

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

ASSEMBLYMEMBER WENDY CARRILLO, CHAIR

TUESDAY, MARCH 14, 2023
1:30 P.M., STATE CAPITOL – ROOM 447

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: BudgetSub4@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 47](tel:1315447)

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0820 DEPARTMENT OF JUSTICE**ISSUE 1: DEPARTMENT OVERVIEW AND UPDATE ON ARMED AND PROHIBITED PERSONS SYSTEM**

The Department of Justice (DOJ) will provide an overview of their department and an overview and update of the Armed and Prohibited Persons System (APPS).

PANELISTS

- Chris Ryan, Chief, Division of Operations, Department of Justice
- Anita Lee, Legislative Analyst's Office
- Kevin Clark, Department of Finance

BACKGROUND

DOJ Overview. Under the direction of the Attorney General, DOJ provides legal services to state and local entities; brings lawsuits to enforce public rights; and carries out various law enforcement activities, such as seizing firearms and ammunition from those prohibited from owning or possessing them. DOJ also provides various services to local law enforcement agencies, including providing forensic services to local law enforcement agencies in jurisdictions without their own crime laboratory. In addition, the department manages various databases including the statewide criminal history database. Comprised of over 4,500 employees, the main offices are located in Sacramento, Los Angeles, San Francisco, San Diego, Oakland, and Fresno.

1. Legal Services Division is made up of the following Divisions:

- **Division of Civil Law:** This division is made up of nine sections, including Business Litigation, Cannabis Control, and Licensing. This division provides legal services to state agencies and officials in trial and appellate litigation.
- **Division of Criminal Law:** This division is made up of six sections including Appeals, Writs and Trials and the eCrime Unit. This division upholds the Attorney General's constitutional responsibility to represent the people of California in criminal cases.
- **Division of Public Rights:** This division is made up of ten sections including Antitrust, Corporate Fraud, Environment, and Land Use and Conservation. This division safeguards the states' environment, lands, and natural resources; prevents fraudulent business practices; protects consumers; monitors Indian and Gaming Practices; preserves charitable assets, and protects the civil rights of Californians.

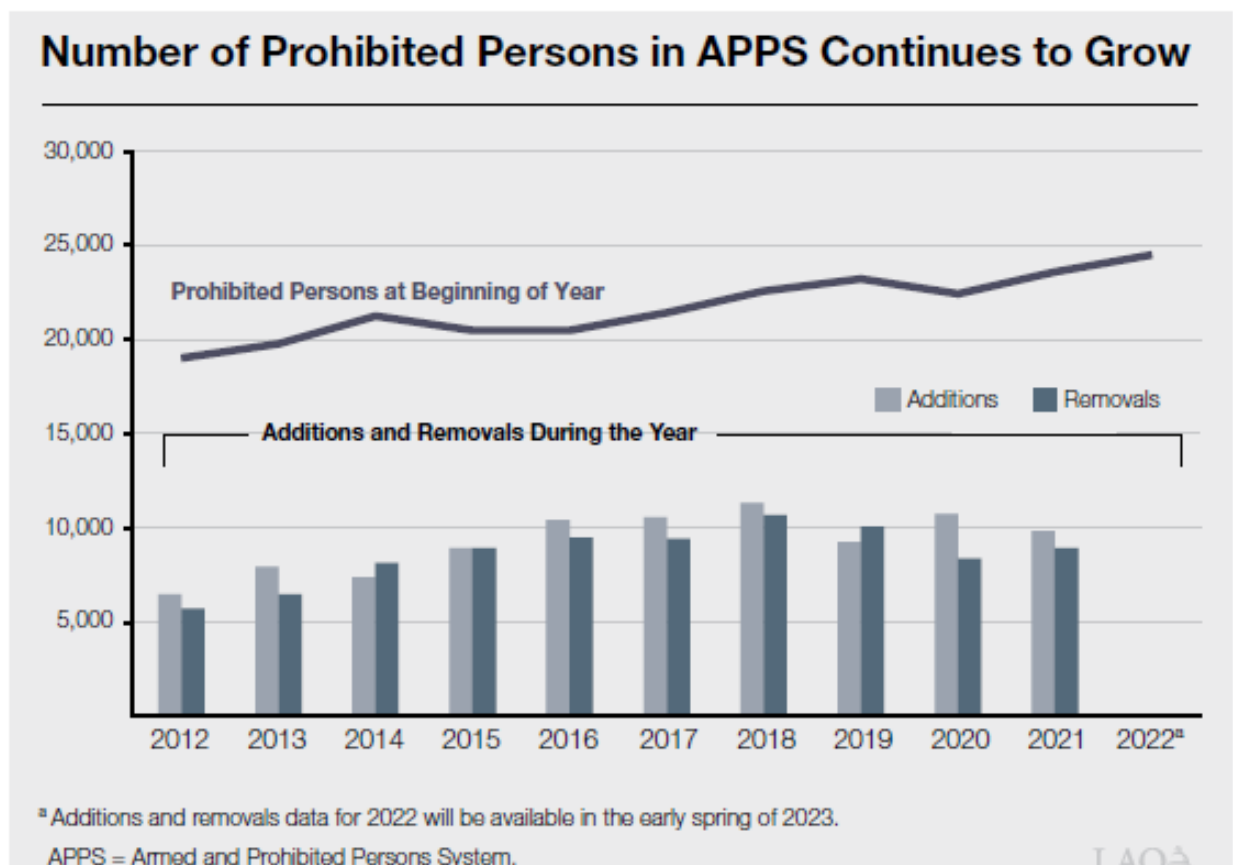
2. Public Safety and Law Enforcement includes 500 sworn peace officers and 600 other law enforcement staff involved in criminal investigations that range from white collar crime, narcotics enforcement, gambling control, etc. This section includes the Division of Law Enforcement, the Bureau of Firearms, the Bureau of Gambling Control, the California

Justice Information Services Division, and the Division of Medi-Cal Fraud and Elder Abuse.

3. The **Administration** is made up of the Division of Operations and Directorate Programs which includes units such as the Public Inquiry Unit, the Office of Legislative Affairs, and the Local Assistance Unit.

4. The **California Justice Information Services (CJIS)** Division provides criminal history and analysis, supports the DOJ's information technology infrastructure, and includes eight sections, including the Department of Justice Research Center and the Criminal Information and Analysis Bureau.

Armed Prohibited Persons System (APPS). APPS, established in 2006, is the only automated system of its kind in the country that allows the monitoring of known prohibited firearm owners. This database also includes all individuals who legally purchased or transferred firearms, as well as all known firearms associated with each individual. As of January 1, 2022, there were nearly 3.2 million firearm owners in the APPS database. The Prohibited Armed Persons File consists of individuals who are subsequently prohibited from owning or possessing firearms. As of January 1, 2022, there were 24,509 prohibited persons on the list. The number of prohibited persons continues to grow as seen below.



These increases were largely due to more individuals being added than removed in most years. In recent years, pandemic restrictions also impacted investigations and reduced

workload capacity for the Bureau. By the end of 2021, monthly productivity for the Bureau returned to pre-pandemic levels. Of the prohibited persons removed in 2021, 60% were removed because there were no longer prohibited, 36 percent were removed due to firearms seizures or lawful transfers, and 4 percent were removed because they were deceased. In addition, the 2021 APPS report included the following information:

- As of January 1, 2022, 54% of prohibited individuals in the APPS database were prohibited due to a felony conviction, 22% were prohibited due to the federal Brady Handgun Violence Prevention Act (18 U.S.C. §§ 921, 922), 21% were prohibited due to a restraining order, 20% were prohibited due to mental health triggering events, 10% were prohibited due to a qualifying misdemeanor conviction, and 5% were prohibited per the conditions of their probation. Persons can be prohibited under more than one category, which is why the total number exceeds 100%.
- In 2021, the Bureau recovered 1,428 firearms. Of these, 826 were firearms identified in the APPS database and 602 were non-APPS firearms, meaning firearms that were not known to be associated with the prohibited person but were in that person's possession.
- In 2021, the Bureau investigated approximately 6,663 individuals who were identified as armed and prohibited persons in the APPS database.
- In 2021, there were 195 armed and prohibited individuals who attempted to purchase ammunition and were denied. Agents and Crime Analysts investigated and closed 123 of these denial cases. The remainder of the denials remain under investigation.

The DOJ has made the following recommendations to improve the removal of firearms from prohibited persons:

1. Fund the currently unfunded mandate that all California county courts confiscate or enforce the transfer or legal storage of known firearms from individuals at the time of conviction when an individual becomes prohibited due to a felony or qualifying misdemeanor.
2. Develop and fund a similar statewide county-level firearm confiscation system where firearms are confiscated from an individual at the time they are served with any type of restraining order. These firearms seizures must be documented in the Automated Firearms System (AFS) as required by existing law. These entries into AFS will prevent unnecessary, duplicative efforts by the DOJ and other agencies.
3. Improve the recruitment and retention of DOJ sworn personnel by offering compensation that is competitive with other law enforcement agencies. Despite a 12% pay increase that took effect in September 2021, Special Agent pay at the DOJ has not reached parity with comparable positions statewide.
4. Improve existing coordination and cooperation with local law enforcement agencies through Joint Task Forces with and under the direction of the DOJ. With additional funding, the DOJ could create new Joint Task Forces with local law

enforcement agencies and improve local law enforcement reporting of firearms in their custody into AFS.

5. Continue with the modernization process of the existing firearms databases. Funding for Phase 1 of the modernization process has been secured. Funding for Stage 2 of the modernization process has been secured. Stage 2 involves the analysis and planning of what will be required to replace the existing systems and implement the recommended technical solution and approach that will improve overall efficiency, minimize risk, and stabilize employee resources. Additional resources will be required to fund Stages 3 and 4, and the Project Execution Phase which will involve the implementation of the modernization project. The DOJ looks forward to continuing to work with the Governor and Legislature to fund the implementation of the modernization project.
6. Continue to partner with federal law enforcement agencies and engage with local law enforcement agencies to seize firearms from individuals prohibited only due to the federal Brady Handgun Violence Prevention Act (Federal Brady Act).

Proposed Funding

Governor's budget proposes \$1.2 billion to support DOJ operations in 2023-24, an increase of \$9 million (less than 1 percent) over the revised amount for 2022-23. About half of the proposed funding supports DOJ's Division of Legal Services, while the remainder supports the Division of Law Enforcement and the California Justice Information Services Division. Of the total amount proposed for DOJ operations in 2022-23, nearly 40 percent—\$486 million—is from the General Fund. This is an increase of \$18 million (or 3.9 percent) from the revised 2022-23 General Fund amount.

