

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE No. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER REGINALD BYRON JONES-SAWYER SR., CHAIR

WEDNESDAY, MARCH 13, 2013
1:30 P.M. - STATE CAPITOL ROOM 437

ITEMS TO BE HEARD		
ITEM	DESCRIPTION	
2720	DEPARTMENT OF THE CALIFORNIA HIGHWAY PATROL	1
ISSUE 1	STATEWIDE ADVANCE PLANNING AND SITE SELECTION	1
ISSUE 2	SANTA FE AREA OFFICE CONSTRUCTION	4
5227	BOARD OF STATE AND COMMUNITY CORRECTIONS	6
ISSUE 1	DEPARTMENTAL OVERVIEW	6
ISSUE 2	COMMUNITY REHABILITATION SERVICES	7
0820	DEPARTMENT OF JUSTICE	9
ISSUE 1	PRESCRIPTION DRUG MONITORING PROGRAM (PDMP) / CONTROLLED SUBSTANCE UTILIZATION REVIEW & EVALUATION SYSTEM (CURES)	9
ISSUE 2	FIREARM BACKGROUND CHECKS	12
ISSUE 3	ARMED PROHIBITED PERSONS SYSTEM BACKLOG	14

ITEMS TO BE HEARD

2720 DEPARTMENT OF THE CALIFORNIA HIGHWAY PATROL

ISSUE 1: STATEWIDE ADVANCE PLANNING AND SITE SELECTION

The California Department of Finance (DOF) will open this item with a brief overview of the state's traditional Capital Outlay Process (Design-Bid-Build) followed by a brief overview of the "Build to suit" process that has been utilized by the California Highway Patrol (CHP) in the recent past.

Governor's Proposal. The issues before the Subcommittee are the Governor's proposals to provide:

- 1) \$1.5 million from the Motor Vehicle Account (MVA) for statewide advance planning and site selection activities; and,
- 2) Provisional language authorizing a mid-year budget augmentation of up to \$10 million (MVA) should it be determined that any parcel's acquisition cannot wait until the next fiscal year.

PANELISTS

- Joseph A. Farrow, Commissioner, California Highway Patrol
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

The CHP operates 103 area offices across the state including office space for CHP staff, CHP vehicle parking and service areas, and dispatch centers. According to the Department of General Services (DGS), about 80 of the CHP's 103 area offices are seismically deficient and require costly upgrades or replacement. Additionally, the CHP has indicated that many area offices are experiencing workspace issues. One example of this is the fact that many area offices were not designed to accommodate female officers. Thus, female officers have been forced to use make-shift locker rooms to ensure privacy. Another example of an ongoing workspace issue is CHP's lack of proper facilities to inspect commercial vehicles as required.

Area office replacements can be procured in one of a few ways. Two of the more common methods are “build-to-suit” leases and “design-bid-build.” With the build-to-suit procurement method, CHP contracts with a private developer to construct a facility and agrees to lease the facility from the developer for a predetermined number of years. This procurement method typically includes a purchase option at one or several points during the lease.

Under the design-bid-build system, the public agency first awards an architect/engineer contract to design the project based on subjective criteria of qualifications and experience of the architect/engineer. This contract generally accounts for a relatively small portion of the project's total costs—about 5 percent to 10 percent. After detailed project plans and drawings are completed, a contractor is selected to perform the construction work, which accounts for 90 percent to 95 percent of the project's costs. In almost all cases, contracts for construction work are awarded objectively based on competitive bidding. Under this method of procurement, the state owns the facility and does not have ongoing lease payments.

In the fall of 2012, the Director of the Department of General Services (DGS) notified the Joint Legislative Budget Committee (JLBC) of his intent to execute three separate build-to-suit lease agreements on behalf of the CHP to replace existing area offices. Although the JLBC did not request that the Administration delay or cancel these three projects, the committee raised several issues, including the (1) absence of an updated CHP facilities plan that outlines its facility needs and priorities; and, (2) lack of an assessment of the relative benefits of financing projects with the build-to-suit process as compared to the design-bid-build process.

STAFF COMMENTS/QUESTIONS

While acknowledging that many of CHP’s existing area offices have deficiencies that will need to be addressed in the near future, staff shares the following concerns with the Legislative Analyst’s Office (LAO):

- **CHP’s Long-Term Facilities Replacement Plan Remains Unclear.** At this time, the Legislature still does not have an updated CHP facilities plan that outlines its facility needs and priorities. Such a plan would show the total number of replacement facilities CHP will request over the next five years and how those proposals would affect the MVA. According to the Administration, this type of analysis will be included in its updated 2013 Five-Year State Infrastructure Plan, which is expected to be released this spring. The absence of such a plan makes it difficult at this time to assess how the Governor’s Budget proposal fits within CHP’s long-term plan as well as the state’s plans for funding other infrastructure needs. Moreover, the Governor’s Budget does not identify which five area offices will be replaced and whether those offices are in the worst condition and most in need of replacement.

