnaio, Assistant Executive Director, Peace Officer Standards and Accountability Division, POST
- Jared Sippel, Legislative Analyst's Office
- Sarah Tomlinson, Department of Finance

BACKGROUND

SB 2 (Chapter 409, Statutes of 2021) requires POST to establish the Peace Officer Standards Accountability Division within the Commission to review serious misconduct investigations conducted by law enforcement agencies, conduct follow up investigation if necessary, and make findings on matters that may lead to grounds for suspension or revocation of an individual's peace officer certification. SB 2 also requires the creation of a nine-member Peace Officer Standards Accountability Advisory Board no later than January 1, 2023 to make recommendations on peace officer decertification.

Proposed Funding

The Governor's Spring proposal requests the following trailer bill:

ADD GOVERNMENT CODE SECTION 7923.601

This division does not require the disclosure of peace officer personnel files, and background investigation files gathered by law enforcement agencies pursuant to Government Code section 1031, in the custody of the Commission on Peace Officer Standards and Training in connection with the commission's authority to verify eligibility for the issuance of certification and investigate grounds for decertification of a peace officer pursuant to Penal Code section 13510.8, including any and all investigative files and records relating to complaints of, and investigations of, police misconduct, and all other investigative files and materials. Nothing in this paragraph shall limit the obligation of another public agency to disclose records of police misconduct, or other public records, pursuant to Penal Code section 832.7 or any other provision of law.

STAFF COMMENT

The proposed trailer bill does not prevent the disclosure of relevant public records that fall under the California Public Records Act for disclosure. Public records requests may be submitted to the local or state law enforcement agency that serves as the employer of the peace officer and is the entity that typically holds the original records. According to

POST, without this change in statute, it would require significant resources, staffing, and time to process the public records requests that fall under SB 2.

Staff notes that the volume of workload related to implementing the provisions of SB 2 is quite significant for POST, including staffing approximately 127 new positions that were provided in the 2022 Budget Act. As such, the Subcommittee may wish to consider the fiscal and process efficiency of allowing public records requests to be processed through the local and state entities, rather than POST.

Staff Recommendation: Hold Open.

0690 OFFICE OF EMERGENCY SERVICES**ISSUE 2: STATE AND LOCAL CYBERSECURITY GRANT PROGRAM (SPRING PROPOSAL)**

The Office of Emergency Services (OES) will provide an overview of their State and Local Cybersecurity Grant Program.

PANELISTS

- Heather Carlson, Assistant Director of Administrative Services, OES
- Tom Osborne, Deputy Director Homeland Security, OES
- Jared Sippel, Legislative Analyst's Office
- Tess Scherkenback, Department of Finance
- Stephen Benson, Department of Finance

BACKGROUND

The State and Local Cybersecurity Grant Program (SLCGP) is part of the federal 2021 Infrastructure Investment and Jobs Act also known as the Bipartisan Infrastructure Bill. The SLCGP awards grants to eligible entities to address cybersecurity threats and risks to information systems owned or operated by, or on behalf of, state, local, or tribal governments. The goal of the SLCGP is to assist state, local, or tribal governments to manage and reduce systemic cybersecurity related risks by meeting the following objectives:

- **Objective 1:** Develop and establish appropriate governance structures, including developing, implementing, or revising cybersecurity plans, to improve capabilities to respond to cybersecurity incidents and ensure continuity of operations.
- **Objective 2:** Understand their current cybersecurity posture and areas for improvement based on continuous testing, evaluation, and structured assessments.
- **Objective 3:** Implement security protections commensurate with risk.
- **Objective 4:** Ensure organization personnel are appropriately trained in cybersecurity, commensurate with responsibility.

SLCGP funding in the first year is limited to allowable administrative activities until a cybersecurity plan has been approved by the Department of Homeland Security. OES anticipates a plan to be developed and submitted by September 2023. The cybersecurity plan must be approved by a designated planning committee, selected by the state administrative agency, in conjunction with the Chief Information Officer of the state, and must consist of at least 50% cybersecurity professionals, and represent both urban and rural communities in the state. This plan, once approved, will delineate how funds will be provided to eligible state, local, or tribal entities.