Figure 1

Department of Justice Budget Summary

(Dollars in Millions)

| | 2021-22 Actual | 2022-23 Estimated | 2023-24 Proposed | Change From 2022-23 | |
|---|-------------------|----------------------|---------------------|---------------------|-------------|
| | | | | Amount | Percent |
| Legal Services | \$553 | \$645 | \$659 | \$14 | 2.1% |
| Law Enforcement | 252 | 319 | 327 | 8 | 2.5 |
| California Justice Information Services | 250 | 264 | 252 | -13 | -4.7 |
| Totals | \$1,056 | \$1,229 | \$1,238 | \$9 | 0.7% |

APPS Funding. Funding for APPS has grown over the years. For example, in the 2012-2013 Budget, there were 48 budgeted positions with a total budget of \$6.4 million. The enacted 2022 Budget Act included 91 budgeted positions and \$18.55 million. The 2019 Budget Act shifted all funding from special funds to the General Fund. In addition, the Legislature has provided one time funding in the last several years to support local law enforcement agencies to support APPS related workload. Most recently, \$10.3 million

was provided to DOJ in the 2021 Budget Act to administer the Gun Violence Reduction Program, a grant program for local law enforcement agencies.

Staff Recommendation: Hold Open.

ISSUE 2: OFFICER INVOLVED SHOOTING INVESTIGATIONS (AB 1506)

The DOJ will provide an overview and update of their implementation efforts of Chapter 326, Statutes of 2020 (AB 1506).

PANELISTS

- Chris Ryan, Chief, Division of Operations, Department of Justice
- Michael Newman, Senior Assistant Attorney General, Public Rights Division, Civil Rights Enforcement Section, Department of Justice
- Luis Lopez, Director, Division of Law Enforcement, Department of Justice
- Anita Lee, Legislative Analyst's Office
- Kevin Clark, Department of Finance

BACKGROUND

AB 1507 requires the DOJ to investigate officer involved shootings (OIS) that result in the death of an unarmed civilian. It also required DOJ to create a division within its department to, upon request of a law enforcement agency, review the use of force policy of the agency and make recommendations. The bill also required, starting July 1, 2023, for the DOJ to operate a Police Practices Division with the its department to review, upon request of a local law enforcement agency, the use of deadly force policies of the law enforcement agency and make recommendations.

The DOJ estimated approximately forty OIS will be conducted annually at the time DOJ requested resources as part of the 2021-22 Budget. In a November 10, 2022 news article, it was reported that the DOJ had opened 25 investigations in the last 16 months and as of November 10, 2022, had resolved one of those investigations. The Subcommittee requested an updated number of investigations opened by county as well as number of investigations requested and whether they were selected for an investigation by the DOJ:

1. Total Initiated Investigative Responses to Field for Evaluation (51):

*Indicates Qualifying Events (32). All others determined Non-Qualifying Events due to the civilian being armed or surviving injuries.

- *1/22/23 – LA Sheriff's Dept. (Los Angeles County)
- *1/11/23 – LA Sheriff's Dept. (Los Angeles County)
- *1/11/23 – San Bernardino Sheriff's Dept. (San Bernardino County)
- 1/3/2023 – LAPD (Los Angeles County)
- 12/24/22 – El Centro PD (Imperial County)
- *12/23/22 – LAPD (Los Angeles County)
- *12/20/22 – Bakersfield Police Dept. (Kern County)
- *12/18/22 – LA Sheriff's Dept. (Los Angeles County)
- *12/17/22 – Woodlake Police Dept. (Tulare County)
- *12/10/22 – Antioch Police Dept. (Contra Costa County)
- *12/8/22 – San Diego Police Department (San Diego County)
- 11/15/22 – Redwood City PD (San Mateo County)

*9/27/22 – San Bernardino Sheriff’s Dept. (San Bernardino County)
 *9/17/22 – LAPD (Los Angeles County)
 *7/27/22 – LAPD (Los Angeles County)
 *7/22/22 – Riverside Co Sheriff’s Dept. (Riverside County)
 *7/14/22 – Westminster Police Dept. (Los Angeles County)
 *7/13/22 – Salinas Police Dept. (Monterrey County)
 7/14/22 – Modesto PD (San Joaquin County)
 *6/21/22 – San Bernardino Sheriff’s Dept. (San Bernardino County)
 *6/21/22 – Fontana Police Dept. (San Bernardino County)
 *5/19/22 – San Francisco Police Dept. (San Francisco County)
 *5/19/22 – Fresno Police Dept. (Fresno County)
 *5/4/22 – CHP (Los Angeles County)
 4/19/22 – CHP-Yuba City (Sutter County)
 *4/9/22 – LA Sheriff’s Dept. (Los Angeles County)
 *4/7/22 – Fontana Police Dept. (San Bernardino County)
 4/4/22 – Ontario PD (San Bernardino County)
 3/29/22 – San Bernardino County Sheriff’s Dept. (San Bernardino County)
 2/19/22 – San Diego Sheriff’s Dept. (San Diego County)
 *2/17/22 – LA Sheriff’s Dept. (Los Angeles County)
 *1/20/22 – San Francisco Police Dept. (San Mateo County)
 *1/18/22 – Riverside Co. Sheriff’s Dept. (Riverside County)
 1/14/22 – San Diego PD (San Diego County)
 1/13/22 – Citrus Hts. PD (Sacramento County)
 1/3/2022 – San Leandro PD (Contra Costa County)
 12/31/21 -- Riverside Sheriff’s Dept. (Riverside County)
 12/30/21 – Humboldt Co. Drug Taskforce (Humboldt County)
 12/15/21 – San Pablo PD (Contra Costa County)
 10/22/21 – Rialto PD (San Bernardino County)
 *9/28/21 – CHP (Los Angeles County)
 *9/28/21 – Anaheim Police Dept. (Orange County)
 9/20/21 – Fresno Sheriff’s Dept. (Fresno County)
 9/7/21 – Sacramento Co. Sheriff’s Dept. (Sacramento County)
 *8/21/21 – Guadalupe Police Dept. (Santa Barbara County)
 8/25/21 – CHP - Del Norte (Klamath County)
 8/25/21 – Redondo Beach PD (Los Angeles County)
 *8/9/21 – Tustin Police Dept. (Orange County)
 *8/7/21 – Bakersfield Police Dept. (Kern County)
 *7/26/21 – LAPD (Los Angeles County)
 *7/15/21 – LAPD (Los Angeles County)

2. Of the list above, the following represent the number of Opened/Qualifying AB 1506 cases by county (32):

Los Angeles County – 12
 San Bernardino County – 5
 Orange County – 3
 Riverside County – 2
 Kern County – 2
 San Diego County – 1
 Santa Barbara County – 1

Fresno County – 1
Tulare County – 1
San Mateo County – 1
Monterey County – 1
Contra Costa County – 1
San Francisco County -1

3. In addition, DOJ began tracking other notifications regardless of an investigative response or qualification decision, a policy that was codified and implemented on December 12, 2022. These were additional notifications that are documented (20):

1/26/23 – Huntington Park Police Dept. (Los Angeles County)
1/14/23 – Beaumont Police Dept. (Riverside County)
12/19/22 – King City Police Dept. (Monterey County)
12/18/22 – Torrance Police Dept. (Los Angeles County)
12/5/22 – Imperial County Sheriff's Dept. (Imperial County)
11/30/22 – San Bernardino Police Department (San Bernardino County)
11/30/22 – Alcohol Beverage Control (ABC)
11/29/22 – Santa Monica Police Dept. (Los Angeles County)
9/3/22 – Riverside Co Sheriff's Dept. (Riverside County)
7/29/22 – Sonoma County Sheriff's Dept. (Sonoma County)
7/14/22 – Ontario Police Dept. (San Bernardino County)
6/5/22 – LA Sheriff's Dept. (Los Angeles County)
3/30/22 – San Diego Police Dept. (San Diego County)
3/26/22 - CDCR Ironwood (Riverside County)
3/22/22 – Contra Costa County Sheriff's Dept. (Contra Costa County)
2/25/22 – Salinas PD (Monterey County)
1/24/22 – Riverside Sheriff's Dept. (Riverside County)
9/28/21 – San Diego Sheriff's Dept. (San Diego County)
7/28/21 – Stockton Police Dept. (San Joaquin County)
7/16/21 – Salinas Police Dept. (Monterey County)

Proposed Funding

The Governor's Budget proposes \$1,811,000 General Fund and 6.0 positions in 2023-24 and \$1,762,000 in 2024-25 and ongoing to implement a Police Practices Division pursuant to the requirements of Chapter 326, Statutes of 2020 (AB 1506). AB 1506 requires the DOJ to investigate all officer involved shooting (OIS) incidents in California that result in the death of an unarmed civilian. Starting July 1, 2023, CRES is required to operate a Police Practices Division (PPD) to review, upon the request of a local law enforcement agency (LEA), the use of deadly force policies of that LEA and make recommendations.

Previous Funding. The 2021 Budget Act included a total of 81 positions and \$15.3 million in 2021-22 and \$15.6 million in 2022-23 and ongoing. The 2022 Budget Act included an additional 7 positions and \$2.3 million in 2022-23 and \$1.6 million in 2023-24 and ongoing.

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| STAFF COMMENT |
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The Subcommittee may wish to ask DOJ what data points it currently collects and what additional data points it plans to collect related to inquiries from local agencies, requested investigations, investigations that were opened, and the final resolution of the opened investigations. In addition, the Subcommittee may wish to request data it considers important in these types of matters, including but not limited to:

- Demographic information of the deceased and the officer(s) investigated for the OIS;
- Information related to the investigation, including the number of DOJ staff involved, the length of time for the investigation, and an estimate of DOJ resources utilized;
- Any pertinent information related to the deceased's mental health or substance use at the time of the incident;
- Whether video or audio footage (body cameras, street cameras, business cameras, cell phone footage, and any other audio visual surveillance system recordings) of the incident was available; and,
- Whether the officer(s) investigated had previous history of excessive use of force, discharging a firearm, and any other history pertinent to the incident.

Staff Recommendation: Hold Open.

ISSUE 3: FIREARM WORKLOAD PROPOSALS

The DOJ will provide an overview of their proposals related to firearm workload.

