

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER MIA BONTA, CHAIR

MONDAY, MARCH 13, 2023
2:30 P.M., STATE CAPITOL – ROOM 437

All are encouraged to watch the hearing from its live stream on the Assembly's website at <https://www.assembly.ca.gov/todaysevents>.

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.

A moderated telephone line will be available to assist with public participation. The public may provide comment by calling the following toll-free number: [877-692-8957](tel:877-692-8957), access code: [131 54 37](tel:1315437)

ITEMS TO BE HEARD		
ITEM	DESCRIPTION	PAGE
5225	DEPARTMENT OF CORRECTIONS AND REHABILITATION	3
ISSUE 1	SB 1008 AND FAMILY CONNECTION	3
ISSUE 2	INCREASED INMATE WELFARE FUND AUTHORITY	8
ISSUE 3	COMMUNITY BASED ORGANIZATIONS' DELIVERY OF IN-PRISON PROGRAMMING	10
ISSUE 4	JOINT COMMISSION ACCREDITATION PROPOSAL	13
ISSUE 5	COMPREHENSIVE EMPLOYEE HEALTH PROGRAM	16
ISSUE 6	INTEGRATED SUBSTANCE USE DISORDER TREATMENT PROGRAM (ISUDTP)	19
	PUBLIC COMMENT	

Non-Discussion Items

ITEM	DESCRIPTION	PAGE
5225	DEPARTMENT OF CORRECTIONS AND REHABILITATION	24
Issue 7	VARIOUS BUDGET PROPOSALS	24

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION**ISSUE 1: SB 1008 AND FAMILY CONNECTION**

CDCR will provide an overview of the SB 1008 proposal and update on the implementation of the third day of in-person visitation roll out. The Coalition for Family Unity will provide an overview challenges families face in maintaining contact with their incarcerated loved ones.

PANELISTS

- Madelynn McClain, Deputy Director, Office of Fiscal Services, CDCR
- Caitlin O'Neil, Legislative Analyst's Office
- Sarah Tomlinson, Department of Finance
- Allison Hewitt, Department of Finance
- Laila Aziz, Coalition for Family Unity

*Ron Davis, Acting Deputy Director, Facility Operations, CDCR, is available for questions from the Subcommittee.

BACKGROUND

Family Connection in the Prisons. Research findings that go back nearly five decades show the value of family connection in improving outcomes and recidivism rates for people coming out of prisons, improving physical, mental, and emotional health of incarcerated people, and improving safety and security for the incarcerated and the staff in the prisons. Incarcerated people have traditionally had three main methods of maintaining these kinds of relationships: writing letters, phone calls and visits. In December 2020, CDCR started providing video visitation and messaging when in-person visitation was ceased during the COVID-19 pandemic. According to CDCR, 31 of 33 prisons are currently operating in-person visitation on Fridays and Saturdays with video visitation on Sundays. Due to a smaller number of in-person visitors and its remote location, Pelican Bay State Prison is able to accommodate both in-person and video visitation on Fridays, Saturdays, and Sundays. Corcoran provides in-person visitation on Saturdays and Sundays and video visitation on Fridays and Mondays.

CDCR is in the process of deploying a tablet program (all tablets and corresponding equipment are provided by the contract vendor) by the end of June 2023 after which CDCR will shift back to 3 days of in person visitation. Video calls on tablets are limited to 15 minute increments and CDCR's current contract provides 15 minutes of free video calls every two weeks after which the cost is \$.20 per minute. Individuals wishing to make a video call sign up in the same manner in which they sign up for a telephone call. For video visits, individuals are allowed a maximum of one video visit per available day which can last up to one hour in length. CDCR states that after the full tablet deployment, all prisons will stop video visitation as video calling capabilities will be available on the tablets. Video calls can be made while docked in the docking station and are made during

specific hours as determined by each prison. All video calls are recorded and can be viewed during the call or after the end of the call.

Communications Services. Telephone and tablet services are provided by ViaPath (formerly known as Global Tel Link or “GTL”). This contract includes security features that allow staff to monitor calls and restrict certain numbers. The current 6 year contract which began in 2021 provides each person in prison with 15 minutes of voice calling every two weeks before any charges are levied. Charges for time beyond the 15 minutes were previously paid by friends and family at a rate of \$0.025 per minute for domestic calls and \$0.07 per minute for international calls plus any applicable surcharges and taxes and \$0.05 for each electronic correspondence.

Separately, ViaPath provides a platform for people to sign up for in person or video visits called Visiting Scheduling Application (VSA). A limited number of visiting slots are available and usually released very early in the morning and are filled on a first come basis. Visitors have reported problems with this platform including technical issues with the application crashing and freezing often which impede their ability to book the few number of appointments—even if they were technically “first in line.”

Policies and Resources to Support Family Connection. In recognition of the importance of family connection, the Administration and Legislature have enacted various laws and provided resources to remove barriers to family connection and increase access for incarcerated people and their loved ones. The 2021 Budget Act included resources to expand in-person visitation from two days to three days at all prisons. While CDCR has yet to implement this policy, they have informed the Subcommittee they plan to implement the expansion this year. In addition, the Governor signed SB 1008 (Chapter 827, Statutes of 2022), the Keep Families Connected Act, which will provide accessible, functional voice calls free of charge. On January 1, 2023, CDCR began implementing this requirement by paying all charges accrued for voice calls. Though CDCR does not directly limit the number of minutes people can use, it does continue to restrict when calls can be made for operational reasons. In addition, CDCR intends to continue providing 60 free electronic messages per month through June 2023. Beginning in July 2023, users would pay the contract rate of \$0.05 per message.

Proposed Funding

Free Voice Communication (SB 1008). The Governor’s Budget proposes \$5.6 million General Fund in 2022-23 and \$30.7 million General Fund and 2 positions in 2023-24 and ongoing to provide free voice calling to all incarcerated persons and their families pursuant to Senate Bill 1008. The requested \$5.6 million is in addition to the \$8.3 million that is available to CDCR as described below. CDCR indicates it may adjust the requested amount at the May Revision based on actual minute usage. The budget request also includes proposed provisional budget bill language to allow the Department of Finance to adjust the 2023-24 funding amount and expects to make annual adjustments to baseline funding which would not be presented to the Legislature through a budget change proposal.

Appropriations Analysis. The Assembly Appropriations analysis identified tens of millions of General Fund dollars to CDCR in additional staff and infrastructure to provide

incarcerated people a minimum of 60 minutes of accessible and functional voice communications per day. The Senate Appropriations analysis identified ongoing costs in the low tens of millions for CDCR to implement this bill.

Previous Funding.

