

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER MIA BONTA, CHAIR

MONDAY, MARCH 6, 2023
2:30 PM, STATE CAPITOL – ROOM 437

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

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

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

ITEMS TO BE HEARD

ITEM	DESCRIPTION	PAGE
5225	DEPARTMENT OF CORRECTIONS AND REHABILITATION	2
ISSUE 1	PRISON POPULATION PROJECTIONS AND PRISON CLOSURES	2
ISSUE 2	AUDIT OF CDCR'S CONTROLLED SUBSTANCES CONTRABAND INTERDICTION EFFORTS	13
ISSUE 3	STAFF MISCONDUCT INVESTIGATION EXPANSION	15
ISSUE 4	STATEWIDE CORRECTIONAL VIDEO SURVEILLANCE PROGRAM CONTINUATION	19

Non-Discussion Items		
ITEM	DESCRIPTION	PAGE
0552	OFFICE OF INSPECTOR GENERAL	23
Issue 5	ADDITIONAL CA REHABILITATION OVERSIGHT BOARD RESOURCES (SB 903)	23
5225	DEPARTMENT OF CORRECTIONS AND REHABILITATION	24
Issue 6	VARIOUS BUDGET PROPOSALS	24

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 1: PRISON POPULATION PROJECTIONS AND PRISON CLOSURES

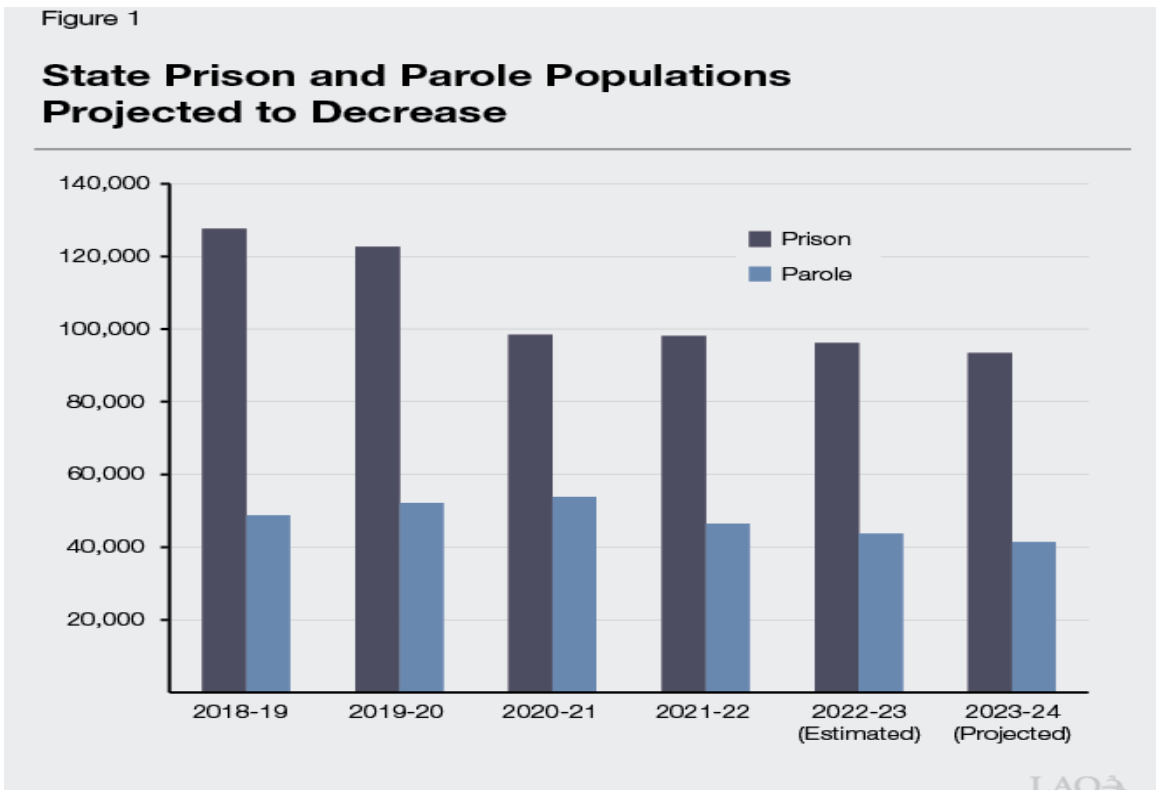
The Department of Corrections and Rehabilitation (CDCR) will provide the latest prison population projections, a description of their planned prison closure proposals, and an overview of their prison population management strategy.