PANELISTS

- Chris Ryan, Chief, Division of Operations, Department of Justice
- Mayra Morales, Staff Services Manager III, Bureau of Firearms, Department of Justice
- Anita Lee, Legislative Analyst's Office
- Department of Finance

BACKGROUND

The LAO has provided a handout for the Subcommittee that provides a summary of their recommendation and assessment on these proposals.

Overview of DOJ Firearm and Ammunition Responsibilities. DOJ's Bureau of Firearms (BOF) is primarily responsible for the regulation and enforcement of the state's firearm and ammunition laws. This includes conducting background checks for individuals seeking to purchase firearms and ammunition, licensing firearm and ammunition vendors, conducting vendor compliance investigations, ensuring lawful possession of firearms and ammunition, and administering various other firearms and ammunition programs. BOF engages in various activities related to these responsibilities.

Dealers Record of Sale (DROS) Special Account. State law authorizes DOJ to charge various fees related to firearms and ammunition that are deposited into one of several state special funds to support BOF programs and activities. For example, an individual purchasing a firearm currently pays fees totaling \$37.19—a \$31.19 fee deposited into the DROS Special Account (the "DROS fee"), a \$5 fee into the Firearm Safety and Enforcement Special Fund, and a \$1 fee into the Firearm Safety Account. State law also authorizes DOJ to administratively increase some of these fees to account for inflation as long as the fee does not exceed DOJ's regulatory and enforcement costs. State law authorizes revenues deposited into each of these special funds to be used for various purposes.

State law authorizes the DROS Special Account to support a wide range of BOF programs and activities (as well as California Justice System Information activities needed to support BOF workload).

Proposed Funding

1. Firearm Compliance Support Section. The Governor's Budget proposes \$342,000 General Fund and 3.0 positions in 2023-24 and \$307,000 and 3.0 positions in 2024-25 and ongoing to maintain critical and time-sensitive firearm workloads within the Compliance Support Section (CSS) of the Bureau of Firearms (BOF). The positions outlined above provide services to the BOF's priority stakeholders, including California Firearms Dealers, California Ammunition Vendors, Certified Instructors, Law

Enforcement Agencies, and the public. Due to legislative changes and changes in firearm ownership, DOJ states it can no longer absorb this workload without causing fatigue amongst the staff, which may compromise their ability to efficiently and accurately perform their job duties and lead to staff departures.

2. Microstamping and Law Enforcement Transfer. The Governor's Budget proposes \$1,461,000 General Fund and 5 positions in 2023-24, \$1,418,000 in 2024-25, \$1,406,000 in 2025-26 and \$1,087,000 ongoing to make system enhancements and address ongoing maintenance to track and report individual Firearm Identification Numbers at the point in time a firearm is transferred or sold.

3. Implementation of Various Firearm-related Legislation. The Governor's Budget proposes 17.0 positions and \$5.7 million in 2023-24, \$4.4 million in 2024-25, and \$2.7 million in 2025-26 annually thereafter to address increased workloads associated with the passage of various Firearms legislation in 2022.

- **Chapter 696, Statutes of 2022 (AB 2552): Firearms: Gun Shows and Events**
AB 2552 requires the DOJ to conduct enforcement inspections at one-half of all gun shows or events in the state to ensure compliance with gun show and event laws. Additionally, AB 2552 requires additional notices related to the storage, handling, purchase, and theft of firearms be posted at public entrances to an event, doubles the maximum fine for a violation of this and other requirements, and makes a person ineligible for a gun show producer license for a period of two years with possible suspension of their Certificate of Eligibility for multiple violations at multiple gun shows.

Appropriations Analysis. The Assembly Appropriations analysis identified \$133,000 Dealer Record of Sales Account (DROS) in 2022-23, \$349,000 in 2023-24, \$269,000 in 2024-25 and \$189,000 annually thereafter to the DOJ in additional staff to inspect a larger number of gun shows and create a new information technology (IT) database for storing additional inspection records and configure web servers to communicate and transfer data between different IT systems and additional law enforcement staff to conduct inspections into at least 50% of all gun shows in California. DOJ currently inspects about 25% to 30% of all gun shows in California. The Senate Appropriations analysis identified \$133,000 (DROS and General Fund) in 2022-23, \$349,000 in 2023-24, \$269,000 in 2024-35, and \$189,000 annually thereafter.

- **Chapter 995, Statutes of 2022 (SB 1384): Firearms: Dealer Requirements**
Existing law prohibits any person from selling, leasing, or transferring any firearm unless the person is licensed as a firearms dealer. Existing law prescribes certain requirements and prohibitions for licensed firearms dealers. A violation of any of these requirements or prohibitions is grounds for forfeiture of a firearms dealer's license. Commencing January 1, 2024, SB 1384 will require a licensed firearm dealer to have a digital video surveillance system on their business premises and would require that dealer to carry a policy of general liability insurance. The DOJ is responsible for ensuring firearms dealers adhere to these new requirements by way of inspection, and by requiring them to report/verify compliance on a yearly basis.

Appropriations Analysis. The Assembly Appropriations analysis identified mid-hundreds of thousands of dollars to low millions of dollars (Dealer Record of Sales (DROS) Account and General Fund) to the DOJ for additional staff and information technology systems. DOJ notes: (1) costs vary depending on whether the training and certification requirements specified in the bill requires contracting for third party software or if DOJ is required to create an in-house training and tracking system; (2) costs to utilize third party software to create a customizable online training system with testing certification are approximately \$1 million in 2022-23, \$1.5 million in 2023-24, \$1.3 million dollars in 2024-25, \$1 million in 2025-26, \$460,000 in 2026-27, and \$345,000 annually thereafter; and, (3) costs to create an in-house training system are \$1 million in 2022-23, \$2.4 million in 2023-24, \$2.7 million in 2024-25, \$2.2 million in 2025-26, and approximately \$1 million annually thereafter. The Senate Appropriations analysis identified costs of up to \$10 million over the next five fiscal years, and ongoing costs up to one million annually, thereafter (DROS and General Fund).

- **Chapter 76, Statutes of 2022 (AB 1621): Unserialized Firearms**

AB 1621 modifies the definition of a firearm precursor part to include a component which may be readily assembled to be used as the frame or receiver of a functional firearm and extends the definition of a firearm to include firearm precursor parts for most purposes of criminal and regulatory provisions relating to firearms. By doing so, AB 1621 expands all such crimes. In addition, the bill requires a person currently in possession of an unserialized firearm to apply to the DOJ for a unique mark of identification and affix that mark to the firearm before January 1, 2024 and a new California resident must also comply within 60 days of their arrival. Finally, AB 1621 prohibits the possession or transfer of a firearm without a serial number or mark of identification, and prohibits the possession, sale, or transfer of certain firearms manufacturing equipment, with exceptions for specified entities.

Appropriations Analysis. The Assembly Appropriations analysis identified possibly in the millions of dollars (Dealer Record of Sale Account and General Fund) to the DOJ for additional staff resources to draft new regulations and enforcement procedures consistent with the requirements of this bill. DOJ has spent two years implementing the AB 879 precursor part background check requirements which appear to be deleted by the changes in this bill. The Senate Appropriations analysis identified \$12.6 million General Fund in 2022-23, \$13.4 million in 2023-24, \$10.8 million in 2024-25, and \$8.8 million annually thereafter.

- **Chapter 98, Statutes of 2022 (AB 1594): Firearms: Civil Suits¹**

AB 1594 would establish a firearm industry standard of conduct, prohibit a firearm industry member from manufacturing, marketing, importing, offering for wholesale sale, or offering for retail sale a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in California and authorizes the Attorney General to bring a civil action against a firearm industry member for an act or omission in violation of the firearm industry standard of conduct. The bill would authorize a court that determines that

¹ This particular legislation may not be eligible for DROS funding and is included in the LAO's analysis related to legal workload.

a firearm industry member has engaged in the prohibited conduct to award various relief, including injunctive relief, damages, and attorney's fees and costs.

Appropriations Analysis. The Assembly Appropriations analysis identified \$3.3 million General Fund in 2023-24, and \$3 million annually thereafter for DOJ in additional staff to provide expert consultation on firearms suits and additional litigation staff to prosecute civil actions against firearms manufactures. The Senate Appropriations analysis identified costs of up to \$221,000 General Fund in 2022-23, \$3.7 million in 2023-24, \$3.6 million in 2024-25, \$3.4 million in 2025-26, and \$1.5 million ongoing thereafter, for the DOJ to increase staff to provide expert consultation in lawsuits, defend against legal challenges, and hire additional litigation staff to prosecute civil actions against firearms manufacturers.

- **Chapter 142, Statutes of 2022 (AB 2156): Firearms Manufacturers**

AB 2156 decreases the manufacturing threshold requiring state licensure from 50 or more firearms to three or more firearms in a calendar year, prohibits any person from manufacturing firearms in the state without obtaining state licensure and prohibits any person, unless licensed as a firearm manufacturer, from manufacturing any firearm part, by means of a 3D printer.

Appropriations Analysis. The Assembly Appropriations analysis identified a range of \$14,000 to \$518,000 (General Fund and the Dealer Record of Sale Fund) in 2022-23, \$510,000 in 2023-24 and \$21,000 annually thereafter to the DOJ in additional staff and technological upgrades, depending on how many new applications for a manufacturer license received and how many violations DOJ must investigate annually. DOJ received two positions and \$981,000 in 2020-21, \$306,000 in 2021-22 and \$232,000 annually thereafter to track firearms as required by Chapter 378, Statutes of 2019 (SB 376). SB 376 requires any person manufacturing 50 or more firearms be a licensed manufacturer. However, DOJ anticipates there will be an increase in the number of licensing requests each year because of this bill, possibly resulting in the need for additional staff or overtime funds and system infrastructure to license more firearm manufacturers each year. DOJ anticipates receiving 274 applications in 2022-23. In order to process the increase in license applications, DOJ estimates 137.5 overtime hours in 2022-23 and 275 overtime hours in 2023-24 and ongoing. The Senate Appropriations analysis identified the same costs

- **Chapter 138, Statutes of 2022 (AB 228): Firearms: Dealer Requirements**

Beginning January 1, 2024, AB 228 requires the DOJ to conduct inspections of firearms dealers to ensure compliance with state and federal laws, unless the dealer is located in a jurisdiction that has adopted an inspection program. These inspections shall meet a minimum of a 25% record sampling to no more than a 50% record sampling of each dealer, every 3 years.