1. Between July 2021 and December 2022, State Paid for Additional 60 Minutes. The 2021 Budget Act provided \$12 million General Fund to pay for an additional 60 minutes of voice calling every two weeks, as well as 60 free electronic messages per month, for each person in prison. This allowed each person to use a total of 75 minutes of voice calling every two weeks before their friends or family incurred any charges. Ultimately, about \$2.2 million of the funding was spent in 2021-22, with the remaining \$9.8 million reappropriated in the 2022-23 *Budget Act* for the same purposes. CDCR estimates that for the first part of 2022—specifically between July 2022 and December 2022—state costs for voice calling and electronic messages totaled about \$1.5 million. Accordingly, CDCR estimates that about \$8.3 million (of the \$12 million originally appropriated in 2021-22) remained available as of January 1, 2023.

2. Third Day of In-Person Visitation. The 2021 Budget Act included \$20.3 million General Fund and 124.1 positions ongoing to add a third day of visitation at 34 prisons and to support the Reunification Transportation Bus Program.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis and recommendations related to the SB 1008 proposal:

Proposed Funding Appears Reasonable, but Is Based on Limited Data Currently Available. Based on calling usage data through September 2022 and analysis provided by CDCR, the funding amounts and IT positions proposed to pay for calling charges in 2022-23 and 2023-24 appear reasonable. However, by the May Revision, the CDCR will have additional months of calling usage data. Most notably, it will have calling usage data from after January 1, 2023 when Chapter 827 went into effect. Accordingly, it is possible that the estimated funding levels could change by the May Revision.

Provisional Language Is Unnecessary and Limits Oversight. We agree that the annual funding amount needed for calling charges is subject to uncertainty, particularly in the near term given that Chapter 827 only recently went into effect and tablets are still being distributed. However, the annual budget act already includes the ability to augment funding for departments for unexpected costs. Specifically, Item 9840-001-0001 includes \$40 million to augment departments' General Fund budgets upon approval of the Director of DOF no sooner than 30 days after notification to the Joint Legislative Budget Committee (JLBC). This budget item is maintained in the Governor's proposed budget for 2023-24. In the event that this \$40 million is used for other contingencies and is unavailable to support higher than anticipated calling charges, we note that Item 9840-001-0001 outlines a process through which the administration can request a supplemental appropriation. Accordingly, we find that the proposed provisional language

is unnecessary. We also note that the proposed provisional language would severely limit legislative oversight, as it does not require legislative notification or approval. In contrast, augmentations through Item 9840-001-0001 require notification to JLBC and supplemental appropriations require approval by the Legislature.

Annual Technical Adjustment Process Lacks Transparency. We agree that the level of funding budgeted for calling charges may warrant adjustment from year to year to reflect more current usage estimates. However, we find that the proposed technical adjustment process lacks transparency. Going forward, it would be important for the Legislature to ensure that the level of funding provided annually is aligned to actual costs, which could be impacted by various factors, including changes in: (1) the size of the prison population; (2) CDCR policies concerning when calls can be made; and, (3) per-minute costs as well as taxes and surcharges. Moreover, these factors could be affected by discretionary decisions made by the department, such as a decision to renegotiate the communications services contract. As such, the Legislature will want to ensure it has the opportunity to review the above changes and decisions.

Population Budget Adjustments Provide an Alternative Approach. In contrast to the technical adjustment process, CDCR currently uses a population budget adjustment process to propose annual adjustments to various aspects of CDCR's budget that are tied to the size of the prison population or its subpopulations. Through this process, the administration submits documentation showing the methodology and data sources used to support the proposed adjustments, which creates transparency on the proposed adjustments.

Recommendations

1. Withhold Action on Proposed Funding and Require Updated Data. While the proposed funding levels appear reasonable given currently available data, the department indicates it might adjust the proposed funding levels at the May Revision based on updated data. Accordingly, we recommend the Legislature withhold action on the proposal until that time. In addition, to ensure that the Legislature is well-positioned to base its decision on recent data that was gathered after Chapter 827 went into effect, we also recommend directing the department to submit updated calling usage data at the May Revision.

2. Reject Proposed Provisional Language. Given that the proposed provisional language is unnecessary and limits legislative oversight, we recommend that the Legislature reject it. As noted above, the budget already includes Item 9840-001-0001 to account for unanticipated funding needs.

3. Direct CDCR to Annually Adjust Funding Level Through Population Budget Adjustment Process. We recommend that the Legislature direct the department to adjust the level of funding for calling charges through the department's annual population budget adjustment process. Through this process, the department would submit to the Legislature its proposed budget adjustment along with the methodology used to calculate it. This transparency would enable the Legislature to better assess if the proposed adjustments are warranted and to provide ongoing oversight of prison voice communication more broadly.

STAFF COMMENT

The Subcommittee is in receipt of a letter from the Coalition for Family Unity which represents more than 20 organizations that are led by justice system impacted individuals in support of enhancing family connection. Specifically, they support the implementation of the third day of in-person visitation funded in the 2021 Budget Act (which CDCR has only recently agreed to implement this year) and they ask that video visitation should also remain an option for those people in prison whose loved ones have significant barriers to visitation. In addition, they request an audit of CDCR's expenses related to various family connection programs administered by CDCR including three days of visitation, the technology and contracts that facilitate family connection, and the transportation offered via the TransMetro bus system.

Affordable Communications for People in Prison. The Subcommittee has received information from Ameelio, a technology non-profit organization that provides free virtual communications and education to "create a more humane and rehabilitative corrections system." Their video calling platform is utilized in 5 state prison systems, representing over 35 prisons and more than 32,000 users. Compared to the current contract CDCR has with (ViaPath, formerly GTL), Ameelio is able to offer the following:

	ViaPath (GTL)	Ameelio
Voice Calls	\$0.025/min	\$.0011/min
Video Calls	\$0.20/min	\$0.009/min
eMessaging	\$0.050/min	Free

This is one example of an organization that is able to potentially provide enhanced family connection access to people at a lower cost for services.

Staff Recommendation: Hold Open.

ISSUE 2: INCREASED INMATE WELFARE FUND AUTHORITY

CDCR will provide an overview of their proposal related to increasing the Inmate Welfare Fund Authority.

PANELISTS

- Madelynn McClain, Deputy Director, Office of Fiscal Services, CDCR
- Caitlin O’Neil, Legislative Analyst’s Office
- Lynne Ishimoto, Department of Finance
- Cynthia Mendonza, Department of Finance

BACKGROUND

Section 5006 of the California Penal Code created and authorized the Inmate Welfare Fund (IWF) as a trust held by the Secretary of CDCR for the benefit and welfare of incarcerated individuals under the jurisdiction of CDCR. Penal Code Section 5005 authorizes CDCR to establish and maintain prison canteens for sale of toiletries, candy, canned goods, notions and other sundries. It also states, “The sale prices of the articles offered for sale shall be fixed by the Director at the amounts that will, as far as possible, render each canteen self-supporting.”

Canteens operate in all correctional institutions and provide the primary source of revenue for the IWF. Any funds not required for the operation of canteens provide benefits for incarcerated individuals. These benefits include, but are not limited to, purchasing publications, renting movies, supporting family visiting, recreational programs, photo program activities and work opportunities. It also supports the pay of the incarcerated individuals who are employed at the canteens.