PANELISTS

- Jeffrey Macomber, Secretary, CDCR
- Chris Chambers, Deputy Director, Office of Research, CDCR
- Madelynn McClain, Deputy Director of Fiscal Services, CDCR
- Dave Lewis, Director of Facilities Planning, Construction, and Management, CDCR
- Caitlin O’Neil, Legislative Analyst’s Office
- Lynne Ishimoto, Department of Finance

BACKGROUND

Population Projections. As shown in Figure 1, the average daily prison population is projected to be 93,400 in 2023-24, a decrease of about 2,800 people (3 percent) from the estimated current-year level. The average daily parole population is projected to be 41,300 in 2023-24, a decrease of 2,300 people (5 percent) from the estimated current-year level.

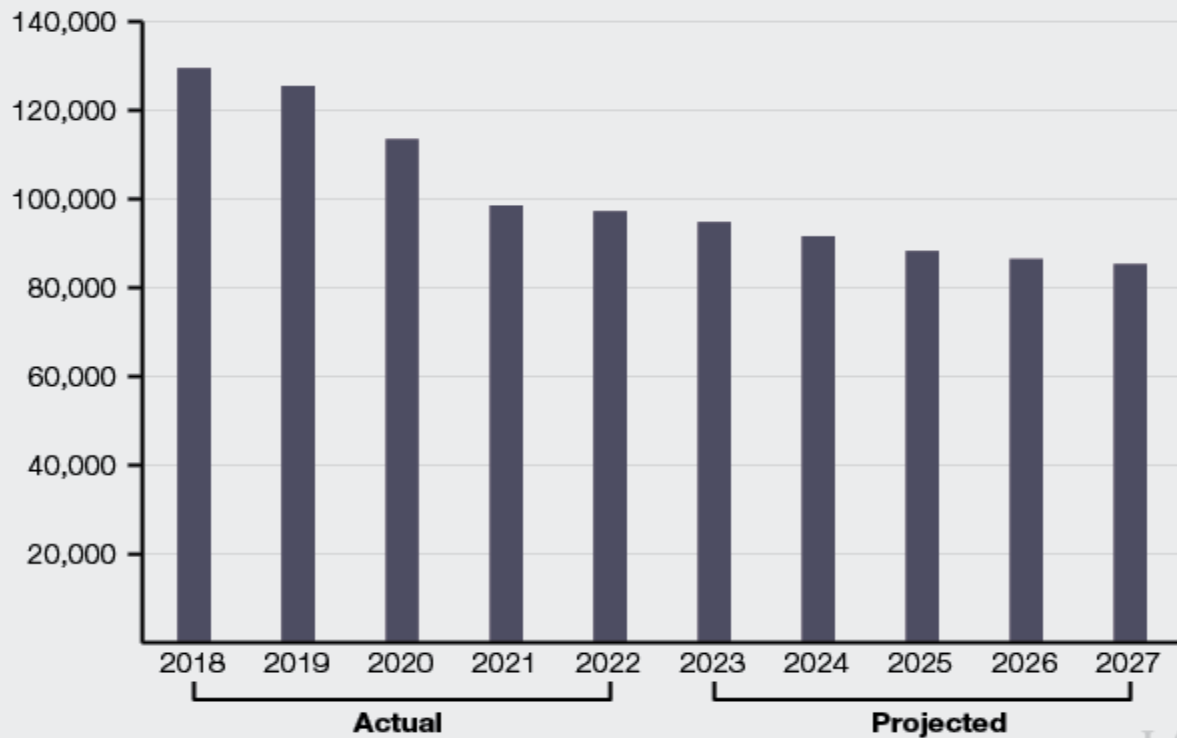


As shown in Figure 2, the prison population has declined significantly in recent years and is expected to remain low through June 2027. In 2021, CDCR completed a multiyear drawdown of people housed in contractor-operated prisons made possible by the declining prison population. In addition, the administration deactivated the Deuel Vocational Institution (DVI) in Tracy, as well as low-security yards at the California Correctional Institution in Tehachapi and Correctional Training Facility in Soledad in September 2021. CDCR estimates that these deactivations resulted in ongoing General Fund savings totaling about \$190 million. Deactivation also allowed the state to avoid funding infrastructure repairs that would otherwise have been needed to continue operating these facilities. For example, with the deactivation of DVI, the state was able to avoid a water-treatment project—projected in 2018 to cost \$32 million—that would have been necessary to comply with drinking water standards. Current law requires the California Correctional Center (CCC) in Susanville to be deactivated by June 30, 2023. As of January 2023, everyone housed at CCC have been transferred to other prisons.

Figure 2

Prison Population Projected to Decline Through 2027

As of June 30 Each Year



LAOA

Prison Closures

The 2018 Budget Act included language in Penal Code 2067 that states, in part:

“...the Department of Corrections and Rehabilitation shall accommodate the projected population decline by reducing the capacity of state-owned and operated prisons or in-state leased or contract correctional facilities, **in a manner that maximizes long-term state facility savings, leverages long-term investments**, and maintains the sufficient flexibility to comply with the federal court order...”

In addition, CDCR considers the following factors, including, but not limited to, operation costs, workforce impacts, subpopulation and gender-specific housing needs, long term investment in state-owned and operated correctional facilities including previous investments, public safety and rehabilitation, and the durability of the state’s solution to prison overcrowding.