Appropriations Analysis. The Assembly Appropriations analysis identified \$1.9 million (Dealer Record of Sales (DROS) and General Fund) in 2022-23, \$3.1 million in 2023-2024 and \$3.1 million annually thereafter in additional staff to inspect every licensed firearms dealer sale in the state. The subsequent Senate Appropriations analysis identified costs ranging from \$1.8 million to \$2.5 million (DROS and General Fund) in 2023-2024, and \$1.9 million to \$2.6 million in 2024-25 and ongoing.

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| LEGISLATIVE ANALYST'S OFFICE (LAO) |
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The LAO provides the following recommendation related to the firearm workload proposals:

Fund the Proposals Entirely From DROS Special Account. We recommend the Legislature approve the request for additional funding support as such monies are needed to support increased workload and to implement enacted legislation. However, we recommend the Legislature provide the requested resources entirely from the DROS Special Account, as the account has sufficient revenues to support them in the near term. This recommendation would “free up” ongoing General Fund support relative to the Governor’s budget—\$6.3 million in 2023-24, declining to \$3.3 million ongoing beginning in 2026-27. This is helpful as the Legislature may prefer a different package of budget solutions to balance the 2023-24 budget than the ones proposed by the Governor or need to consider additional solutions given the heightened risk of revenue shortfalls, as well as the projected out-year deficits that would occur under the Governor’s proposed budget.

Staff Recommendation: Hold Open.

ISSUE 4: DNA ID FUND BACKFILL

The Legislative Analyst's Office (LAO) will provide an overview of the DNA ID Fund and the DOJ will provide a response to the LAO's recommendations.

PANELISTS

- Anita Lee, Legislative Analyst's Office
- Chris Ryan, Chief, Division of Operations
- Barry Miller, Chief, Bureau of Forensic Services, Department of Justice
- Kevin Clark, Department of Finance

BACKGROUND

Overview of Bureau of Forensic Services (BFS). BFS provides criminal laboratory services—such as DNA testing, alcohol and controlled substances analysis, and on-site crime scene investigative support. Ten regional laboratories provide services generally at no charge for local law enforcement and prosecutorial agencies in 46 counties that do not have access to those services. BFS also assists the 12 counties and 8 cities that operate their own laboratories where BFS offers services their laboratories lack. (Local agencies also contract with private or other governmental laboratories for services.) Additionally, BFS operates the state's DNA laboratory as well as the state's criminalistics training institute.

The LAO has provided the Subcommittee with a handout that provides an overview of the DNA ID Fund and BFS, summarizes the Governor's proposal, and presents its findings and recommendations.

Proposed Funding

DNA ID Fund Backfill. The Governor's Budget proposes \$53,437,000 General Fund in 2023-24 and ongoing to backfill the continued revenue declines in the DNA identification Fund. This request also includes \$10,000,000 DNA Identification Fund expenditure authority to restore historical spending authority, and provisional budget bill language allowing for the General Fund backfill amount to be adjusted by an amount sufficient to cover program expenses if a determination is made that future revenues are insufficient to cover the program.

Bureau of Forensic Services Resource History

| <i>(Dollars in thousands)</i> Program Budget | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|--|----------------|----------------|----------------|----------------|-----------------------|
| Authorized Expenditures | 80,394 | 93,518 | 99,333 | 89,625 | 92,478 |
| Actual Expenditures | 72,413 | 79,624 | 82,873 | 78,721 | 86,460 |
| Revenues | 52,916 | 47,543 | 48,326 | 31,624 | 36,219 (Projected) |
| Authorized Positions | 400.5 | 399.5 | 399.5 | 400.5 | 404.5 |

| | | | | | |
|------------------|-------|-------|-------|-------|-------|
| Filled Positions | 331.8 | 321.1 | 337.6 | 335.0 | 336.4 |
| Vacancies | 68.7 | 78.4 | 61.9 | 65.5 | 68.1 |

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| LEGISLATIVE ANALYST'S OFFICE (LAO) |
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The LAO provides the following recommendations for the DNA ID Fund backfill proposal:

1. Require Users of Forensic Services to Partially Support BFS Beginning in 2024-25. Given the substantial benefit that local agencies receive from BFS services, we recommend the Legislature require local governments to partially support BFS beginning in 2024-25. Agencies that receive services from BFS would be required to pay for a portion of the services they receive—providing greater incentive to prioritize workload to DOJ. Additionally, this would also be more equitable than the existing system in which certain local governments receive services at no charge, while others pay to operate their own laboratories. Delaying this change to 2024-25 provides time for the implementation of a new funding structure and to allow agencies to adapt to the new funding framework. Similarly, we recommend the Legislature require nonlocal government agencies to partially support BFS by paying for a portion of the services they receive from their operational budgets. For example, CDCR could be directed to pay for their share of BFS services from their operational budget. This would provide CDCR with incentive to consider what evidence, and the amount of evidence, that is submitted. (We note that this would be similar to the DOJ Legal Division billing state agencies for the costs of providing legal advice and service.) Alternatively, the Legislature could designate specific portions of the General Fund it provides to BFS as being exclusively to provide services for each entity—effectively capping the amount of service the entity would receive. Because this amount would be limited, it would similarly provide an incentive for these entities to consider what evidence is submitted and why it is submitted.

2. Require DOJ to Develop Plan for Calculating User Share of BFS Support. We recommend the Legislature direct DOJ to submit a plan for calculating each agency's share of the BFS services it uses—including operating and facility costs—and report on this plan no later than October 1, 2023 to allow for its consideration as part of the 2024-25 budget. We also recommend the Legislature provide DOJ with direction on how much of BFS operation revenues should come from local, state, and other agencies (such as one-third or one-half) as well as whether the Legislature plans to directly appropriate a specific General Fund amount to support a certain level of services for state agencies. This would generally reduce the amount of General Fund needed to support BFS costs on an ongoing basis.

DOJ would have flexibility in calculating each agency's share of the BFS services it uses—including operation and facility costs—based on consultation with stakeholders and after considering various factors (including equity concerns). For example, DOJ could require agencies pay more or less based on various factors—such as the specific type of forensic service sought, the speed of the service, or the size of the agency.

We acknowledge that developing such a plan may be difficult. However, our recommendation would increase users' incentive to ensure such BFS services are used

cost-effectively and would promote equity among local governments. Additionally, under such a plan, the amount of General Fund backfill needed in 2024-25 and in future years would be less than currently proposed.

3. Approve Funding Level and Provide Backfill for One-Year. We recommend the Legislature approve the total funding level proposed in the Governor’s budget to support BFS. However, to provide DOJ and the agencies receiving BFS services time to implement and adapt to a new funding structure, we recommend only approving the requested \$53.4 million General Fund for one year. This would ensure existing BFS service levels are maintained as the new funding structure is implemented.

Staff Recommendation: Hold Open.

ISSUE 5: FEE INCREASE TO MAINTAIN OPERATIONS OF THE MISSING PERSONS DNA PROGRAM (MPDP)**PANELISTS**

- Chris Ryan, Chief, Division of Operations, Department of Justice
- Barry Miller, Chief, Bureau of Forensic Sciences, Department of Justice
- Anita Lee, Legislative Analyst's Office
- Kevin Clark, Department of Finance

BACKGROUND

The fee that supports the Missing Persons DNA Data Base Fund was established in 2001, and the fee structure did not include a consumer price index adjustment. The fee structure was intended to fully support all operations of the MPDP. There have been no increases in funding since the program was established. According to the DOJ, the baseline costs to run the day-to-day operations of the MPDP have increased significantly. Samples submitted to the MPDP are often environmentally compromised and severely degraded and therefore require specialized DNA technologies that utilize chemical reagents, supplies, and instruments that continue to increase in cost.

The current fee is \$2.00 and the proposal is to increase the fee to \$3.63. This would increase the cost of the average death certificate in California from \$21 to \$22.50 (costs vary slight by county). The DOJ states that an informal survey indicates that death certificates in other states are higher: Delaware (\$25), Georgia (\$25), Ohio (\$25), Oregon (\$25), Illinois (\$29), Alaska (\$30), New York (\$30), and Michigan (\$34). In 2020-21, the MPDP made 162 identifications by matching DNA from unidentified human remains to DNA from missing persons and relatives of missing persons.

Proposed Funding

The Governor's Budget proposes \$1,464,000 Missing Persons DNA Data Base Fund and 1.0 position in 2023-24, \$1,447,000 in 2024-25, and \$1,610,000 in 2025-26 and ongoing to maintain operations of the Missing Persons DNA Program. This proposal also requests trailer bill language to increase the death certificate fee issued by local agencies and the state to support the operating costs of the program. The DOJ states that the requested augmentation is critical to maintain laboratory operations and provide timely case analysis and will be used to support the required staffing, chemical reagents, supplies, and instrumentation necessary for the program's daily operations.

Staff Recommendation: Hold Open.

ISSUE 6: RESOURCES FOR LEGAL WORK

The LAO will provide an overview of DOJ's legal work, the Litigation Deposit Fund, and overarching comments, followed by subpanels discussing four specific proposals: (1) Outside Co-Counsel; (2) Wage Theft Criminal Prosecutions; (3) Antitrust Gasoline Pricing, Agriculture and Technology Enforcement; and, (4) Housing Strike Force.

PANELISTS

- Anita Lee, Legislative Analyst's Office
- Chris Ryan, Chief, Division of Operations, Department of Justice
- Kevin Clark, Department of Finance

BACKGROUND

The LAO has provided a handout for the Subcommittee that provides an overview of the DOJ's legal work and the Litigation Deposit Fund (LDF), some overarching comments and recommendations, and specific comments on a couple of these proposals.

The Governor's Budget includes a total of eighteen proposals for increased resources to support DOJ's legal workload. Issue 6 includes the following proposals: (1) Outside Co-Counsel; (2) Antitrust Gasoline Pricing, Agriculture and Technology Enforcement; (3) Wage Theft Criminal Prosecutions; and, (4) Housing Strike Force. The rest of the bills are related to implementation of signed bills and can be found in Issue 2 (AB 1506), Issue 3 (AB 1594), and Issue 8 (12 bills).