Proposed Funding

The Governor's Spring budget proposal requests \$400,000 in state operations and \$7,600,000 in local assistance Federal Trust Fund authority to implement the new State and Local Cybersecurity Grant Program.

STAFF COMMENT

OES, as the state administrative agency, is the only entity that is eligible to apply for this grant. The available funding is for the 2022 federal fiscal year and additional funding is anticipated in 2023, 2024, and 2025. The proposed resources only request the federal authority needed for the program. There is an additional 10 percent cost share for the state operations portion which will be funded through in-kind General Fund activities of current OES/Cal-CSIC staffing. Amounts for local matches will be established through the cybersecurity plan for allocation.

Staff Recommendation: Hold Open.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 3: SAN QUENTIN PROPOSAL

The California Department of Corrections and Rehabilitation will provide an overview of their proposal related to San Quentin.

PANELISTS

- Dave Lewis, Director of Facility Planning, CDCR
- Koreen van Ravenhorst, Department of Finance
- Cynthia Mendonza, Department of Finance
- Caitlin O'Neil, Legislative Analyst's Office

Proposed Funding

The Governor's proposed 2023-24 budget included \$20 million General Fund for a proposal related to San Quentin.

The 2022 Budget Act included \$500,000 General Fund for a consulting contract to repurpose condemned housing areas in San Quentin.

STAFF COMMENT

The \$20 million request was not accompanied by a budget change proposal or other written description of the proposal, its elements, the number of incarcerated people that could participate, any metrics for evaluation, and any other future funding it anticipates that the proposal will require.

Articles published on March 16, 2023 and March 17, 2023 from the Los Angeles Times noted the \$20 million investment was to "jump start" the effort for a "vision for a new San Quentin [that] includes job training for careers that can pay six figures, trades such as plumbers, electricians or truck drivers, and using the complex as a last stop of incarcerate before release." The March 16 article referenced a "Scandinavian Model" and a prison in Pennsylvania that has adopted such a model which included single cells, a communal kitchen, Nordic-like furnishings, and a landscaped outdoor green space. The program also included elements like a grocery program which allows residents to purchase fresh foods. This model appears to include elements of the "Norway Model" that CDCR has referenced in some of its previous budget proposals, including the most significant investment which was \$34.8 million in the 2021 Budget Act for new dayroom furniture for all of the prisons.

The March 17 article states that the facility in San Quentin will be named the "San Quentin Rehabilitation Center" with a projected completion date by 2025. The current annual operating costs of San Quentin are \$326 million and no information has been provided as to whether this new proposal would result in cost-savings in the long-term.

Staff Recommendation: Hold Open.

ISSUE 4: MENTAL HEALTH STAFFING RECRUITMENT AND RETENTION UPDATE

CDCR will provide an overview of mental health staffing recruitment and retention efforts and will be joined by CDCR mental health staff who will share their perspectives.

PANELISTS

- Dr. Amar Mehta, Deputy Director of Mental Health Services, CDCR
- Jasinda Muhammad, Deputy Director of Human Resources, CDCR (available for Q&A)
- Migdalia Siaca, Deputy Director of Labor Relations, CDCR (available for Q&A)
- Dr. Stuart Bussey, President, Union of American Physicians and Dentists, AFSCME Local 206
- Dr. Johnathan Greenberg, Staff Psychiatrist, CDCR, Vacaville
- Dr. Navreet Mann, Staff Psychiatrist, CDCR, Elk Grove

*The Legislative Analyst's Office and Department of Finance are available for any questions from the Subcommittee.