The 2019 Budget Act included trailer bill language requiring the identification of one state owned and operated prison for closure by January 10, 2021, and a second one by January 10, 2022. The table below provides an overview of the prisons slated for closure, including the most recent closures announced by the Administration in December 2022.

Prison	Year Built	Design Capacity	Closure Date	Capital and maintenance investments made since 2016	Annual Savings
Deuel Vocational Institute	1953	1,681 -1,509 cell capacity -172 dorm capacity	September 2021	\$49.7 million	\$150.3 million
CA Correctional Center	1963	1,733 -500 cell capacity -1,233 dorm capacity	June 2023	\$36.6 million to \$58.8 million ¹	\$142.8 million
California City Correctional Facility (Leased)	1998	2,550 -cells only; no dorms	March 2024	Not Applicable	\$135.3 million
Chuckawalla State Prison	1988	1,738 -100 cell capacity -1,639 dorm capacity	March 2025	\$6.5 million (and \$30.2 million in authorized funding)	Pending

¹ The range is attributed to one project that costs \$22.2 million General Fund that likely included renovations for both the CCC prison and the camp

In addition, CDCR announced the deactivation of specified facilities in six prisons by the end of 2023, saving an estimated \$150 million annually.

CDCR Capital and Infrastructure Needs.

CDCR's prisons encompass 24,000 acres of land, including 4,000 buildings that comprise 42 million square feet. CDCR, among other state program areas, is included in the state's Five Year Infrastructure Plan ("Plan") pursuant to the "California Infrastructure Planning Act." The 2022-23 Plan included \$777 million to CDCR over five years. As part of its annual operations budget, CDCR receives \$26 million annually for deferred maintenance, including periodic one-time General Fund augmentations to address the backlog.

The 2016 Budget Act provided funding for a state-wide study for the renovation/replacement of CDCR's twelve oldest prisons. Twelve individual reports were finalized in 2019 indicating a total need for \$11.24 billion for repairs/replacement. With the closure of Deuel Vocational Institute, the number is now \$10.44 billion for 11 prisons. In addition, CDCR's Master Plan Annual Report for Calendar Year 2020 indicated an overall deferred maintenance need of \$13 billion statewide, an increase of \$5 billion since the 2018 master plan. As part of the 2020 Budget Act, the Legislature adopted supplemental reporting language (SRL) that directed CDCR to provide a report on its long term infrastructure investment plan of all repair/deferred maintenance projects estimated to cost over \$5 million and all major capital outlay projects that are likely to be needed over the next ten years or more, by January 10, 2022. Projects that were funded for construction in the 2020-21 fiscal year or prior are excluded and the Department was provided a list of factors to consider to rank each project based on need.