LAO Overarching Recommendations

1. Require DOJ to Report on Legal Workload Annually. We recommend the Legislature direct DOJ to report annually beginning January 1, 2025 on its (1) planned legal workload, position count, and allocation of resources for the upcoming fiscal year and (2) actual legal workload, position count, and allocation from the preceding fiscal year and how it compares with its initial plans for that year. Such reporting could include broad descriptions of pending and upcoming workload by legal section, when cases were initiated, the estimated or actual number of hours required for these cases, the number of hours estimated to be available to take on new cases or workload, and the potential remedies sought or achieved (such as the seeking and/or receipt of attorney fees or civil penalties). The information would enable greater legislative oversight to monitor DOJ's legal workload and ensure the fiscal resources provided to support it are used accountably. This includes helping the Legislature determine whether additional resources are needed for legislative or Attorney General priorities or if existing resources should be reprioritized within the office to accommodate new workload, such as the new workload identified in the Governor's proposals.

2. Provide Requested Funding on Two-Year Basis. Given that the requested resources would support the implementation of recently enacted legislation, as well as workload that could reduce harm to Californians, we recommend the Legislature provide funding to support the identified workload until it receives the above report. As such, we

recommend approving the requested funding on a two-year basis. This would provide DOJ with the necessary resources to implement enacted legislation without delay, to continue its defense of two existing legal cases, and to increase its legal activities in key areas while the recommended report is completed and analyzed. The recommended report could be enhanced by the Legislature also implementing the recommendations from our 2021 report on the LDF to improve legislative oversight of the fund. (We summarize these recommendations in the nearby box.) These LDF recommendations would provide more oversight on the level of litigation proceeds available to support DOJ legal workload.

SUB-PANEL 1 OUTSIDE CO-COUNSEL

- Chris Ryan, Chief, Division of Operations, Department of Justice
- Jonathan Wolff, Chief Assistant Attorney General, Civil Law Division, Department of Justice
- Bruce McGagin, Supervising Deputy Attorney General, Civil Law Division, Torts, Department of Justice
- Anita Lee, Legislative Analyst's Office
- Kevin Clark, Department of Finance

Background. To mitigate a rise in evictions caused by the pandemic, the State and a number of local entities passed various eviction moratoria including the COVID-19 Tenant Relief Act of 2020 (Relief Act) in August 2020 which expired in September 2021. In separate bills, the Legislature created a program for eligible tenants to apply for rental assistance to cover their unpaid rent, and also permitted landlords to apply for and receive rental assistance directly on behalf of their eligible tenants. The plaintiffs, eighty-nine property owners and operators of multi-unit rental properties, in both *GHP Management* and *Casa Greene*, filed suit challenging the Relief Act. Both cases involve state and federal inverse condemnation claims, and *Casa Greene* also asserts a commandeering claim under the Emergency Services Act.

The court overruled the demurrer in *GHP Management*, and will likely overrule the demurrer to *Casa Greene*'s second amended complaint's causes of action for the same reasons it did in *GHP Management*. DOJ has determined it does not have sufficient resources to defend the eighty-nine claims in the two matters. Retention of outside counsel to assist with defending both matters during the discovery and dispositive motion phases. Both cases are not class actions because each property owner's rights are unique to that owner. While there are similar issues between all eighty-nine plaintiffs, such as inverse condemnation liability and causation, the damages arising out of the inverse-condemnation claims must be individually evaluated. Extensive discovery will be required for all eighty-nine plaintiffs, which would include written discovery, site inspections, and multiple depositions. In addition, if any matter survives a dispositive motion, it is likely that there will be numerous trials. The Attorney General's Office would work collaboratively with outside counsel to conduct discovery, prepare dispositive motions, and prepare for trial, as well as address any attendant matters such as case management conferences, law and motion, trial, and any appellate work. In addition to external legal services, costs associated to expert witnesses and other services in litigation are anticipated. The

requested resources includes \$1 million annually to fund external consultants, including a property valuation expert.

Proposed Funding

Outside Co-Counsel. The Governor’s Budget proposes \$3,000,000 General Fund in 2023-24 through 2026-27 to acquire external legal services to assist with the discovery phase and dispositive motions for *GHP Management, et al. v. State, et al.* and *Casa Greene, et al. v. State, et al.* due to the workload arising out of the claims of 11 and 78 plaintiffs, respectively.

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| SUB-PANEL 2 WAGE THEFT CRIMINAL PROSECUTIONS |
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- Chris Ryan, Chief, Division of Operations, Department of Justice
- Evan Ackiron, Special Assistant Attorney General, Directorate, Department of Justice
- Satoshi Yanai, Supervising Deputy Attorney General, Public Rights Division—Worker rights and Fair Labor Section, Department of Justice
- Anita Lee, Legislative Analyst’s Office
- Kevin Clark, Department of Finance

Background. Originally established as the Underground Economy Unit, the Workers’ Rights and Fair Labor Section (WRFLS) was established to address a continuing need by DOJ to devote more resources to its worker rights initiatives. The Section was established in part to address gaps in labor enforcement by utilizing the broad toolkit of legal remedies available to the Attorney General. The Section is distinct from that of the divisions within the Department of Industrial Relations (e.g., the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health) because those agencies are limited to enforcing certain provisions of the Labor Code. By contrast, DOJ is able to utilize not just the Labor Code, but potentially other laws, including those targeting tax evasion, licensing violations, insurance fraud, deceptive practices, and unfair competition. DOJ also has the unique ability to seek criminal sanctions.

The WRFLS has utilized its broad powers by pursuing independent contractor misclassification investigations and actions that focus not only on lost wages, but also on tax evasion and insurance fraud; pursuing actions against labor “consultants” who sought to advise employers on schemes to evade workers’ compensation insurance; investigations into the use of unenforceable “non-compete” provisions to suppress wages and stifle employee mobility; a criminal action to prosecute fraud by third parties to facilitate the acquisition of garment contractor licenses by ineligible applicants; and investigations into the use of deceptive public representations by employers to entice workers to enter exploitative employment arrangements. DOJ also states that the Section is receiving a steady stream of requests from worker advocates; federal, state, and local government agencies; and the public to examine new cases.

Proposed Funding

The Governor's Budget proposes \$1,113,000 Unfair Competition Law Fund and 4.0 positions in 2023-24 and \$1,063,000 and 4.0 positions in 2024-25 and ongoing to address current workloads in the Worker Rights and Fair Labor Section (WRFLS), as well as to facilitate the required investigatory work associated with these cases. The WRFLS currently consists of 1.0 SAAG, 2.0 SDAGs, 12.0 DAGs, 1.0 Investigative Auditor, and 2.0 Paralegals. This proposal seeks to add new positions consisting of 1.0 SDAG, 1.0 Investigative Auditor, and 2.0 Senior Legal Analysts, along with the request of UCL authority to fund these additional positions.

SUB-PANEL 3 ANTI-TRUST GASOLINE PRICING, AGRICULTURE AND TECHNOLOGY ENFORCEMENT

- Chris Ryan, Chief, Division of Operations, Department of Justice
- Michael Jorgenson, Supervising Deputy Attorney General, Public Rights Division, Antitrust, Department of Justice
- Paula Blizzard, Senior Assistant Attorney General, Public Rights Division, Antitrust, Department of Justice
- Anita Lee, Legislative Analyst's Office
- Kevin Clark, Department of Finance

Background. Federal enforcement agencies are the primary reviewers of mergers nationwide but the DOJ asserts they have failed to expand concurrently with the need and may need assistance from state antitrust enforcers. As an example, DOJ cites mergers between two large agricultural entities that largely affect producers within California where the federal agencies are looking to the California DOJ to investigate. In the area of oil and gas, DOJ asserts that neither the federal agencies nor any other states have strong interests in California's oil and gas markets, despite calls for investigations of rising gasoline prices, leaving California to police the market itself. DOJ also asserts the need to investigate large technology companies due to potential antitrust violations. In 2021-22, DOJ allocated six additional positions for technology investigations temporarily. Recent reports indicate that mergers and acquisitions have increased dramatically – deal volume in 2021 was 60% higher than 2020, which was 50% higher than 2019; the number of transactions in 2021 was 24% higher than 2020.

Proposed Funding

The Governor's Budget proposes \$7,956,000 (\$3,978,000 Attorney General Antitrust Account and \$3,978,000 Unfair Competition Law Fund) and 20.0 positions in 2023-24 and \$7,786,000 (\$3,893,000 Attorney General Antitrust Account and \$3,893,000 Unfair Competition Law Fund) and 20.0 positions ongoing to prosecute antitrust violations within the gas and oil, technology, and agricultural sectors.

**LEGISLATIVE ANALYST'S OFFICE
(LAO)**

The LAO provides the following analysis related to the Anti-Trust Gasoline Pricing, Agriculture and Technology Enforcement proposal:

DOJ was able to identify recent and potential legal workload in particular sectors which could benefit California. For example, California is the home of a significant number of technology firms where antitrust violations can result in harm to consumers. Additionally, to demonstrate the potential impact of dedicating resources to this workload, DOJ temporarily redirected six existing unfunded attorney positions within the Public Rights Division to the Antitrust Law Section in 2021-22 and supported them using a total of \$1.4 million in General Fund, Antitrust Account, and UCL Fund savings. According to DOJ, this redirection allowed DOJ to conduct one new major investigation in the technology industry which is anticipated to conclude in 2022-23 and result in litigation or a significant settlement. In combination, this suggests that additional, dedicated resources could be needed and benefit the state.

Unclear Whether Sufficient Revenue to Support Ongoing Antitrust Law Section Costs. While additional resources could potentially be needed for increased antitrust legal activities which could benefit the state, it is unclear if sufficient revenue will be generated for the Antitrust Account and UCL Fund to support the ongoing cost of increased investigations and prosecutions of antitrust violations. This is because the two funds partially rely on revenue generated through litigation proceeds from antitrust cases that typically are complex, technical, resource-intensive, and can take quite a bit of time to resolve. While DOJ currently has sufficient Antitrust Account and UCL Fund revenues to support the increased workload costs temporarily, it is unclear whether these funds will receive sufficient proceeds from cases pursued by the Antitrust Law Section to support the section's workload costs on an ongoing basis.