Generally, canteen provides access to sundries for CDCR’s incarcerated population and ensures ongoing revenues to provide supplies for visiting rooms and the Friends Outside contract, which provide resources and information for visiting family members. Canteens are also utilized as a resource for the delivery of programs that benefit incarcerated individuals. In collaboration with the California Correctional Health Care System (CCHCS), canteens are now the distribution point for over-the-counter (OTC) medications; a program piloted in 2014 and rolled out to all institutions in 2016. Canteens also added the distribution of reading glasses beginning September 2019. OTC medications and reading glasses are available at no cost to incarcerated individuals and do not increase sales; however, they have increased the number of individual shoppers. A third program offers healthier canteen food choices. These healthier items, such as yogurt, pouched fish, and vegetables, are part of a larger collaboration with CCHCS to improve the diets and nutrition knowledge of incarcerated individuals.

Proposed Funding

Increased Inmate Welfare Fund Authority. The Governor’s Budget proposes \$26.8 million Inmate Welfare Fund (IWF) in 2023-24 and ongoing to support increasing annual

purchases for the incarcerated population. Average year-over-year growth of canteen expenses from 2015-16 to 2021-22 is ten percent and CDCR projects that expenditures will continue at this general rate, resulting in the need for an additional authority. CDCR currently has 252 positions at the prisons and 22 positions in the Sacramento headquarters office, for a total of 274 positions to run the canteen program.

CDCR also requests approval to submit an annual Baseline Budget Adjustment to review and adjust IWF authority and proposes provision budget bill language to allow CDCR to increase spending authority up to five percent above the budget to provide flexibility.

STAFF COMMENT

Current CDCR policy adds a 65% surcharge on the cost the department incurs for the item in order to fund the canteen program and the Inmate Welfare Fund. For example, if CDCR has the authority to purchase \$100 worth of ramen that costs \$1 each, they will purchase 100 individual packs and sell them in the canteen at \$1.65 each. The profits made from this transaction is \$65, of which a portion is used to fund the cost of canteen activities and the balance will be placed in the Inmate Welfare Fund to support various programs and activities for incarcerated persons.

Staff Recommendation: Hold Open.

ISSUE 3: COMMUNITY BASED ORGANIZATIONS' DELIVERY OF IN-PRISON PROGRAMMING

The panelists will provide an overview of the in-prison programming they provide in CDCR and options for the Legislature to consider to enhance in-prison programming delivery.

PANELISTS

- Ginny Oshiro, Policy Researcher, The Transformative In-Prison Workgroup
- Leonard Rubio, Executive Director, Insight Prison Project
- Ayla Benjamin, Executive Director, Boundless Freedom Project
- Mannie Thomas, Co-Executive Director, Success Stories
- Kenneth Hartman, Director of Advocacy, The Transformative In-Prison Workgroup

BACKGROUND

State Funding for Community Based Organizations (CBOs) to Provide In-Prison Programming. The following table shows an estimated cost breakdown of state spending per prisoner. The LAO estimated the state's annual cost to incarcerate an individual in prison to be approximately \$106,131¹ per person, per year as of January 2022. The costs are further broken down in the following manner:

Type of Expenditure	Per Prisoner Cost	% of Per Prisoner Cost
Security	\$44,918	42.3%
Inmate Health Care (Medical Care, Psychiatric Services, Pharmaceuticals, Dental Care)	\$33,453	31.5%
Facility Operations and Records (maintenance, utilities, classification services, reception, testing, maintenance of records, transportation)	\$9,510	9%
Administration	\$9,508	9%
Inmate Support (food, clothing, religious activities and other activities, canteen, employment)	\$4,713	4.4%
Rehabilitation Programs (education, cognitive behavioral therapy, vocational training)	\$3,590	3.4%
Programming provided by Community Based Organizations²	\$73	0.07%
Miscellaneous	\$367	0.3%
Total Cost to Incarcerate one person, per year	\$106,131	100%

¹ The numbers in the table may not add up to \$106,131 due to rounding.

² Excludes one time, temporary augmentations; only includes ongoing funding.

Community based organizations apply for the following competitive funding administered by CDCR to deliver in-prison programming:

Victim Impact Grants. Victim Impact Grants provide funding to CBOs that provide victim focused restorative justice programs that utilize restorative justice principles, have an emphasis on accountability, and provided incarcerated people opportunities to understand the impact of the harm cause by the crime. The last award cycle provided \$1 million in grants per year for two terms, for a total of \$2 million. The grant period began on July 1, 2022 and ends on June 30, 2024. A total of 11 organizations received funding.

Innovative Programming Grants. These grants go to eligible CBOs that “have demonstrated success and focus on incarcerated individuals’ responsibility and restorative justice principles.” The last award cycle provided \$4 million in grants per year for 3 terms, for a total of \$12 million. The grant period began on July 1, 2022 and ends on June 30, 2025. A total of 42 organizations received funding.

California Reentry and Enrichment (CARE) Grants. CARE grants fund programs that provide “insight oriented, transformative justice programs focused on increasing empathy and accountability among participants that can demonstrate that the approach has produced, or will produce, positive outcomes in correctional environments.” The last award cycle provided \$5 million in grants per year for three terms, for a total of \$15 million. The grant period began on July 1, 2022 and ends June 30, 2025. A total of 28 organizations received funding.

In addition, the Legislature has provided one time funding in recent years to support additional program delivery by CBOs in prison. The 2021 Budget Act included \$3.5 million General Fund in 2021-22, and \$3.3 million in 2022-23 and 2023-24 for the Anti-Recidivism Coalition to expand their Hope and Redemption program in all prisons. Most recently, the 2022 Budget Act included the Rehabilitative Investment Grants for Healing and Transformation Grant (RIGHT Grant) which provided a total of \$20 million one-time General Fund over three years for CBOs that have had a history of providing in-prison programming with a capacity building grant in order to improve and expand program delivery. In addition, the 2022 Budget Act included \$10 million one-time General Fund to ten organizations that provide restorative justice programming inside prison.

In-prison programs provided by CBOs have shown a positive impact on shifting prison culture, leading to safer conditions for both staff and the incarcerated. Many of the programs assist people in prison to address the underlying causes, behaviors, and trauma that have influenced the decisions that led to their incarceration. The relationships built with CBOs also provide a connection and tie to the community that assist the individual once they are released, improving their outcomes and lowering their recidivism. In addition, many of the organizations that provide programming in CDCR employ formerly incarcerated individuals so that their lived experience can support people in prison to transform their lives.

Organizational Backgrounds of Panelists

Transformative In-Prison Workgroup. The Transformative In-Prison Workgroup (TPW) is a coalition of 85 community-based organizations offering rehabilitative, trauma-

informed, healing programs in all CDCR prisons, serving a significant percentage of the prison system's total population at any given time. They provide a collective platform for community-based in-prison program providers, while also engaging in state policy issues on behalf of our membership.