- **No Analysis on Procurement to Justify Method.** At this time, it is also unclear why the Administration proposed last fall to replace three area offices with build-to-suit leases and is now proposing to use a capital outlay method to replace five offices. Specifically, the Administration has not been able to explain what criteria it uses to select between capital outlay and build-to-suit. As previously indicated, the JLBC expressed that such an assessment is essential to ensure that the most cost-effective method is chosen when building new CHP facilities.
- **Proposed Budget Bill Language Circumvents Legislative Oversight.** The proposed budget bill language would limit the type of legislative oversight that is typically provided in the traditional facility replacement process. This is because the proposed language would not allow the Legislature to adequately review and approve the specific offices to be replaced, as well as the proposed scope and estimated cost of each office, before the actual property is purchased. This is problematic in that making changes to the scope of the project after the property is purchased becomes more challenging.

Staff Recommendation: Hold Item Open.

ISSUE 2: SANTA FE SPRINGS AREA OFFICE

The CHP will open this item with a brief overview of the Santa Fe Springs area office project (past and present).

Governor's Proposal. The issue before the Subcommittee is the Governor's proposals to provide \$21.4 million (MVA) to support the construction phase of the Santa Fe Springs area office replacement project.

PANELISTS

- California Highway Patrol
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

The CHP has occupied the Santa Fe Springs area office since 1967. Since occupying this site forty-six years ago, the number of personnel assigned to this office has more than doubled, growing from 65 to 135. Over this time-period, the CHP has been faced with numerous challenges related to the physical plant including:

- Non-compliance with the Essential Services Act of 1986;
- Leaky roof (installed in 1967);
- Office space overcrowding;
- Inadequate facilities for conducting commercial vehicle inspections;
- Inappropriate evidence storage facilities;
- Inadequate facilities for conducting school bus driver testing;
- Inappropriate (outdoor) storage of Emergency Medical equipment;
- Water drainage issues in area surrounding gas pumps;
- Lack of locker room space for female officers;
- Lack of interview and interrogation room;
- Lack of indoor training space;
- No armory for secure storage of firearms;
- Substandard electrical systems due to increased demand in recent years;
- Inadequate backup generator capacity due to increased demand in recent years;
- Substandard plumbing systems due to increased demand in recent years, and,
- Substandard HVAC systems due to increased demand in recent years.

Legislative approval for the replacement of the Santa Fe Springs area office dates back to the 2005 approval of \$3.3 million for preliminary planning and acquisition activities. Since this initial approval of funding, this project has seen complications resulting in postponement, and ultimately, the reversion of project funding in 2012.

STAFF COMMENTS/QUESTIONS

The Legislature has clearly adopted the policy decision to replace the Santa Fe Springs area office in the past. That said, the recent project interruption provides an opportunity for the Legislature to, once again, weigh in on the state's approach to completing this project.

Considering the above, staff notes the following concern:

The Administration's written request for resources pegs the price for constructing a new facility using the DGS capital outlay process at roughly \$30 million. The request also estimates the price for a lease-build-to-suit facility at roughly \$28.6 million (this figure includes acquisition after lease). Considering the cheaper cost, the CHP's past success at managing build-to-suit projects, and the tendency for projects to be delivered in a more timely manner using the build-to-suit process, it is unclear why the Administration has chosen to utilize the DGS capital outlay process from completing this project.

Staff Recommendation: Hold Item Open.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

ISSUE 1: DEPARTMENTAL OVERVIEW

The Board of State and Community Corrections (BSCC) will open this item with a brief overview of the Board's history and future.

PANELISTS

- Board of State and Community Corrections
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

In 2011, Governor Edmund G. Brown, Jr. signed historic public safety legislation (Assembly Bill 109) to reduce the state prison population and transfer responsibilities for low-level adult offenders to counties to create community-based correctional programs rather than sending low-level offenders to state prison. This change of jurisdiction from the state to the local level requires local justice systems to manage these offenders in smarter, more cost-effective ways.

A similar process unfolded in California's juvenile justice system, beginning in 2007. The push to keep youth closer to home and family resulted in successive legislative enactments to realign most youth to the county level (e.g., Senate Bill 81, Assembly Bill 1628). These changes require more attention to community based services and require serving a higher level of youth in county programs and facilities and measuring program effectiveness.