**SUB-PANEL 4 HOUSING STRIKE
FORCE**

- Chris Ryan, Chief, Division of Operations, Department of Justice
- Eleanor Blume, Special Assistant Attorney General, Directorate, Department of Justice
- Christina Bull Arndt, Supervising Deputy Attorney General, Public Rights Division—Land Use and Conservation Section, Department of Justice
- Dan Olivas, Special Assistant Attorney General, Public Rights Division—Land Use and Conservation Section, Department of Justice
- Anita Lee, Legislative Analyst's Office
- Kevin Clark, Department of Finance

Background. The Attorney General announced the formation of the Housing Strike Force on November 3, 2021, including a public interface to receive public comments and complaints. The DOJ has received over 1,684 emails to that address as of July 11, 2022, but the section has been unable to pursue those tips and complaints due to insufficient

resources. According to the DOJ, the additional requested resources in the Land Use and Conservation Section and the Civil Rights Enforcement Section will enable the sections to continue and expand enforcement of the State's housing production laws and fair housing laws in order to support the state's goal to increase housing by taking a proactive approach. Unlike the other sections, the Land Use and Conservation Section is almost entirely client-funded. Any additional workload the Attorney General wishes to perform under his independent capacity is not covered by these funds.

The Strike Force is a collaborative effort of attorneys in four sections within the DOJ's Public Rights Division, each approaching the housing crisis from their areas of expertise:

1. The **Land Use and Conservation Section** focuses on housing production and it represents the Department of Housing and Community Development (HCD), both in an advisory capacity and in litigation, supporting its decisions enforcing California's housing laws. The section's representation of HCD has included enforcement of Housing Element Law, an action challenging a local initiative that would thwart housing production, the enforcement of the Surplus Land Act with respect to the City of Anaheim's sale of Angel Stadium, and defending the Department's implementation of grant and benefit programs. Prior to the advent of the Housing Strike Force, the section's housing work was all on behalf of HCD, and the section did not perform any work in the Attorney General's independent capacity. The work of HCD has expanded recently, as it has received additional funding and formed a Housing Accountability Unit to track impediments to housing development and enforce housing laws.

Some of the Land Use and Conservation Section's independent capacity work has been enforcing SB 9 (Chapter 162, Statute of 2021), a new state law requiring local jurisdictions to approve lot splits and duplexes in single-family neighborhoods. Many localities, concerned by the prospect of increasing density, have tried to avoid the application of SB 9. This section also enforces other state housing laws, including the Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019), Housing Accountability Act, and Density Bonus Law. The Land Use and Conservation Section is also interested in supporting cities that are facing community opposition for approving housing developments, including potentially intervening in court actions or as an amicus in the Court of Appeal. Other potential areas of involvement include enforcement of the Mobile home Residency Law, permit streamlining laws, and laws requiring ministerial approval of accessory dwelling units.

2. The **Civil Rights Enforcement Section's** primary responsibility is to address housing discrimination such as access to housing-related services against persons with disabilities and on the basis of race, familial status, source of income, and other prohibited classifications.

3. The **Consumer Protection Section** generally focuses on tenant protection.

4. The **Environmental Section** (Bureau of Environmental Justice) investigates pollution in connection to housing.

Proposed Funding

Housing Strike Force. The Governor's Budget proposes \$1,375,000 (\$973,000 General Fund and \$402,000 Legal Services Revolving Fund) and 4.0 positions in 2023-24 and \$1,337,000 in 2024-25 and ongoing to address litigation workload related to housing production and planning.

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| LEGISLATIVE ANALYST'S OFFICE (LAO) |
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The LAO provides the following analysis related to the Housing Strike Force proposal:

The DOJ has been able to identify recent workload, as well as potential forthcoming workload, related to ensuring compliance with recently enacted housing-related laws. Part of this work would be conducted in partnership with HCD to ensure HCD's expertise is utilized. This part of the work would be supported by the LSRF portion of the budget request as DOJ would bill HCD for this workload. In addition, DOJ will pursue certain legal activities separate from HCD under the Attorney General's broad authority. Pursuing action in this manner can sometimes be a cost-effective method of enforcing state laws. For example, if a local jurisdiction seeks to implement state law in a manner that DOJ interprets to be inappropriate and HCD believes it does not have the authority to pursue legal action, immediate DOJ legal intervention can deter such implementation by other local jurisdictions as well as limit the amount of litigation generated. Such work would be supported by the proposed General Fund resources.

Ongoing Workload and Outcomes for Housing Strike Force Unclear. In recent years, there has been an increase in housing-related laws which is expected to continue in the near future as it remains a significant area of concern for the Legislature, state and local government entities, and members of the public. This could result in disagreements over how such laws are or should be implemented and enforced, which could then result in litigation workload for DOJ. However, it is unclear whether the ongoing workload would remain high enough to justify the requested resources on an ongoing basis.

Additionally, we would note that it is unclear the extent to which such workload may be impacted by HCD's new Housing Accountability Unit in the future. This new unit was created in 2021-22 to hold jurisdictions accountable for meeting their housing commitments and complying with state housing laws. As a result, the new unit could result in more reimbursable DOJ workload being pursued in coordination with HCD due to increased violations being referred to DOJ for legal action. As this unit and DOJ's Housing Strike Force becomes fully operational, it will be important to ensure legal activities are pursued in the most efficient and effective manner. Similarly, it is possible that DOJ's workload could be impacted by the activities of the Civil Rights Department (formerly the Department of Fair Employment and Housing), which is tasked with protecting Californians from unlawful discrimination in housing and other areas. For example, the department could increase its enforcement actions, which could have the effect of reducing the workload of DOJ. This is because a portion of the requested resources would support DOJ's Civil Rights Enforcement Section, which could work on issues similar to those handled by the Civil Rights Department. Given this housing

workload uncertainty, the Legislature could consider whether annual reporting to monitor DOJ work in this area would be beneficial to conduct ongoing oversight over state legal activities in this area.

Staff Recommendation: Hold Open.

ISSUE 7: NEW CONVICTION REVIEW UNIT

The DOJ will provide an overview of their new Conviction Review Unit.

PANELISTS

- Chris Ryan, Chief, Director of Operations, Department of Justice
- Lance Winters, Chief Assistant Attorney General, Criminal Law Division, Department of Justice
- Michael Redding, Special Assistant to the Attorney General, Directorate, Department of Justice.

BACKGROUND

On February 17, 2023, the Attorney General announced the establishment of the DOJ's first-ever Post-Conviction Justice Unit (PCJU). The new unit, once fully staffed, will work with broad discretion, in partnership with local district attorneys, to conduct investigations and reviews aimed at resolving wrongful or improper criminal convictions, including matters where there may be evidence of significant integrity issues, and to identify cases that may be suitable for potential resentencing. The unit will also provide statewide leadership to support best practices across California.

The Attorney General noted a “growing effort among prosecutorial offices in California and across the country to establish and operate specialized units, often known as conviction integrity units, to seek justice, reduce harm, and increase trust in the criminal legal system through post-conviction investigations and reviews of individual criminal cases. These units typically work to identify and address wrongful convictions — often by reviewing new credible information that may exonerate someone previously convicted of a crime — or take other actions within the bounds of the law to remedy potential injustices. While the court system provides important avenues through the appellate process to address claims of injustice, conviction integrity units provide prosecutors an additional opportunity to proactively address such issues and, ultimately, ensure greater accuracy and legitimacy for prosecutorial conduct. Taking steps to support prosecutorial integrity is a critical part of pursuing justice and reflects the recognition that new evidence may arise, past mistakes can be uncovered, and sentencing standards may change. Whether issues arise as a result of new exculpatory information or advancements in forensic science, it is incumbent on prosecutors to make good faith efforts to correct injustice.”

PCJU will be initially staffed by two Deputy Attorneys General within the Criminal Law Division who will build on existing resources within DOJ. The new attorneys are expected to establish formal, finalized protocols and standards prior to taking external case review referrals. In addition, PCJU will:

- Review and evaluate cases being handled by DOJ, both cases where DOJ is the prosecuting agency or where DOJ is handling a case on appeal;

- Review claims of innocence or wrongful conviction, or cases where there may be a significant integrity issue, where local authorities do not operate a conviction integrity unit or otherwise need assistance;
- Review cases for potential resentencing, where local authorities do not operate a conviction integrity unit or otherwise need assistance; and,
- Provide statewide leadership and coordination among local conviction integrity units to encourage the implementation of system-wide best practices and to further foster a culture of integrity, transparency, and efficacy that promotes public trust.

STAFF COMMENT

Resentencing under California law, pursuant to Penal Code 1172.1, can be initiated by the Secretary of the Department of Corrections, a district attorney, a county correctional administrator (i.e. county sheriff), or the Attorney General. Since 2018, 414 people received reduced sentences or were released as a result of CDCR's resentencing efforts. This has resulted in approximately \$232 million in incarceration savings according to data from the Office of the State Public Defender. As part of the 2020 Budget Act, the state provided \$18 million to establish a 3-year pilot for nine counties to support a county resentencing pilot program led by district attorney offices in Los Angeles, Humboldt, Merced, San Diego, Yolo, San Francisco, Riverside, Santa Clara, and Contra Costa counties. The pilot will be evaluated by the Rand Corporation and a report will be submitted to the Legislature in 2025. The 2021 Budget Act provide \$50 million each year for three years to all public defender, alternate defender, and other indigent defense offices to support resentencing efforts.²

Staff Recommendation: Hold Open.

² \$50 million for 2023-24 has been proposed to be cut in the Governor's January Budget.

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.

0820 DEPARTMENT OF JUSTICE

ISSUE 8: VARIOUS LEGAL-RELATED BUDGET CHANGE PROPOSALS

1. CA Law Enforcement Accountability Reform Act (AB 655). The Governor's Budget proposes \$325,000 General Fund and 1.0 position in 2023-24 and \$317,000 and 1.0 position in 2024-25 and ongoing to support the workload requirements of Chapter 854, Statutes of 2022 (AB 655). AB 655 mandates that the Attorney General's Office "adopt and promulgate guidelines for the investigation and adjudication of complaints" that "a peace officer employed by that agency has in the previous seven years and since 18 years of age, engaged in membership in a hate group, participation in any hate group activity or advocacy of any public expressions of hate." The requested position will be necessary to promulgate the required regulations, address the challenges anticipated to be levied against the ensuing regulations, respond to inquiries regarding the regulations, support local law enforcement agencies in complying with the regulations, and be responsible for subsequent regulatory processes and enforcement of compliance with the regulations.

Appropriations Analysis. The Assembly Appropriations analysis identified one-time General Fund costs in the low to mid hundreds of thousands of dollars to draft regulations for the investigation and adjudication of complaints and present those regulations for public comment. The subsequent Senate Appropriations analysis identified \$235,000 in 2022-23, \$236,000 in 2023-24, and \$28,000 annually thereafter (Special Fund – Legal Services Revolving Fund, General Fund).