Insight Prison Project. The Insight Prison Project is a division of Five Keys Schools and Programs currently offering the Victim Offender Education Group (VOEG) in seven prisons serving 150 participants. VOEG began at San Quentin in 2004 to help participants gain understanding and insight into the causative factors that brought them to the point of committing crime(s) and to understand the impact of that harm on their victims, their families, their community, and themselves. VOEG offers an intensive 18-24 month restorative justice based trauma-informed curriculum focusing on accountability, responsibility, and building empathy that culminates with a crime impact panel with surrogate survivors. Insight Prison Project received \$200,000 in state funds in 2022. They plan to use these funds to continue and expand programming at Correctional Training Facility in Soledad.

Boundless Freedom Project. Boundless Freedom Project provides in-prison programs where they share teachings of meditation, mindfulness, ethics, insight, and compassion practices. In addition, community development and prosocial relationships, emotional regulation, and self-awareness are important parts of their programming. Boundless Freedom Project has programming in San Quentin, Solano, Pelican Bay, Sacramento, Salinas Valley State Prison, Central Training Facility, and Old Folsom. They work with approximately 500 incarcerated individuals each year. They have received Innovative Programming and Restorative Justice grants and have received \$230,000 in funding from the state for this year.

Success Stories. Success Stories is an alternative to punishment that builds safer communities by delivering feminist programming to people who have caused harm. They serve approximately one thousand incarcerated people annually, and provide programming in nine different prisons. Through the CARE grant program, Success Stories received \$194,418 for programming this year.

Staff Recommendation: Hold Open.

ISSUE 4: JOINT COMMISSION ACCREDITATION PROPOSAL

CDCR will provide an overview of the Joint Commission Accreditation Proposal.

PANELISTS

- Kenneth Martin, Associate Director of Licensing and Compliance, CDCR
- Orlando Sanchez-Zavala, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

BACKGROUND

CDCR's Provision of Mental Health Care under Federal Court Oversight. In 1995, a federal court ruled in the case now referred to as *Coleman v. Newsom* that CDCR was not providing constitutionally adequate mental health care to the prison population. As a result, the court appointed a Special Master to monitor and report on CDCR's progress towards providing an adequate level of mental health care. The Special Master continues to monitor and issue recommendations to CDCR for the care delivered to the prison population participating in an in-prison mental health program, which is about one-third of the total population. The Special Master also appoints experts to review mental health delivery processes and compliance with court-ordered recommendations, such as experts who regularly perform in-person audits of CDCR's suicide prevention practices. The federal court in the case will decide when care has improved to the point where oversight through the Special Master can end. However, the court has not provided the state with specific benchmarks that must be met for court oversight to end.

CDCR's Provision of Medical Care under Federal Court Management. In 2006, after finding the state failed to provide a constitutional level of medical care to people in prison, a federal court in the case now referred to as *Plata v. Newsom* appointed a Receiver to take control over the direct management and operation of the state's prison medical care delivery system from CDCR. The Receiver's mandate is to bring the department's medical care program into compliance with federal constitutional standards. Unlike a Special Master, a Receiver has executive authority in hiring and firing medical staff, entering contracts with community providers, and acquiring and disposing of property.

In order for the state to regain control of the delivery of prison medical care, the state must demonstrate that it can provide a sustainable constitutional level of care at every prison. The federal court has outlined a specific process for delegating care at each prison back to the state. Specifically, each prison must first be inspected by the Office of the Inspector General (OIG) to determine whether the institution is delivering an adequate level of care. The Receiver then uses the results of the OIG inspection—regardless of whether the OIG declared the prison's provision of care adequate or inadequate—along with other health care indicators to determine whether the level of care is sufficient to be delegated back to CDCR. To date, 20 out of the 33 state-owned and operated prisons have been delegated back to the state. However, the *Plata v. Newsom* court and the OIG continue to monitor and audit the delegated institutions.

Health Care Accreditations Can Provide External Oversight and The Joint Commission. Health care accreditations can provide insight into whether an organization providing care is achieving a minimum standard of care. The accreditation process uses an external, independent body that applies standardized criteria to ensure that organizations provide care consistent with the criteria. This is typically done by preparing an organization for the review process and then performing an unannounced audit of the organization's procedures based on standardized criteria. Once accredited, an organization must continue to meet the quality standards every audit cycle to maintain its accreditation. Various agencies provide different types of accreditations designed for the specific health care service being delivered, such as medical and mental health accreditations.

The Joint Commission (TJC) is one agency that accredits about 80 percent of U.S. hospitals for various types of health care services. For example, TJC issues accreditations in Behavioral Health and Human Services (covering mental health care), Ambulatory Health Care (focusing on emergency medical care), and Nursing Care Center. CDCR indicates that four prisons obtained at least one TJC accreditation and two prisons are preparing for Behavioral Health and Human Services TJC accreditation in 2023-24 using existing resources.

Proposed Funding

The Governor's Budget proposes 15.0 positions and \$3.2 million General Fund in 2023-24, 19.0 positions and \$3.8 million General Fund in 2024-25, 26.0 positions and \$4.3 million General Fund in 2025-26, 31.0 positions and \$5.1 million General Fund in 2026-27, and 38.0 positions and \$6.1 million General Fund in 2027-28 and ongoing to address the CDCR's pursuit to obtain The Joint Commission (TJC) accreditation for all CDCR Prisons over a five-year implementation period.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis and recommendations:

1. Accreditations Not Required to End Court Oversight. Neither the *Coleman v. Newsom* or *Plata v. Newsom* courts have ordered the state to obtain accreditations as a way to demonstrate care has improved to a desired level or as a condition of exiting court oversight. Nor have the courts selected a specific accreditation as the most appropriate for the delivery of care in prisons. Instead, each court establishes its own requirements to determine whether care has improved to the point where court oversight is no longer necessary. As such, it is unclear whether achieving accreditations will address specific recommendations or remedial plans ordered by the courts.

2. Proposed Accreditation Could Unnecessarily Duplicate Oversight of Health Care. We also find that the Governor's proposal to dedicate resources to obtain TJC accreditations at each prison could unnecessarily duplicate oversight already provided by the courts, court-appointed experts, and OIG in the *Plata v Newsom* and *Coleman v.*

Newsom cases. The state, through the OIG and state payments to court appointed experts, already dedicates resources for oversight of prison health care. It is likely that TJC would find the same deficiencies already captured by existing oversight entities, thereby not providing much additional value regarding the delivery of health care in California's prisons.