The requested information in the SRL was included in CDCR's 2021 Master Plan Annual Report (MPAR) which identified 45 future projects at 25 prisons, estimated at \$1.1 billion and an additional \$700 million for deferred maintenance. The 2023 MPAR shows a few updates to the project list. Specifically, CDCR has identified 43 deferred maintenance or capital outlay projects across 23 prisons at an estimated cost of \$1.7 billion that are needed over the next ten years. The estimated does not include projects expected to cost less than \$5 million or a comprehensive assessment of infrastructure projects that will be needed at prisons over the next ten years, which would exceed the \$1.7 billion.

Proposed Funding

The Governor proposes a total of \$14.5 billion (\$14.1 billion General Fund and \$374.9 million other funds) and 62,445.6 positions for CDCR to operate 32 state owned and operated prisons and 1 leased and operated prison with a total population of 95,585 (as of February 22, 2023). This reflects a net decrease of \$112 million in the current year and a net decrease of \$259 million in the budget year related to projected changes in the overall prison and parole populations and various subpopulations. The current-year net decrease in costs is primarily due to both a lower total prison population and a lower portion of that population receiving treatment through the Integrated Substance Use Disorder Treatment Program, relative to what was assumed in the 2022-23 Budget Act.

1. Closure of California Correctional Center (CCC). The Governor's Budget proposes a reduction of \$43.6 million and 255.5 positions General Fund and \$111,000 and 1.2 positions Inmate Welfare Fund in 2022-23; \$131.5 million and 774.4 positions General Fund and \$334,000

and 3.0 positions Inmate Welfare Fund in 2023-24; and \$131.9 million and 776.9 positions General Fund and \$334,000 and 3.0 positions Inmate Welfare Fund in 2024-25 and ongoing to reflect the closure of CCC. In addition, savings associated with the incarcerated population are captured within standard adjustments totaling a reduction of \$11.0 million and 28.1 positions General Fund and \$318,000 Inmate Welfare Fund in 2023-24. Collectively, the CCC closure will result in a total reduction of \$142.8 million and 805 positions General Fund and \$652,000 and 3.0 positions Inmate Welfare Fund in 2024-25 and ongoing.

2. Deactivation of prison yards. The Governor's Budget proposes the deactivation of yards at six prisons: Folsom Women's Facility, California Men's Colony, Pelican Bay State Prison, California Rehabilitation Center, California Institution for Men, and California Correctional Institution. All yards are expected to deactivate by the end of 2023. The Department of Finance has estimated this will yield \$150 million in annual savings.

3. Closure of California City Correctional Facility (CAC). The Governor's Budget proposes a reduction of \$33.2 million and 165.2 positions General Fund and \$85,000 and 0.8 positions Inmate Welfare Fund in 2023-24, and \$135.3 million and 644 positions General Fund and \$321,000 and 3 positions Inmate Welfare Fund in 2024-25 and ongoing to reflect the closure of the California City Correctional Facility. In addition, savings associated with the incarcerated population are captured within standard adjustments totaling a reduction of \$4.1 million and 10.6 positions General Fund and \$120,000 Inmate Welfare Fund in 2023-24 and \$16.6 million and 42.4 positions General Fund and \$479,000 Inmate Welfare Fund in 2024-25 and ongoing. Collectively, the closure will result in a total reduction of \$151.9 million and 686.4 positions General Fund and \$800,000 and 3.0 positions Inmate Welfare Fund in 2024-25 and ongoing.

LEGISLATIVE ANALYST'S OFFICE (LAO)