2. Crimes: Race-Blind Charging (AB 2778). The Governor's Budget proposes \$817,000 General Fund and 4.0 positions in 2023-24, \$2,442,000 and 12.0 positions in 2024-25, and \$2,373,000 and 12.0 positions in 2025-26 and ongoing to implement the mandates of Chapter 806, Statutes of 2022 (AB 2778). Beginning January 1, 2024, AB 2778 will require the DOJ to develop and publish guidelines for a process called "Race-Blind Charging", which must be adhered to by agencies prosecuting misdemeanors or felonies. The guidelines would require the prosecutorial agency to redact any identifying information related to the race of the suspect, victim, or witness from the charging documents received from law enforcement agencies.

Appropriations Analysis. The Assembly Appropriations analysis identified \$559,000 General Fund in 2022-23, \$984,000 in 2023-24 and approximately \$3 million annually thereafter to the DOJ in additional staff and infrastructure to develop and publish race-blind charging guidelines and implement a process to review cases. The subsequent Senate Appropriations analysis was the same.

3. Criminal Procedure: Discrimination (AB 256). The Governor's Budget proposes \$2,178,000 General Fund in 2023-24, \$2,114,000 in 2024-25, and \$848,000 in 2025-26 and 2026-27 to support the workload requirements of Assembly Bill 256 (Chapter 739, Statutes of 2022). The DOJ is involved in approximately 5,000 appeals and writs arising from criminal cases annually. In addition, the DOJ responds to appellate and writ challenges raised by approximately 700 incarcerated individuals. AB 256 applies retroactively the prohibition on the state from seeking or obtaining a conviction or sentence based on race, ethnicity, or national origin.

Appropriations Analysis. The Assembly Appropriations analysis identified between \$8.9 million dollars and in 2021-22, \$42 million dollars in 2022-23, \$41 million dollars in 2023-24 and \$15 million dollars in 2024-25 to the DOJ. DOJ estimates, based on Judicial Council's estimate, that approximately 100,000 petitions from past convictions may be filed in superior court. In addition, the DOJ identified the need to respond to any appeal for petitions that were denied which they estimated at 10% of the possible 100,000 petitions. The subsequent Senate Appropriations analysis identified costs of \$509,000 General Fund in 2022-23, \$2.1 million in 2023-24, \$2 million in 2024-25, and \$1.3 million in 2025-26 and 2026-27. Actual costs would depend on the number of petitions filed and appealed.

4. Domestic Violence: Death Review Teams (SB 863). The Governor's Budget proposes \$1,462,000 General Fund and 5.0 positions in 2023-24 and \$1,118,000 and 5.0 positions in 2024-25 and ongoing to support the workload requirements of Chapter 986, Statutes of 2022 (SB 863). SB 863 sets forth numerous new mandates on the DOJ with regard to the convening and operation of local domestic violence review committees and coordination across a variety of state and local agencies to study, redress, and prevent domestic violence from occurring across the state.

Appropriations Analysis. The Assembly Appropriations analysis identified \$1 million General Fund in 2022-23, \$1.2 million in 2023-24, and \$1.2 million annually thereafter to the DOJ in additional staff and infrastructure to implement this bill. The Senate Appropriations analysis identified costs of possibly in the hundreds of thousands for additional staff resources to collect, analyze, and interpret state and local data on near death cases, as required by SB 863.

5. Gender Neutral Retail Departments (AB 1084). The Governor's Budget proposes \$272,000 General Fund and 2.0 positions in 2023-24 and \$478,000 in 2024-25 and ongoing to support the implementation of Chapter 750, Statutes of 2021 (AB 1084), which mandates the maintenance of a gender-neutral area for childcare items or toys for sale in retail stores in California that employ a total of 500 or more employees across all of its California establishments, and which sells childcare items or toys. Enforcement under this act can be brought by the Attorney General or any public prosecutor.

Appropriations Analysis. The Assembly Appropriations analysis identified \$150,000 annual General Fund to the DOJ for enforcement actions. The subsequent Senate Appropriations analysis identified \$340,000 General Fund in 2023-24, and \$588,000 ongoing to address this workload.

6. Government to Government Consultation Act: State Tribal Consultation: Training (AB 923). The Governor’s Budget proposes \$609,000 General Fund and 3.0 positions in 2023-24 and \$585,000 in 2024-25 and ongoing to implement Chapter 475, Statutes of 2022 (AB 923). AB 923 encourages the “State of California and its agencies to consult on a government-to-government basis with federally recognized tribes, and to organizations, as appropriate, in order to allow tribal officials the opportunity to provide meaningful and timely input in the development of policies, processes, programs, and projects that have tribal implications.”

Appropriations Analysis. The Assembly Appropriations analysis identified one-time costs in the mid-tens of thousands of dollars for an unnamed entity to develop the required training elements by June 30, 2023 and negligible state costs for designated state officials to participate in the required training. The subsequent Senate Appropriations analysis identified \$386,000 in 2022-23 and \$657,000 ongoing for additional staff workload related to providing advice to outside agencies on tribal issues, the diversity of tribal interest, and other legal assistance.

7. Marketplaces: Online Marketplaces (SB 301). The Governor’s Budget proposes \$779,000 General Fund and 3.0 positions in 2023-24 and \$755,000 in 2024-25 and ongoing to support the workload requirements of Chapter 857, Statutes of 2022 (SB 301). SB 301 requires online marketplaces, including eBay and Amazon, to collect information from high volume sellers, verify the accuracy of that information, suspend sellers that fail to comply, require certain high volume sellers to provide specified information to buyers, and to suspend sellers that fail to comply. The Attorney General is the only law enforcement official who is authorized to enforce these requirements.

Appropriations Analysis. The Assembly Appropriations analysis identified \$1.1 million in 2023-24 and \$1 million in 2024-25, and annually thereafter to the DOJ for additional legal staff to address this increased workload. The analysis also identified annual costs of approximately \$100,000 General Fund for outside forensic audit support to its Consumer Protection Section to support litigation. The Senate Appropriations analysis identified similar costs: \$1,096,000 General Fund 2023-24 and \$1,053,000 in 2024-25 and ongoing for additional workload and annual costs of approximately \$100,000 General Fund for outside forensic audit support.

8. Online Content: Cyberbullying (AB 2879). The Governor’s Budget proposes \$340,000 General Fund and 2.0 positions in 2023-24 and \$389,000 in 2024-25 and ongoing to support the workload requirements of Chapter 700, Statutes of 2022 (AB 2879). AB 2879 requires a social media platform to disclose all cyberbullying reporting procedures in its terms of service, and would require a social media platform to establish a mechanism within its internet-based service that allows an individual, whether or not that individual has a profile on the internet-based service, to report cyberbullying or any content that violates the existing terms of service, as specified. The Attorney General is authorized to enforce any intentional violations of AB 2879, which imposes mandatory civil penalties for each violation, as well as injunctive relief.

Appropriations Analysis. No Assembly Appropriations analysis was available for this bill. The Senate identified costs of \$342,000 General Fund in 2023-24 and \$390,000

annually thereafter to the DOJ. The analysis further stated the bill would also generate revenue of an unknown amount, resulting from penalty assessments of up to \$7,500 for each intentional violation of the bill's provisions.

9. Price Discrimination: Gender (AB 1287). The Governor's Budget proposes \$325,000 General Fund and 1.0 position in 2023-24 and \$317,000 and 1.0 position in 2024-25 and ongoing to support the implementation of Chapter 555, Statutes of 2022 (AB 1287). AB 1287 expands on the Unruh Civil Rights Act by prohibiting persons and entities doing business in California from charging different prices for any two goods that are substantially similar but priced differently due to the gender of the person for whom the goods are marketed and intended. AB 1287 sets forth an enforcement scheme predicated exclusively on legal actions brought by the Attorney General.

Appropriations Analysis. The Assembly Appropriations analysis identified costs likely greater than \$150,000 General Fund annually to the DOJ for enforcement actions. The Senate Appropriations analysis identified costs of \$221,000 General Fund 2022-23, and \$388,000 in 2023-24 and annually thereafter for 1.0 permanent Deputy Attorney General position, and 1.0 legal secretary in order to engage in the review of complaints and prosecution of violations of the new law. The analysis also noted that these costs could be offset to some extent by the assessment of civil penalties provided for in the bill.

10. Residential Real Property: Foreclosure (AB 1837). The Governor's Budget proposes \$163,000 General Fund and 1.0 position in 2023-24 and \$154,000 in 2024-25 and ongoing to support the workload requirements pursuant to Chapter 642, Statutes of 2022 (AB 1837). AB 1837 expands DOJ's consumer protection work by requiring trustees or their authorized agent to send specified information to the Attorney General if the winning bidder at a trustee's sale of property pursuant to a power of sale under a mortgage or deed of trust is an eligible tenant buyer, prospective owner-occupant, or other eligible bidder, as defined. AB 1837 also authorizes the Attorney General, among others, to bring an action to enforce specified residential-property foreclosure-sale procedures and requirements.

Appropriations Analysis. The Assembly Appropriations analysis identified \$93,000 General Fund in 2022-23 and \$154,000 annually thereafter to the DOJ in increased workload to review the winning bidder's declaration of intended occupancy and to ensure compliance with the SB 1079 process. Costs may be offset by attorney fees. The Senate Appropriations analysis identified costs of \$97,000 General Fund in 2022-23 and \$158,000 in 2023-24 and annually thereafter for additional staff resources and operating expenses and equipment.

11. Social Media Companies: Terms of Service (AB 587). The Governor's Budget proposes \$673,000 General Fund and 3.0 positions in 2023-24, and \$646,000 and 3.0 positions in 2024-25 and ongoing to support the workload requirements of Chapter 269, Statutes of 2022 (AB 587). AB 587 requires a social media company, as defined, to post its terms of service, as defined, with additional specified information regarding the user behavior and activities and are permitted on the site, as well as quantitative information concerning the platform's content moderation efforts regarding hate speech, extremism and radicalization, disinformation and misinformation, harassment, and efforts by foreign actors to exert political influence. A violation of this law could be failure to post terms of

service as required, failure to timely submit a report to the Attorney General as required, or an omission or misrepresentation of required information. The Attorney General may bring legal actions against non-compliant parties.

Appropriations Analysis. The Assembly Appropriations analysis identified costs possibly in the low to mid hundreds of thousands of dollars in General Fund for the DOJ to review and post reports on its website on a quarterly basis, additional possibly significant cost pressures in the low millions of dollars in staff and resources, to the extent this bill results in the DOJ taking legal action against any social media company that does not comply. The Senate Appropriations analysis identified \$414,000 General Fund in 2022-23 and \$711,000 annually thereafter to the DOJ in order to enforce the provisions of AB 587 and for IT resources to allow for submissions of terms of service.