3. Accreditations Are a Laudable Goal, but Exiting Court Oversight Should Be Prioritized. Attaining accreditations for CDCR's prison health care system could have merit in the future, but achieving compliance with current court standards in order to exit court oversight should be a higher priority. This is because the state has not yet been able to fully demonstrate to the courts that adequate care is being provided at all prisons. We acknowledge accreditations could indirectly help in achieving court standards, such as if achieving accreditations requires improvements that the courts have ordered. However, the state is already aware that it needs to make these improvements. Moreover, to the extent that achieving the accreditations requires improvements that are not ordered by the courts, it would demand resources and effort that should instead be prioritized for court compliance. Dedicating resources and staff effort to address specific court orders or concerns should remain the priority until court compliance is achieved. We note that accreditation would be of greater value when the state has control over medical care as a way to help ensure the state maintains adequate care after federal court oversight ends.

Recommendation

Reject Proposal. In view of the above, we recommend the Legislature reject the Governor's proposal to provide CDCR resources to obtain and maintain TJC accreditations at all state-owned and operated prisons. We find that it is more appropriate for the state to prioritize its resources and efforts for ending court oversight rather than pursuing these accreditations. We note this proposal could be considered in the future if achieving these accreditations is ordered by the courts or to ensure the quality of care is maintained once the state exits court oversight. The General Fund resources that are "freed up" under our recommendation would be available for other legislative priorities.

Staff Recommendation: Hold Open.

ISSUE 5: COMPREHENSIVE EMPLOYEE HEALTH PROGRAM

CDCR will provide an overview of their Comprehensive Employee Health Program proposal.

PANELISTS

- Debra Amos-Terrell, Assistant Deputy Director of Nursing Services, CDCR
- Orlando Sanchez-Zavala, Legislative Analyst's Office
- Alyssa Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

BACKGROUND

Federal Law Lays Out Workplace Standards for Safety and Health. The federal Occupational Safety and Health Act of 1970 provides that employers—including state departments—have a general duty to provide their employees with a place of employment that is free from recognized hazards that are likely to cause death or serious harm. Under the act, the federal Occupational Safety and Health Administration is responsible for setting specific standards related to workplace safety and health and has authority to inspect workplaces and enforce these standards. Federal law provides that states may, with federal approval and oversight, optionally assume responsibility for enforcement of federal occupational safety and health standards.

California's Workplace Standards for Safety and Health. The Division of Occupational Safety and Health (Cal/OSHA) within the Department of Industrial Relations administers the state's responsibilities for occupational safety and health. Under state law, the Occupational Safety and Health Standards Board is authorized to develop additional occupational safety and health standards for California employers that may clarify or exceed federal standards. Cal/OSHA's role includes enforcing both federal and state occupational safety and health standards, which it does by inspecting workplaces and issuing fines when violations are found. For example, CDCR indicates that in the past five years it has accumulated about \$1 million in workplace violations and citations from Cal/OSHA, with most fines related to the prevention of diseases transmitted through the air.

In October 2022, CDCR started the Employee Health Program (EHP) to mitigate COVID-19 transmission among CDCR staff by providing education, conducting contact tracing, administering vaccines, and reporting positive tests to staff. The federal Receiver—appointed by the *Plata v. Newsom* court to take control over the direct management and operation of the state's medical care—oversees EHP, which is primarily operated by medical staff.

Proposed Funding

The Governor's Budget proposes 148.0 positions and \$22.7 million General Fund in 2023-24 and ongoing to maintain a comprehensive Employee Health Program.

Previous Funding. The 2022 Budget Act provided \$22.8 million from the California Emergency Relief Fund and 157 positions on a one-time basis for the program to operate at each prison. This funding was provided as part of a larger \$240.1 million one-time CDCR proposal for COVID-19 direct response costs approved by the Legislature.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis and recommendations:

1. Requested Resources Appear Reasonable While COVID-19 Remains a Concern. Minimizing the transmission of COVID-19 is particularly important in prisons because it can spread easily between people held in prison and staff. While the department has not provided specific data on how effective EHP has been in minimizing the spread of the virus among staff, it is reasonable to think that the program can help achieve this goal through contact tracing, tracking employee vaccination requirements, and supporting testing efforts. EHP would not only help protect staff and people held in prison, the program could also generate other benefits for the state. For example, EHP could reduce medical costs, the overtime costs associated with other employees filling in for sick employees, and lockdowns due to COVID-19 in prisons.

2. Unclear Whether Additional Resources for Other Diseases Needed. While it could make sense for CDCR to dedicate resources to minimize the transmission of diseases other than COVID-19 among prison staff, the appropriateness of the level of proposed resources and the benefits to be achieved are unclear. For example, the department has not provided information on how prevalent these other diseases are within state prison staff, as well as what needs are not being met with the existing \$2.8 million for tuberculosis testing and Hepatitis B and influenza vaccinations. In addition, under the Governor's proposal, it is unclear how much of the proposed \$22.7 million in the budget year would be dedicated to diseases other than COVID-19.

3. Unclear Whether Proposed Level of Resources Needed in the Future. It is also unclear whether the ongoing level of resources proposed is justified. This is because it is unclear how much COVID-19-related workload will persist beyond the budget year and how much workload related to diseases other than COVID-19 exists. Moreover, as noted above, CDCR has not been able to provide information on the actual benefits of the program to determine what level of resources should be provided (if any) in the future.

Recommendations

1. Approve Additional Resources on a One-Time Basis. Given the ongoing presence of COVID-19 in the state's prisons, we find it is reasonable to maintain EHP during the budget year. However, because data is not available on how effective this program is and it is unclear whether these resources are needed in the future, we recommend the Legislature approve the \$22.7 million proposal on a one-time basis (rather than on an ongoing basis as proposed by the Governor). We note that approving these resources on a one-time basis appears to be sufficient for the department to continue its COVID-19

mitigation efforts and start its efforts of mitigating the transmission of other diseases among CDCR employees.

2. Direct CDCR to Report on the Program. In order to assess the ongoing need for the program, we recommend that the Legislature direct CDCR to report by January 10, 2024 on: (1) the amount of EHP workload associated with COVID-19; (2) the amount of EHP workload associated with diseases other than COVID-19; and, (3) estimates of the benefits generated by EHP, such as avoided infections, overtime reductions, citation reductions, and any other outcomes that capture the benefits of the program. This information would allow the Legislature to be better positioned to weigh the merits and cost-effectiveness of EHP when considering whether to approve ongoing resources—as well as the level of resources to provide—for the program as part of its deliberations on the 2024-25 budget when funding would expire for EHP under our recommendation.

Staff Recommendation: Hold Open.

ISSUE 6: INTEGRATED SUBSTANCE USE DISORDER TREATMENT PROGRAM (ISUDTP)

CDCR will provide an overview of their ISUDT program and their budget proposal.

PANELISTS

- Lisa Heintz, Director of Legislation and Special Projects, CDCR
- Orlando Sanchez-Zavala, Legislative Analyst's Office
- Alyssa, Cervantes, Department of Finance
- Allison Hewitt, Department of Finance

*Dr. Renee Kanan, Deputy Medical Director of Medical Services, CDCR is available for questions from the Subcommittee.