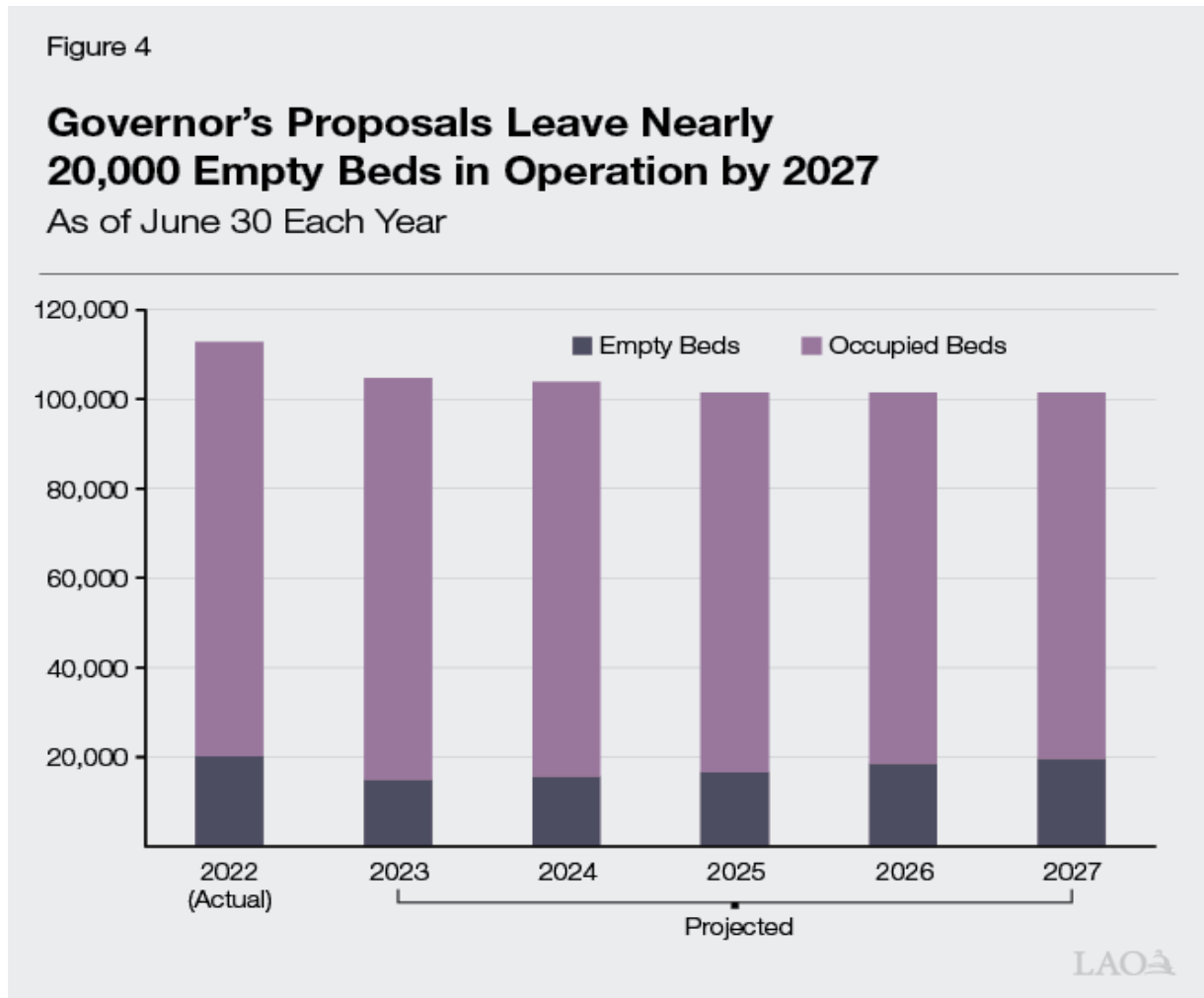
The LAO provides the following analysis and recommendations:

Unclear How CDCR Weighted Factors in Selecting Prisons for Deactivation. While CDCR indicates that it used the factors outlined in PC 2067 to inform its selection of prisons for deactivation, it is not clear how the department weighted these different factors. Consideration of the same factors weighted in different ways could result in different prisons being selected for deactivation. For example, if the state prioritizes operational flexibility for CDCR, Chuckawalla Valley State Prison (CVSP) could be a strong candidate for deactivation because it: (1) does not provide a significant source of celled housing; (2) does not appear to fill any unique system wide roles; (3) is not designated as an Intermediate Health Care institution; and, (4) is one of the desert institutions that does not house people receiving mental health services due to the interaction with heat sensitive medications. On the other hand, if the state prioritizes operational cost savings, it might select a different prison. For example, despite housing a fairly similar population, the per capita operational expenditures of the California Rehabilitation Center in Norco were \$68,250 in 2019-20 compared to \$58,101 at CVSP. Not knowing how CDCR weighted the different factors that went into its decision makes it difficult for the Legislature to evaluate whether it agrees with the department's selections.