These recent changes brought about the creation of the Board of State and Community Corrections (BSCC) effective July 1, 2012 as the state agency with the responsibility to work in partnership with other state and local justice system stakeholders to provide leadership, coordination and technical assistance to develop and implement changes that support the use of cost effective, evidence-based methods to manage criminal and juvenile justice populations at the community level. In addition to its other responsibilities, the BSCC has broad authority to collect, maintain and make publicly available data and information about state and community adult and juvenile correctional policies, practices, capacities and needs.

The budget includes \$44 million in General Fund support for BSCC in 2013-14, an increase of about \$3 million (7 percent) over the current year, due mostly to a proposed increase in law enforcement grants to cities. The budget proposes 80.8 positions for 2013-14, an increase of 10.5 over the current year.

Staff Recommendation: No action, informational issue.

ISSUE 2: COMMUNITY REHABILITATION SERVICES

The Board of State and Community Corrections (BSCC) will open this item with a brief discussion of the resources available to communities and community rehabilitation providers. Following the overview, invited guests from Ascend will provide the Subcommittee with an overview of Ascend and discussion on program successes and challenges.

PANELISTS

- Board of State and Community Corrections
- Christine Galves, Criminal Defense Attorney and Co-creator of Ascend
- Toni Carbone, Criminal Defense Attorney and Co-creator of Ascend
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

One of the primary roles of the BSCC is to provide technical assistance and coordination to local governments and correctional agencies related to realignment. This mission incorporates the principle of aligning fiscal policy and correctional practices, including community based rehabilitation programs. The BSCC is mandated to promote a justice investment strategy that fits each county and is consistent with the integrated statewide goal of improving public safety through cost-effective and evidence-based strategies for managing criminal and juvenile justice populations.

Ascend is an innovative cognitive behavioral therapy program that combines cutting edge research with professional experience to elicit lasting and positive change in offenders' lives. Ascend was co-founded, and is run, by two criminal defense attorneys who set out to fill what they saw as a gaping hole in offender rehabilitation. Attorneys Christine Galves and Toni Carbone took their program idea to Sacramento State University where it was immediately and enthusiastically received. Sacramento State University worked with Ms. Galves and Ms. Carbone to provide curriculum development and support and Ascend was born. The University is also responsible for data analysis and outcome measures for the program. Recently, Ascend has enjoyed much success. It has been run on zero funding but has managed, in its 19 months of operation, to produce a recidivism rate of 10 percent, which greatly improves on the statewide average of 70 percent.

STAFF COMMENTS/QUESTIONS

Realignment has provided the state's local communities with an opportunity to work toward reducing recidivism by utilizing the evidence-based criminal justice strategies that best fit their particular community. Statewide, this opportunity has been seized upon in a myriad of ways. In order to continue moving toward the goal of reducing recidivism, counties must continue to look at data and be willing to employ effective treatment methodologies while transitioning away from those that are less-effective.

Staff Recommendation: No action, informational issue

0820 DEPARTMENT OF JUSTICE**ISSUE 1: PRESCRIPTION DRUG MONITORING PROGRAM (PDMP) / CONTROLLED SUBSTANCE UTILIZATION REVIEW & EVALUATION SYSTEM (CURES)**

The Department of Justice (DOJ) will open this item with a brief overview of the state's Prescription Drug Monitoring Program (PDMP)/ Controlled Substance Utilization Review & Evaluation System (CURES) program. Following the overview, invited guests from the Malibu Beach Recovery Center will address the Subcommittee.

The issue before the Subcommittee is the status and future of the PDMP/CURES system.

PANELISTS**Panel One**

- Department of Justice
- Joan Borsten, Owner and CEO, Malibu Beach Recovery Center
- Krissie Bergo, Alumnus of Malibu Beach Recovery Center
- Edward Shut, Alumnus of Malibu Beach Recovery Center
- Jenna Wilomon, Alumnus of Malibu Beach Recovery Center

Panel Two

- Department of Justice
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

Created in 1939, California's Triplicate Prescription Program (TPP) was the nation's first multiple-copy prescription program to regulate the distribution of controlled prescription drugs. For 60 years, the TPP captured information regarding prescriptions of Schedule II controlled substances. In 1996, the Legislature initiated the development of the Controlled Substance Utilization Review & Evaluation System (CURES) in an attempt to identify solutions to the programmatic challenges facing the TPP. Specifically, inadequate staffing and an outdated automated system had reduced the effectiveness of the TPP hampering efforts to prevent, investigate, and prosecute serious cases of abuse and misuse of controlled prescription drugs.