BACKGROUND

ISUDTP Treats Substance Use Disorder (SUD) as a Medical Need. ISUDTP, initiated as part of the 2019-20 budget, provides a continuum of care to people in prison to address their SUD and other rehabilitative needs. Prior to ISUDTP, CDCR generally assigned people to SUD treatment based on whether they had a “criminogenic” need for the program—meaning the person’s SUD could increase their likelihood of recidivating (committing a future crime) if unaddressed through rehabilitation programs. In contrast, ISUDTP is designed to transform SUD treatment from being structured as a rehabilitation program intended to reduce recidivism into a medical program intended to reduce SUD-related deaths, emergencies, and hospitalizations. For example, as part of ISUDTP, each person leaving prison receives two doses of naloxone, a medication that can help reverse the effects of an opioid overdose. In addition, people who are part of ISUDTP are assigned to SUD treatment based on whether they are assessed to have a medical need for such treatment. For example, when people are admitted to prison, Licensed Clinical Social Workers (LCSWs) determine the appropriate level of care for those identified as having a potential SUD with the National Institute on Drug Abuse Quick Screen. Similarly, for those within six months of release from prison, LCSWs administer an SUD assessment that identifies other needs necessary to facilitate transition into the community.

ISUDTP Expanded Availability of Medication Assisted Treatment (MAT). People who are addicted to certain substances (such as opioids or alcohol) can develop a chemical dependency. This can result in strong physical cravings, withdrawal that interferes with treatment, and/or medical complications. MAT is intended to combine SUD treatment services (such as cognitive behavioral therapy, a type of therapy which helps change negative patterns of behavior) with medications designed to reduce the likelihood of people relapsing while undergoing SUD treatment. Prior to 2019-20, CDCR had operated MAT pilot programs at three prisons. Under ISUDTP, MAT was made available at all prisons to targeted groups starting in 2019-20.

Toxicology Testing Used When Receiving MAT. Toxicology testing is the process of collecting samples from a person to test for the presence of toxins, poisons, or substances, including illegal substances. Regular testing is important for those receiving

MAT. Toxicology results can be used for various purposes, such as to determine a baseline level of toxins in the body before people receive MAT, monitor their adherence to treatment, adjust the dosage level of medications, and determine whether people are continuing to use substances.

ISUDTP Expanded in 2022-23. ISUDTP was expanded through the 2022-23 budget, which brought total current funding for the program to \$291.4 million General Fund and 740.6 positions, increasing to \$327.9 million in 2023-24. As part of the ISUDTP expansion, the department indicated that it would annually propose both current- and budget-year population-driven adjustments to the program's resources. This means the level of funding would be adjusted based on changes in the population affecting ISUDTP workload, such as changes in the MAT patient population. Population-adjusted resources include those for medications used for MAT and toxicology tests. They also include adjustments to staffing levels for various classifications, such as LCSWs as well as Licenses Vocational Nurses (LVNs), Pharmacists, and Pharmacy Technicians involved in dispensing MAT medications. Accordingly, the \$291.4 million in the 2022-23 budget and the planned \$327.9 million for 2023-24 would be adjusted to account for population changes.

Proposed Funding

The Governor proposes a net decrease of \$28.6 million in 2022-23 and \$51 million in the 2023-24 for ISUDTP relative to the planned amount when the 2022-23 budget was adopted. This would bring total funding for ISUDTP to \$262.8 million in 2022-23 and \$276.8 million in 2023-24. These changes are the net effect of: (1) various population-driven adjustments based on existing methodologies; and, (2) a proposed increase in funding for toxicology testing based on a newly proposed methodology. As a part of the May Revision, the department will update these budget requests based on updated spring 2023 population projections.

Population-Driven Adjustments Based on Existing Methodologies. The Governor proposes various population-driven adjustments to ISUDTP based on existing methodologies that result in a decrease in funding of \$41.6 million General Fund and 51.6 positions in 2022-23 and \$65 million General Fund and 105.4 positions in 2023-24. These changes consist of:

Adjustments Based on MAT Patient Population. Most of the adjustments are due to the MAT patient population being projected to be about 15,500 in the current year and about 16,600 in the budget year rather than 25,500, as was previously projected for both years. For example, the department proposes reducing funding for MAT medications by \$16.6 million in current year and \$23.1 million in the budget year.

Adjustment to LVNs Based Partially on MAT Patient Population. The LVN positions are only partially adjusted based on the MAT patient population. Specifically, the department receives 1.77 LVNs per 225 MAT patients unless this adjustment would result in the department receiving less than 139.8 LVN positions, in which case the number of LVNs remains at 139.8—equivalent to the number of LVNs required to distribute MAT medications to 17,717 patients. The department indicates that it must retain these 139.8 positions even if the MAT patient population is below 17,717 in order to effectively

distribute both MAT medications for ISUDTP and other medications not part of ISUDTP. Given that the MAT patient population is projected to be below 17,717 in both the current and budget year, the department proposes to retain 139.8 LVN positions in both years. This reflects a reduction in both the current and budget years of 62 LVN positions. We note that the department indicated that it might revise this budgeting methodology in the spring.

Adjustments Based on MAT Patient Population and Other Factors. Some of the ISUDTP adjustments are based both on the number of MAT patients and other factors. For example, the number of Pharmacists and Pharmacy Technicians is adjusted based on calculations incorporating the MAT patient population and other factors, such as the MAT inventory (referred to as Omnicell Count). Based on changes in these factors, the department is requesting an increase of 2.3 additional Pharmacists in the current year and 1.9 Pharmacists in the budget year. In addition, the department is requesting to reduce the number of Pharmacy Technicians by 6.5 in the current year and 10.2 in the budget year.

Adjustments Based on Factors Other Than the MAT Patient Population. Several adjustments are based on factors other than the MAT patient population. For example, the level of funding for naloxone and the number of LCSWs is based on the historical number of admissions to and releases from prison each month. Specifically, based on an assumption that there will be an average of 3,000 monthly prison admissions and releases, the department is proposing an increase of 13.5 LCSWs in the current year and a reduction of 0.5 LCSWs in the budget year. However, the department is not proposing a change in funding for naloxone in either year as its existing funding for the medication is sufficient, despite changes in prison admissions and releases.

Resources for Toxicology Testing Based on New Methodology. The 2022-23 budget provided sufficient resources to conduct ten toxicology tests per MAT patient per year. However, the administration is proposing to change the methodology to increase the number of toxicology tests per MAT patient to 14 per year going forward to reflect actual testing data. Accordingly, the budget proposes an increase of \$13 million General Fund in 2022-23 and \$13.9 million General Fund in 2023-24 to provide ISUDTP with sufficient resources to conduct 14 toxicology tests per MAT patient annually on a permanent basis. According to the department, the permanent 14 toxicology tests rate per MAT patient is necessary given that the MAT program has been ramping up significantly, which has resulted in a corresponding increase in toxicology testing being observed. Moreover, CDCR indicates that a higher number of toxicology tests per MAT patient have been used because more testing is necessary in the initial stages of treatment.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis and recommendations:

1. Licensed Vocational Nurses (LVNs) Requested Not Solely Based on ISUDTP Workload. Under the department's current methodology for budgeting LVNs, LVN positions are not reduced despite the MAT patient population being less than 17,717. According to the department, this is because LVNs have to distribute both MAT-related

medications for ISUDTP and other medications not part of ISUDTP. This suggests that LVN positions budgeted through ISUDTP have workload outside of ISUDTP. This is problematic because LVN workload outside of ISUDTP is already funded elsewhere in the health care budget—resulting in the department receiving more funds than necessary to complete the workload.