12. The California Age-Appropriate Design Code Act (AB 2273). The Governor's Budget proposes \$888,000 General Fund and 4.0 positions in 2023-24, \$1,180,000 in 2024-25 and \$1,146,000 in 2025-26 and ongoing to support the workload requirements of Chapter 320, Statutes of 2022 (AB 2273). AB 2273 enacted the California Age-Appropriate Design Code Act, imposing new requirements on a business that provides an online service, product, or feature likely to be accessed by children.

Appropriations Analysis. The Assembly Appropriations analysis identified \$2.3 million General Fund in 2024-25, and \$2.2 million annually thereafter to the DOJ to the extent DOJ, rather than another agency, is required to enforce the protections in this bill. Costs will be offset by possible attorneys' fees. The subsequent Senate Appropriations analysis identified costs of \$2.4 million General Fund 2024-25 and \$2.3 million in 2025-26 and annually thereafter. The bill would also generate revenue to the DOJ in an unknown amount, resulting from penalty assessments of up to \$7,500 per affected child, to be deposited into the Consumer Privacy Fund with the intent they be used to offset costs incurred by the DOJ.

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| LEGISLATIVE ANALYST'S OFFICE (LAO) |
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LAO Recommendations

Require DOJ to Report on Legal Workload Annually. We recommend the Legislature direct DOJ to report annually beginning January 1, 2025 on its (1) planned legal workload, position count, and allocation of resources for the upcoming fiscal year, and (2) actual legal workload, position count, and allocation from the preceding fiscal year and how it compares with its initial plans for that year. Such reporting could include broad descriptions of pending and upcoming workload by legal section, when cases were initiated, the estimated or actual number of hours required for these cases, the number of hours estimated to be available to take on new cases or workload, and the potential remedies sought or achieved (such as the seeking and/or receipt of attorney fees or civil penalties). The information would enable greater legislative oversight to monitor DOJ's legal workload and ensure the fiscal resources provided to support it are used accountably. This includes helping the Legislature determine whether additional resources are needed for legislative or Attorney General priorities or if existing resources

should be reprioritized within the office to accommodate new workload, such as the new workload identified in the Governor's proposals.

Provide Requested Funding on Two-Year Basis. Given that the requested resources would support the implementation of recently enacted legislation, as well as workload that could reduce harm to Californians, we recommend the Legislature provide funding to support the identified workload until it receives the above report. As such, we recommend approving the requested funding on a two-year basis. This would provide DOJ with the necessary resources to implement enacted legislation without delay, to continue its defense of two existing legal cases, and to increase its legal activities in key areas while the recommended report is completed and analyzed. The recommended report could be enhanced by the Legislature also implementing the recommendations from our 2021 report on the LDF to improve legislative oversight of the fund. These LDF recommendations would provide more oversight on the level of litigation proceeds available to support DOJ legal workload.

Staff Recommendation: Hold Open.

ISSUE 9: VARIOUS BUDGET CHANGE PROPOSALS

1. Illegal Gambling Investigations. The Governor's Budget proposes \$821,000 one-time General Fund in 2023-24 to refund the Indian Gaming Special Distribution Fund (SDF) and Gambling Control Fund (GCF) for illegal gambling enforcement activities that were improperly expensed to the SDF and GCF in 2019-20. This proposal seeks to correct the illegal gambling charges that were assessed against the special funds in 2019-20. Corrections were already made with existing internal resources for illegal gambling charges that were assessed against these funds in 2020-21 and 2021-22.

2. Remote Caller Bingo (RCB) Loan Repayment. The Governor's Budget proposes \$2,320,000 one-time General Fund in 2023-24 for the payment of outstanding loans and unpaid interest related to the repealed Remote Caller Bingo Program. Specifically, this request seeks \$1,124,000 to repay an outstanding loan from the Gambling Control Fund (GCF) to the California Bingo Fund, and \$1,904,000 to repay an outstanding loan from the Indian Gaming Special Distribution Fund (SDF) to the Charity Bingo Mitigation Fund less amount available for transfer in both funds. The RCB Program became fully inoperative effective July 1, 2016, and was repealed on January 1, 2017, after its unsuccessful development and materialization. What remains of the program today are the loans against the GCF and SDF and the revenue collections received while operative under the Commission. With no current incoming revenue from the dismantled RCB program, there is no ability for the fund to repay the loan amounts due. All current Bureau of Gambling Commission resources are special funds and would not be appropriate to redirect toward the repayment of these loans. The State Controller's Office has issued multiple delinquent notices for these outstanding loans.

3. Information Security (AB 2135). The Governor's Budget proposes \$241,000 General Fund and 1.0 position in 2023-24 and \$231,000 in 2024-25 and ongoing to meet the mandates outlined in Chapter 773, Statutes of 2022 (AB 2135). AB 2135, requires certain state agencies, including the DOJ, to adopt and implement information security standards and procedures and perform an independent security assessment every two years.

Appropriations Analysis. The Assembly Appropriations analysis identified \$1.7 million to \$2.7 million for the DOJ to address this new workload. The Senate Appropriations analysis identified an unknown fiscal impact, in the millions of dollars, across all state agencies to address this workload and that costs would vary on the entity's size, resource needs, and the extent to which an agency might already be doing this work.

4. Gender Identity: Female, Male or Nonbinary (SB 179). The Governor's Budget proposes \$1,783,000 General Fund in 2023-24 to implement the necessary system modifications to meet the mandates of Chapter 853, Statutes of 2017 (Senate Bill 179). Senate Bill (SB) 179 requires an applicant for a driver's license or renewal to choose a gender identity of female, male, or nonbinary, and requires the Department of Motor Vehicles (DMV) to provide for the amendment of an existing gender designation.

Appropriations Analysis. The Assembly and Senate Appropriations analysis did not identify any costs to the DOJ. According to the DOJ, it did not report any fiscal impact, as the bill focused on the DMV. DOJ states it subsequently discovered that the DMV's

implementation of the bill would utilize an "X" as the data value to indicate an individual's nonbinary descriptor. The use of an "X" value requires the DOJ to make systematic changes to ensure DOJ systems that interface with the DMV will be able to utilize the data value "X" to represent nonbinary. The data value "X" is currently used by DOJ and denotes other information within the DOJ's databases.

5. Juveniles: Electronic Monitoring (AB 2658). The Governor's Budget proposes \$253,000 General Fund and 1.0 position in 2023-24 and \$213,000 in 2024-25 and ongoing to make necessary information technology upgrades pursuant to Chapter 796, Statutes of 2022 (AB 2658). Beginning July 1, 2026, AB 2658 will require the DOJ to include data regarding the annual number of minors placed on electronic monitoring with specific information related to each minor in their annual reporting requirements that are made available to the public through the DOJ's OpenJustice Web portal.

Appropriations Analysis. The Assembly Appropriations analysis identified \$235,000 General Fund in 2023-24 and \$209,000 annually thereafter to the DOJ for the increased workload. The Senate Appropriations analysis also identified similar costs: \$234,000 General Fund in 2023-24 and \$210,000 annually thereafter.

6. Special Operations Unit. The Governor's Budget proposes \$7,206,000 General Fund in 2023-24 and ongoing to maintain the Special Operation Unit (SOU) Program. This request also includes a reduction of \$5.8 million Reimbursement Authority in 2023-24 and ongoing. This proposal seeks funding to support the 22.0 existing positions that will become unfunded as of July 1, 2023. These positions support three SOU teams statewide located in Sacramento, Fresno, and Riverside. It is unknown whether or not the California Highway Patrol (CHP) will continue to participate in the DOJ's SOU program after July 1, 2023. The SOU provides support to task forces and local agencies, while focusing on inter/intra-jurisdictional criminal organizations, violent career criminals, and gangs. The CHP partnered with the SOU program by providing 4.0 officers to each SOU team. From calendar year 2017 to date, SOU has solved approximately 51 homicides, prevented 136 violent criminal acts, almost entirely of which were planned shootings. In 2021, the SOU Program also seized 349 firearms through investigations targeting violent organizations.

Previous Funding. In 2012-13, the DOJ requested \$3.9 million in General Fund for 17.0 positions for the Fresno SOU team and eventually received 9 positions. Of the 17.0 positions requested, nine positions were approved. In 2014, the Legislature provided \$9.4 million in two-year funding for the DOJ's Bureau of Investigations (BI) and the CHP to fund two SOU teams (Sacramento and Riverside). The funding agreement between CHP and the BI has been renewed on multiple occasions, since the program's inception, with no additional funding to adjust for salary increases. In the spring of 2022, the CHP advised the BI they would maintain the current funding through 2022-23, but would not provide any additional future funding, due to insufficient funding in the Motor Vehicle Account to support the program.

7. Cardroom and Third Party Provider Proposition Player (TPPPS) Workload and Positions. The Governor's Budget proposes \$1,300,000 Gambling Control Fund in 2023-24 and \$1,266,000 in 2024-25 and ongoing to permanently support the workload in the Cardroom and Third Party Providers of Proposition Player Services sections, including

10 permanent positions, for the Department of Justice's Bureau of Gambling Control (BGC). The BGC has 937 pending initial cardroom and TPPPPS license cases as of June 30, 2022. Of the 937 pending cases, 124 cases are considered backlogged. In addition, new applications are received daily.

Previous Funding. The 2015 Budget Act provided 12.0 additional three-year limited-term positions to address backlogged Cardroom and TPPPPS applications. At that time, BGC had a backlog of 2,221 "summoned" cases which means DOJ is able to work them immediately. BGC has a mandated 180 day timeframe for completion. The 12.0 limited term positions were extended for three additional year, ending in 2020-21. Separately, the 2016 Budget Act provided the DOJ with 20.0 additional positions with three-year limited-term funding from the Gambling Control Fund to further address the backlog relating to initial and renewal license suitability background investigations for the cardroom and TPPPPS license applicants. Funding for these positions was ultimately approved for an additional two years, ending in 2020-21. This brings the total of positions with limited-term funding ending in 2020-21 to 32.0 positions. In 2021-22, the BGC requested permanent funding for 20.0 of the 32.0 analyst positions previously granted, which the Legislature approved for an additional two years only, and separately approved additional clerical staff, bringing the total positions granted in 2021-22 to 26.0.