Initiated in 1997, CURES operated in parallel with the TPP and the Automated Triplicate Prescription System (ATPS) to examine the comparative efficiencies between the two systems over a three-year period. After only ten months of evaluation, it was evident that the CURES far outperformed the ATPS. The comparison of the two systems was suspended permanently in March 1999. The ATPS was decommissioned in January 2005 when SB 151 (Burton), Chapter 406, Statutes of 2003 eliminated the triplicate

prescription requirement for Schedule II controlled substances and made the CURES permanent.

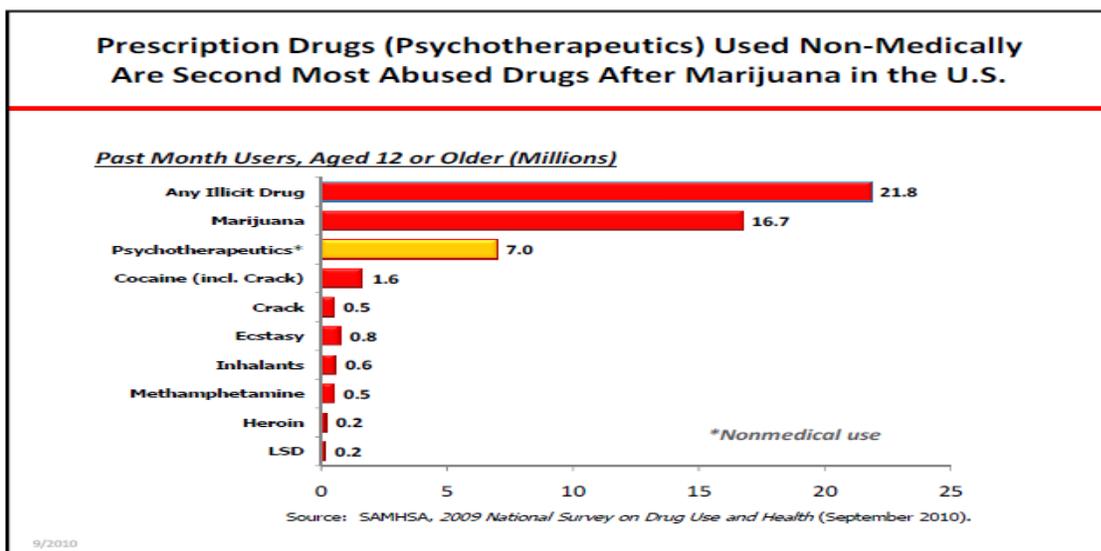
While the CURES represented a significant improvement over ATPS, the system did not provide licensed healthcare practitioners and pharmacies with access to uniform and timely information to proactively diminish and deter the diversion of controlled substances. To address the issues with the CURES system, in 2009, the DOJ initiated the Prescription Drug Monitoring Program (PDMP). The PDMP allows licensed prescribers and dispensers to access PDMP data at the point of care through the PDMP system. Consistent with California Health and Safety Code section 11165 et seq, the DOJ uses the PDMP system to collect and store data on the prescription and dispensation of controlled substances.

State law requires the DOJ to assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of controlled substances. The Health and Safety Code specifically allows licensed prescribers and dispensers to access the system in order to prevent and intervene with patients under their care who may be abusing controlled substances.

Currently, less than 9,000 prescribers and pharmacists are registered users of the CURES/PDMP system. This represents 3.6 percent of the possible 245,186 licensed California prescribers and pharmacists. Consequently, diversion prevention and intervention efforts have been less than stellar.

STAFF COMMENTS/QUESTIONS

The Centers for Disease Control and Prevention has classified prescription drug abuse as an epidemic. While there has been a marked decrease in the use of some illegal drugs like cocaine, data from the National Survey on Drug Use and Health show that nearly one-third of people aged 12 and over who used drugs for the first time in 2009 began by using a prescription drug non-medically (See chart below).



Unfortunately, many individuals who misuse prescription drugs, particularly teens, believe these substances are safer than illicit drugs because they are prescribed by a healthcare professional and dispensed by a pharmacist.

Given recent reductions to the DOJ's budget, concerns surrounding the department's ability to continue supporting the CURES system have been swirling. This is very concerning considering recent data on the diversion and misuse of prescription drugs. To the extent that resources are available, the Subcommittee may want to consider options for the continued dedication of resources to support the system.

Staff Recommendation: None

ISSUE 2: FIREARMS BACKGROUND CHECKS

The Department of Justice (DOJ) will open this item with a brief overview of the state's firearms background check program.