2. Unclear Justification for Adjustment Proposed for Pharmacy Positions. The Governor proposes to adjust the number of Pharmacists and Pharmacy Technicians based on calculations incorporating the MAT patient population and various other factors, such as the Omnicell Count. However, the department has not provided sufficient information on how these factors are used to calculate the number of positions needed. For example, it is unclear why, despite a decrease in the number of MAT patients and MAT medications, there would be an increase in the need for Pharmacists. Accordingly, it is unclear whether the number of Pharmacists and Pharmacy Technicians proposed is justified.

3. Request for LCSWs and Naloxone Inconsistent With Recent Data on Admissions and Releases. As discussed above, the need for LCSWs and naloxone is based on a projection that there will be 3,000 monthly admissions and releases in both the current and budget year. This is roughly consistent with the number of admissions and releases that have occurred historically. However, this assumption is inconsistent with more recent data. For example, data from the department indicates that in 2022, an average of 2,400 people were admitted and 2,700 people were released from prison each month. This is 600 fewer admissions (or 20 percent) and 300 fewer releases (or 10 percent) than assumed in the Governor's proposal. This suggests that the department is requesting more resources than it needs in the current and budget year for LCSWs and naloxone.

4. Budgeting Toxicology Testing Based on Current Frequency Could Be Flawed in the Future. Given that data on the number of toxicology tests used per MAT patient suggests the department needs to be budgeted for 14 rather than 10 tests annually, we do not have concerns with increasing funding for such tests in the current and budget year. However, we find that it could be problematic in the future. Although the current rate of toxicology testing for those on MAT is higher than anticipated, it is possible that, as patients spend more time in the MAT program, the need for toxicology testing could decrease as the department indicates patients in the initial stages of treatment need more testing. Accordingly, the assumption that the average MAT patient needs 14 toxicology tests annually could be flawed in future years.

Recommendations

1. Withhold Action. Given that the department indicates it will update the proposed funding for ISUDTP at the May Revision, we recommend that the Legislature withhold action until that time. We will advise the Legislature on the revised proposal when it is available.

2. Direct Department to Make Specific Changes to Methodology Used for Revised and Future Proposals. Based on our analysis, we recommend that the Legislature direct the department to make specific changes to the budgeting methodology for LCSWs, naloxone, and LVNs both for the revised spring proposal and future proposals.

Specifically, we recommend the department: (1) base requests for LCSWs and naloxone on either updated projections of or recent data on the number of admissions and releases each year rather than a historical rate; and, (2) develop a methodology—that does not include other workload that is not ISUDTP related—to base the number of LVNs requested for ISUDTP. To the extent the recommended changes result in insufficient LVNs for other workload, the department could present a separate proposal justifying the need for such LVNs. These changes would better tie the level of resources requested to the department's actual workload.

3. Direct the Department to Provide Sufficient Justification for Pharmacy-Related Positions. We recommend that the Legislature direct the department to provide sufficient information explaining and justifying its budgeting methodology for Pharmacists, and Pharmacy Technicians at budget hearings. This information would help the Legislature to review the revised spring proposal when it becomes available and to determine whether the budgeting methodology for these positions needs to be revised.

4. Annually Adjust Resources for Toxicology Testing Based on Actual Usage and MAT Projections. We recommend that the Legislature direct the department to adjust the level of funding to administer toxicology tests in future years based on the projected MAT patient population and the average testing rate in the most recently completed prior year. For example, for the 2024-25 fiscal year, this means basing funding for toxicology testing on the 2024-25 projected MAT population and the average number of tests per MAT patient administered in 2022-23.

Staff Recommendation: Hold Open.

NON-DISCUSSION 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.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 7: VARIOUS BUDGET CHANGE PROPOSALS

1. CalAIM Technical Adjustments. The Governor's Budget proposes a reduction of \$11.7 million (\$6.4 million General Fund and \$5.3 million in reimbursement authority) in fiscal year 2023-24 and ongoing for 81.2 positions related to the 2022-23 California Advancing and Innovating Medi-Cal (CalAIM) proposal. In addition, the Department requests to shift the General Fund/reimbursement offset amounts from 2023-24 to 2025-26, consistent with the revised implementation timelines for CalAIM.

2. Resources to implement Recently Enacted Legislation:

- **Prisons: Visitation (SB 1139)**. The Governor's Budget proposes 11.5 positions and \$1.1 million General Fund in 2023-24 and ongoing for implementation of Chapter 837, Statutes of 2022 (SB 1139) to address expanded health information requests. SB 1139 makes several updates to requirements regarding the collection of medical and family notification forms (Notice of Kin, Visitor List, Power of Attorney, Release of Information), requires CDCR to make emergency phone calls available on behalf of an incarcerated person to designated people outside CDCR when the incarcerated person has been hospitalized for a medical reason, or when the incarcerated person's family member has become critically ill or died, and notification of persons on the incarcerated person's ROI list in the event of hospitalization and emergency visits if an individual is in imminent danger of death.

Appropriations Analysis. The Assembly Appropriations analysis identified costs in the tens of millions of dollars in General Fund to CDCR annually in additional staff and infrastructure to provide emergency phone calls, update visitor and medical documents, notify identified parties within 24 hours of an inmate being hospitalized, arrange for emergency in-person visits in specified circumstances, the purchase of equipment to facilitate video calls at community or public hospitals, additional security to comply with the visitation requirements at hospitals, and additional staffing to implement the grievance process for alleged violations of the bill's provisions. The Senate Appropriations analysis identified unknown General Fund cost pressures, potentially in the tens of millions, for additional staffing and equipment for CDCR to provide the visitation and communication that is required by the bill.

- **Expanded County of Release Eligibility (SB 990)**. The Governor's Budget proposes 10.4 positions and \$2.3 million General Fund in 2023-24 and ongoing to process the increase of Transfer Investigation Requests resulting from Chapter 826, Statutes of 2022 (SB 990). Existing law generally requires that a person released on parole or Post-Release Community Supervision return to the county

of last legal residence and authorizes a person to return to another county or city if it would be in the best interest of the public. The paroling authority, in making release decisions, is required by existing law to consider specified factors, including, among others, the need to protect the life or safety of a victim, and the verified existence of a work offer or an educational or vocational training program. SB 990 requires persons released on parole from state prison be released, transferred, or permitted to travel to a county where they have a postsecondary educational or vocational training program opportunity, an employment opportunity, inpatient or outpatient treatment, or housing opportunity, as specified, unless there is evidence the person would pose a threat to public safety. These changes become operative on January 1, 2024.