BACKGROUND

Coleman v. Newson (*Coleman*, 912 F Supp. 1282 (E.D. Cal.1995)). *Coleman* is a federal class action lawsuit filed in 1990 on behalf of incarcerated people who receive mental health care in CDCR. Plaintiffs alleged that inadequate mental care placed people at serious risk of death, injury, and prolonged suffering. In 1995, a federal court found CDCR violated the Eighth Amendment against cruel and usual punishment and that prison officials showed deliberate indifference to the needs of mentally ill incarcerated people. The Court identified six areas that required improvements: (1) screening; (2) treatment programs; (3) staffing; (4) accurate and complete records; (5) medication distribution; and, (6) suicide prevention. CDCR has yet to fully comply with many orders issued by the U.S. District Court for the Eastern District of California. The court issued an injunction requiring comprehensive changes to the prison mental health system, appointed a Special Master to monitor CDCR's compliance with the remedial plan ("Mental Health Services Delivery System Program Guide") CDCR submitted which the court accepted.

On January 6, 2023, the *Coleman* court invited the United States Attorney General to rejoin the case due to ongoing constitutional violations in the delivery of mental health care, specifically on the lack of progress with mental health staffing, suicide prevention, and insufficient monitoring tools. Most recently, on February 28, 2023, the state was issued yet another federal court order which fine the state \$1,000 a day for each of the 15 unmet safeguards related to suicide prevention until all of the prisons are in full compliance, beginning April 1, 2023. The federal judge also indicated that she will impose fines for the state's failure to hire enough mental health professionals. During an eight year period, more than 200 individuals committed suicide in prisons as CDCR failed to implement the court ordered reforms. A hearing has been set for August to collect more than \$1.7 million in fines that have accumulated since 2017 under a previous order for delays in transferring incarcerated people to state mental hospitals.

Plata v. Newsom (*Plata*, 445 F. Supp 3d 557). *Plata* was filed on behalf of all incarcerated people in 2001 regarding an unconstitutional level of healthcare for people in prison, in violation of the Eight Amendment, the Americans with Disabilities Act (ADA) and section 504 of the Rehabilitation Act. A settlement was reached in 2002 but a lack of progress resulted in the state being placed under medical receivership in 2005, which included the court appointment of a Receiver. The court waived state law in multiple occasions to allow the Receiver to increase salaries of medical staff and to allow for certain contract bidding requirements to be waived for specific projects.

CDCR's Psychiatry Staffing. The 2002 Coleman court order requires a fill rate of at least 90% of its authorized psychiatrist positions while CDCR pursues durable staffing solutions. In 2014, as CDCR continued to struggle meeting this order, CDCR submitted and the court accepted a staffing plan that included various elements including:

- Development of the Psychiatric Medical Assistant Classification
- Expansion of intern and fellowship programs
- Pay differential and increased contract rates for hard-to-recruit prisons
- Expansion of the telepsychiatry program

CDCR has cited a number of reasons for its inability to fill vacancies including a nationwide shortage of psychiatrists, the undesirability of working in a prison setting to many health care professionals, and the remote location of the prisons. In addition to staff psychiatrists, CDCR utilizes telepsychiatry and a psychiatry registry to provide mental/health care to incarcerated people. In recent years, there have been several augmentations for these programs including the following:

- **2018 Budget Act** included \$18.1 million on a two year limited based to offset contract costs for registry psychiatrists. At the time, CDCR reported a 40% vacancy rate.
- **2020 Budget Act** included \$5.9 million 2020-21, and \$8.4 million ongoing to expand the Statewide Telepsychiatry Program. It also included \$13.3 million ongoing to augment psychiatry registry funding levels to reflect new hourly payment rates. The Department of State Hospitals (DSH) had adopted a new contract in 2019 with new registry services with an hourly contract rate range of \$265-\$390 an hour. In order to compete with DSH rates, CDCR proposed a rate range of \$251 to \$325. At the time, CDCR reported a 35-45% vacancy rate.
- **2021 Budget Act** included \$37.7 million in 2021-22 and \$35.9 million ongoing and 261.4 positions to standardize staffing across all Psychiatric Inpatient Program facilities. It also included \$3.7 million ongoing to establish telepsychiatry management and oversight.