Governor's Proposal. The issue before the Subcommittee is the Governor's proposed increase of \$3.2 million from the Dealers' Record of Sale (DROS) account to address increasing firearm eligibility background check workload and to establish a DROS Customer Support Center.

PANELISTS

- Department of Justice
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

The DOJ's Division of Law Enforcement is organized into five elements: (1) Bureau of Firearms; (2) Bureau of Forensic Services; (3) Bureau of Gambling Control; (4) Bureau of Investigation; and, (5) the Office of the Director.

The Bureau of Firearms provides oversight, enforcement, education, and regulation of California's firearms/dangerous weapon laws by conducting firearms eligibility background checks and administering over thirty different state-mandated firearms-related programs. The Bureau conducts firearms dealer and manufacturer inspections and provides training as needed. Special Agents conduct investigations on armed and prohibited persons and other investigations resulting in the seizure of weapons. Agents also conduct firearms investigations to prevent illegal gun trafficking at in-state and out-of-state gun shows in accordance with state and federal law.

Pursuant to CA Penal Code Section 28220, the DOJ is charged with performing background checks on individuals attempting to purchase firearms. Upon receiving firearm purchaser information, DOJ examines the personal history of the purchaser to determine if they are legally prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. CA Penal Code Section 26815 mandates that this process be completed within ten-days of the initial request and before the firearm is delivered.

According to DOJ reports, through this program, the DOJ has prevented over 27,000 firearms from being transferred to violent criminals, domestic batteries, and other dangerous individuals.

The DOJ has reported a significant and steady increase in the number of firearm purchases initiated statewide since 2003. Further, the DOJ expects this trend to continue through 2013.

STAFF COMMENTS/QUESTIONS

Although staff has not been presented with data dating back to 2003, staff has reviewed DOJ data that clearly reflects an almost constant increase in the number of purchases initiated statewide since 2007. Specifically, the provided data shows roughly 387,000 transactions in 2007 with figures climbing to around 677,000 transactions in 2011. Based on this data, recent law changes requiring the DOJ to collect data on long gun sales, and recent media reports, staff has concluded that the Department's projected need for additional resources is justified.

Further, staff highlights the temporary nature of this augmentation as an opportunity to reassess the need for resources in two-years.

Staff Recommendation: Hold Item Open.

ISSUE 3: ARMED PROHIBITED PERSONS SYSTEM BACKLOG

The DOJ will open this item with a brief overview of the state's Armed Prohibited Persons System (APPS).

The issue before the Subcommittee is the roughly 20,000 persons in the state believed to be illegally in possession of nearly 40,000 firearms.

PANELISTS

- Department of Justice
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

Since completing the APPS database in 2006, California has been the only state to have such a program. The APPS database identifies people who have a legally registered gun, but are later prohibited from owning it. A person becomes legally prohibited if he/she is convicted of a felony, a violent misdemeanor, is placed under a domestic violence restraining order, or is determined to be mentally unstable. In order to identify prohibited persons, the APPS database cross-references five databases to identify those who legally purchased handguns and/or registered assault weapons since 1996 with people who are prohibited from owning or possessing firearms.

The DOJ reports that as of January 17, 2013, there are 19,820 persons who are classified as armed prohibited who have not been disarmed. Those persons are believed to own nearly 40,000 firearms (that are known) including roughly 1,700 assault weapons. DOJ identifies about 7,500 new prohibited persons per year. However, current staffing levels are only sufficient to address about 3,000 cases per year. The remaining 4,500 become backlog.

On March 7, 2013, Senate Bill 140, by Senator Mark Leno, passed the Senate on a 31 to 0 vote. The bill would appropriate \$24 million to the DOJ from the Dealer Record of Sale account to allow for thirty-six additional agents to be hired for the APPS program.

STAFF COMMENTS/QUESTIONS

Due to an insufficient amount of resources being dedicated to disarming prohibited persons, there are currently more than 20,000 armed prohibited persons statewide, including dangerous felons, violent misdemeanor offenders, and individuals who have been adjudicated mentally ill. These individuals are believed to be in possession of nearly 40,000 handguns and 1,700 assault weapons. Every year there are an additional 3,000 prohibited person added to the list. Despite ongoing efforts, local and state law enforcement agencies simply lack the resources to keep up with this influx. Broadly, the Assembly may want to consider supporting the policies included in SB 140.

Further, the Subcommittee may want to explore improvements in the processes of notifying person that they have become prohibited from owning firearms and provide a clear path to the surrender of their firearms.

Staff Recommendation: No action, informational item