Appropriations Analysis. The Assembly Appropriations analysis identified costs of millions of dollars (General Fund) in additional staff and resources to CDCR to implement SB 990. Costs will depend on how many new transfer and travel requests the bill generates, the extent to which that increase can be absorbed into existing workload, and whether CDCR will need funding for new positions. The Senate Appropriations analysis identified unknown ongoing costs likely in the high hundreds of thousands to low millions of dollars or more annually, due to increased workload for CDCR.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provided the following analysis and recommendations regarding SB 1139 and SB 990.

Updated Population Projections Could Identify Different Resources Need. We find the CDCR's assumption that SB 990 will increase travel and transfer requests from about 11 percent to 25 percent of the total parole population to be reasonable. However, the proposed level of resources for 2023-24 is based on projections of the size of the parole population completed in fall 2022. These projections, along with all of CDCR's population projections, will be updated this spring. Accordingly, the proposed level of resources to implement SB 990 in the budget year might need to be updated at that time based on the spring projections.

Similarly, we find it reasonable to assume that SB 1139 will cause the number of notifications per hospitalization to increase from one to four in the budget year. However, unlike SB 990, the methodology used by CDCR to estimate the number of total hospitalizations is not based on projections of the number of hospitalizations that will occur in the budget year. Rather, CDCR assumes that the same number of hospitalizations that occurred between September 2021 to October 2022 will occur from July 1, 2023 to June 30, 2024. As noted above, CDCR is expected to provide updated population projections this spring, including for the medical patient population (people in prison who are at risk of requiring medical attention). The resources provided to the department for SB 1139 should be calculated based on these projections and the most recent hospitalization rate of medical patients.

Proposed Resources in Out-Years Not Tied to Changes in Population. CDCR's workload for SB 990 and SB 1139 after the budget year will depend on annual changes to the size of correctional populations they impact. Specifically, the workload for SB 990 will vary with changes in the size of the parole population, while the workload for SB 1139 will vary with changes in the size of the medical patient population. However, under the Governor's proposal, the level of requested funding for SB 990 and SB 1139 workload would not change in the out-years based on changes in these populations. Instead, funding for this workload would remain the same on an ongoing basis. This means that even if both the parole and medical patient population were to decrease in the future—as currently projected—and in turn reduce the workload for SB 990 and SB 1139, the funding for the workload would remain at the base level proposed by the Governor—leaving the department with excess resources. Alternatively, an increase in the parole and medical patient populations at some point in the future would leave the department with insufficient resources to meet the increased workload for SB 990 and SB 1139.

Recommendations

1. Tie Budget-Year Funding for SB 990 and SB 1139 to Updated Population Projections. In view of the above, we recommend that the Legislature adjust the budget-year funding for SB 990 to be consistent with the projections of the parole population updated in the spring. Specifically, we recommend that the Legislature provide a level of resources sufficient for the department to process travel and transfer requests for 25 percent of the parole population.

Similarly, we recommend that the Legislature adjust the budget-year funding for SB 1139 to be consistent with the projections of the medical patient population updated in the spring. Specifically, we recommend that the Legislature provide a level of resources sufficient for the department to notify four people for each hospitalization projected to occur in the budget year, with the number of hospitalizations calculated based on the projections of the medical patient population.

2. Annually Adjust Resources for SB 990 and SB 1139 in Out-Years. We recommend that the Legislature direct the department to adjust the level of funding to support the workload associated with the implementation of SB 990 and SB 1139 annually based on the changes in the correctional populations they impact. Specifically, we recommend the Legislature direct CDCR to annually base future funding requests for:

- SB 990 workload on: (1) the parole population projections; and, (2) the percent of the parole population making transfer and travel requests in the prior year.
- SB 1139 workload on: (1) the projections of the population of medical patients; and, (2) the number of notifications per patient required in the prior year.

These adjustments can be incorporated into the department's annual population budget adjustment process.

3. Statewide Mental Health Program (SMHP) Regional Staffing Augmentation. The Governor's Budget proposes 13.0 positions and \$3.9 million General Fund in 2023-24 and ongoing for regional oversight and support provided to the institutional suicide prevention coordinators, regional psychiatric oversight and support, and utilization management. These positions will be responsible for regular site visits at institutions, monitoring bed utilization, training, and policy development associated with mental health service delivery and CDCR's ongoing suicide prevention strategies. The SMHP regional teams have the responsibility of operationalizing and ensuring adoption of policies, procedures, and initiatives. Resources are required at the regional level to support and monitor the pre-and post-program rollouts to assist prison with implementation challenges and clarify conflicting priorities. CDCR created regional positions for four limited-term Senior Psychologist Specialists and four Senior Psychiatrist Specialists, based out of each of the four regional offices. CDCR states that permanent funding will allow SMHP to provide adequate staffing to address identified deficiencies and ensure sustainable compliance with court mandates.

4. The Integrated Gender Affirming Healthcare Program. The Governor's Budget proposes \$2.2 million General Fund and 7.5 positions in 2023-2024 and ongoing to support implementation of the Integrated Gender-Affirming Healthcare Program and to deliver gender-affirming care to the incarcerated population for transgender and gender diverse (TGD) patients, consistent with Departmental policy and Penal Code Sections 2605 and 2606. Based on CDCR population data, the adjusted number of individuals identifying as transgender, intersex, and nonbinary has increased by 234 percent in the past six years (2016-2022), despite the overall decline of the incarcerated population. As of January 7, 2023, CDCR's TGD point-in-time population was 1,617 adults (1.7 percent of the total population). This proposal requests specific resources to be dedicated to provide quality and responsive health care to this population. The workload has steadily increased related to 745 separate gender-affirming procedure requests, driving an increase in the complexity of workload, including assessment, consideration, follow-up, and oversight of gender assignment surgery requests. Currently, CDCR is only able to process two to three cases per week with the help of volunteer participation.

5. COVID-19 Direct Response Expenditures. The Governor's Budget proposes \$141.8 million one-time General Fund in 2023-24 for continued costs related to response and mitigation from the impacts of the COVID19 Pandemic. Of the amount requested, \$125.3 million, will primarily be used for testing and vaccinating incarcerated persons and staff, medical staffing registry and overtime, medical treatment, and purchasing PPE, \$16.5 million (of which \$1.8 million will be used for PPE items) for high-efficiency particulate air filter and air purifier machines, and \$14.7 million for personal services, which primarily includes overtime expenditures.

In 2019-20, 2020-21, and 2021-22 collectively, CDCR expended \$1.5 billion for COVID prevention, mitigation, and response activities. The 2022 Budget Act included \$240.1 million onetime General Fund for COVID-19 response activities.

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