In addition, CDCR may request to the Department of Finance to augment funding for psychiatry registry contract services. This requires a 30 day notification in writing to the Joint Legislative Budget Committee.

STAFF COMMENT

A recent report from the California Health Care Foundation showed that the state averages about 12 licensed psychiatrists and 44 licensed psychologists per 100,000 residents. Certain regions, such as the Bay Area (19 psychiatrists and 73 psychologists), have a higher ratio, but many regions of the state have a lower ratio than the state average. According to a September 8, 2022 CalMatters article (“Unanswered cries: Why California faces a shortage of mental health workers”), an additional 671 psychiatrists are needed to achieve a population-to-psychiatrist ratio of 30,000 to 1 across the state.

In addition, a 2018 University of California San Francisco report raised the concern that 45% of psychiatrists and 37% of psychologists will likely retire in a decade. While both of these reports do not provide specific information related to these positions in prisons, they indicate a broader shortage across the state which likely makes recruitment and retention in prisons more challenging. Further, demand exceeding supply for these professionals, have created increased competition and often, nonprofit and public sector positions struggle to compete with the salaries and flexible scheduling provided by the private sector, including telehealth startups.

Staff Recommendation: This is an informational item.

NON-PRESENTATION ITEMS

The Subcommittee does not plan to have a presentation of the items at this time in this section of the agenda but the Department of Finance and the Legislative Analyst's Office are available to answer questions from members. Public Comment may be provided on these items.

8950 MILITARY DEPARTMENT

ISSUE 5: VARIOUS SPRING PROPOSALS AND ADJUSTMENTS
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1. Army Facilities Agreement Program Income Fund. The Governor's Spring proposal requests trailer bill to establish the Army Facilities Agreement Program Income Fund to receive, maintain, and expend Army Facilities Agreement Program Income generated from leases, licensing, and support agreements of CMD Army facilities by non-federal tenants. This proposal also requests \$2.5 million ongoing Army Facilities Agreement Program Income Fund expenditure authority to pay for facility repair, maintenance, and other activities for the Military Department's Army facilities.

2. Consolidated Headquarters Complex Security. The Governor's Spring proposal requests 18 State Active Duty positions and \$2.4 million General Fund in 2023-24 and \$2.3 million ongoing to provide security for the state employees, military personnel, and the new state-owned Consolidated Headquarters Complex.

3. State Active Duty Pay Adjustment. The Governor's Spring proposal requests an ongoing increase of \$959,000 (\$299,000 General Fund, \$623,000 Federal Trust Fund, \$20,000 Mental Health Services Fund, and \$17,000 Reimbursement authority) to align the pay of its State Active Duty employees to the pay of service members of similar grade in the United States Army, United States Air Force, and United States Navy.

4. Military Family Relief Fund Dissolution. The Governor's Spring proposal requests trailer bill to abolish the California National Guard Military Family Relief Fund and to absorb the remaining monies into the Military Department Support Fund (Support Fund). Repurposing those funds will accomplish the objectives established in Military and Veterans Code, section 412.5 (a)(1), and allow the Military Department to better meet the intent of the Relief Fund's donors by more effectively providing financial assistance and services to members of the Department through the Support Fund.

0690 OFFICE OF EMERGENCY SERVICES

ISSUE 6: VARIOUS SPRING PROPOSALS AND ADJUSTMENTS

1. Headquarters Modernization Reappropriation. The Governor's Spring proposal requests the reappropriation of \$3,000,000 General Fund with an encumbrance extension to June 30, 2024, for one-time support costs and moving expenses associated with the completion of the State Operations Center modernization capital outlay project.

2. Mather: Security Checkpoint Enhancements Reappropriation. The Governor's Spring proposal requests \$351,000 General Fund for the working drawings phase of the Mather Security Checkpoint Enhancements project. The project will install two permanent security checkpoints and upgrade the existing entryway gates at the North and West entrances of OES' main parking lot. The reappropriation is necessary due to project delays related to the discovery of a utility easement during the due diligence process.

3. Reappropriation of Mobile Command Vehicle Funding. The Governor's Spring proposal requests reappropriation of \$2,900,000 General Fund with an encumbrance extension to June 30, 2025, for purchase of a specialized mobile command vehicle to support continuity of operations for the California State Warning Center and Alert and Warning Program in situations where the existing warning center may be unavailable.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 7: VARIOUS SPRING PROPOSALS AND ADJUSTMENTS

1. Reappropriation of Fleet Asset Funding. The Governor's Spring proposal requests reappropriation of \$1 million General Fund from the Budget Act of 2020 and \$268,000 General Fund the Budget Act of 2021 to complete the purchase of various fleet assets.

2. Spring Technical Adjustments. The Governor's Sprint proposal request a net-zero change to permanently realign budget authority by program. Specifically, the request is to shift \$489,000 ongoing and 2 positions from Program 4555-Parole Operations-Adult Supervision to Program 4500-Corrections and Rehabilitation Administration. It is also requested that Item 5225-008-001 be decreased by \$3,348,000 ongoing and Item 5225-016-0001 be added in the amount of \$3,348,000 ongoing.

0250 JUDICIAL COUNCIL

ISSUE 8: VARIOUS JANUARY 10 AND SPRING PROPOSALS AND ADJUSTMENTS

1. Elimination of Sunset Dates for Expiring Civil Fees. The Governor's Budget requests trailer bill to eliminate the sunset dates of expiring civil fees. These fees were increased during the Great Recession to offset General Fund reductions and included a sunset. The sunset was extended as part of the 2018 Budget Act and now is requested to be eliminated. The fees generate approximately \$38 million in the current year.

2. Courts of Appeal Workload. The Governor's Spring proposal requests \$2.7 million in 2023-24, and \$2.3 million in 2024-25 and 2025-26, from the Appellate Court Trust Fund (ACTF) to address existing workload, reduce backlogs, and prevent case delays in appellate districts.

3. Extended Liquidation for Facility Services. The Governor's Spring proposal requests that Item 0250-492 be added to extend the liquidation period of the funding provided to the Judicial Branch by Control Section 6.10 of the 2018 Budget Act for deferred maintenance projects. The liquidation period is set to expire on June 30, 2023, and this will allow for the liquidation of these funds through June 30, 2024. The additional time is needed to allow for the completion of two facility projects that were delayed due to fire safety inspections and supply chain delays.

4. Various Technical Adjustments. The Governor's Spring proposal requests the following technical adjustments:

- **Support for Judicial Branch Facilities Operations and Maintenance**—It is requested that Item 0250-001-0001 be decreased by \$5,850,000 ongoing, Item 0250-012-0001 be increased by \$5,850,000 ongoing, and Item 0250-001-3066 be increased by \$5,850,000 ongoing to correctly allocate program expenditures proposed in the Governor's Budget proposal for the Support for Judicial Branch Facilities Operations and Maintenance. It is also requested that Item 0250-001-3037 be amended by decreasing reimbursements by \$27 million ongoing as this authority is no longer necessary due to reductions to deferred maintenance funding included in the Governor's Budget.
- **Community Mental Health Services (SB 929)**—It is requested that Item 0250-001-0001 be increased by \$230,000 in 2023-24 and decreased by \$230,000 in 2024-25 to correct a technical error in the allocation of program expenditure authority associated with the resources provided in the Governor's Budget for the implementation of Chapter 539, Statutes of 2022 (SB 929).
- **Provisional Language**—It is requested that provisional language be added to Item 0250-001-0327 to allow the Department of Finance to augment the Court Interpreter Fund expenditures to support efforts to address the shortage of qualified court interpreters. This language was inadvertently excluded from the Governor's Budget and is related to the Language Access Efforts in the California Courts budget change proposal. It is also requested that provision 8 of Item 0250-

001-0001 be removed as this language is associated with temporary funding included in the 2022 Budget Act and is no longer necessary.

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