Number of Empty Prison Beds in Operation Projected to Grow to Nearly 20,000 by 2027.

As shown in Figure 4 on the next page, the projected long-term decline in the prison population suggests that, after the proposed deactivations are completed, the state could have nearly

20,000 empty prison beds—comprising about 20 percent of the state’s total prison capacity. This means that the state could be in a position to deactivate around five additional prisons by 2027, while still remaining roughly 2,500 people below the federal court-ordered population limit.



Operation of Empty Beds Has Not Been Fully Justified. As discussed above, the state prisons are expected to have about 15,000 empty beds in the near term, growing to 20,000 by 2027. However, CDCR indicates that it is not planning further capacity reductions at this time because: (1) there is a need to maintain flexibility within the system (such as having adequate quarantine space to continue managing COVID-19 within prisons); and, (2) population projections are fairly uncertain in out-years. However, CDCR has not provided any data or analysis showing what number of beds is necessary for quarantine space. In addition, while there is always some uncertainty in population projections, the magnitude of empty beds projected is so large that it seems reasonable to assume that actual population trends will allow for some amount of capacity reduction.

State Lacks Prison Capacity Reduction Plan. Absent data and analysis demonstrating a compelling need to permanently maintain roughly 15,000 empty beds in the near term and 20,000 by 2027, the state will continue to have a substantial amount of excess capacity. Accordingly, it is reasonable for the state to start planning to reduce this excess capacity. While CDCR indicates that it will continue monitoring population trends and capacity needs, it does not have a prison capacity reduction plan. Specifically, CDCR has not identified the amount of empty

beds it requires or how it would reduce beds in excess of this amount. Without a capacity reduction plan, the state is at risk of incurring unnecessary prison operational and infrastructure costs.

Unnecessary Prison Operational Costs. As the prison population declines, the state is able to spend less in certain types of costs—such as food and clothing—that are directly tied to the number of people that need to be housed in state prisons. Specifically, the state saves about \$15,000 per year each time one fewer person needs to be housed in a prison. These savings accrue as the population declines—regardless of whether prison capacity is reduced. However, there are many other types of costs—such as most staffing costs—that are only saved when capacity is reduced. Specifically, when a whole prison is deactivated, the state can save several tens of thousands of dollars per capita annually in addition to the population-driven savings. Per capita savings associated with yard deactivations are generally somewhat less. This is because, while individual yard deactivations do allow staffing levels to be reduced, prisons have many centralized staffing costs—such as for administration and perimeter security—that must be maintained regardless of the number of yards in operation.

The state is projected to have enough excess capacity to allow for the deactivation of around five additional prisons. Deactivation of five prisons could generate around \$1 billion in annual ongoing operational cost savings. We note, however, that deactivating five prisons—or an equivalent amount of capacity reduction through a combination of prison and yard deactivations—could take a significant amount of advanced planning. For example, before the state can deactivate a facility, it might need to relocate a certain key function to another prison or make plans to mitigate the loss of that function. Without a capacity reduction plan, the state risks delaying deactivations—and the resulting operational savings—or spending hundreds of millions of dollars annually to indefinitely operate empty beds that have not been fully justified.

Unnecessary Prison Infrastructure Costs. As discussed above, state prisons have significant infrastructure repair needs—many of which must be addressed for health and safety reasons. Without a capacity reduction plan, it is difficult for the state to avoid funding projects at facilities that may be deactivated shortly thereafter. For example, CDCR had purchased equipment for and was close to beginning installation of an audio-video surveillance system at CVSP when the prison was announced for deactivation. In addition, CDCR completed construction of a new \$31 million health care facility at CCC in July 2021—about a year and a half before all incarcerated people were relocated to other prisons. Funding infrastructure projects at prisons that are deactivated shortly thereafter is not cost-effective. Moreover, it can mean that health and safety issues—at other prisons that the state does ultimately continue to operate—are addressed later than otherwise. Advanced planning is particularly critical given that infrastructure projects are costly and can take several years to complete.

Unnecessary Staff Training Costs. CDCR's staffing needs are affected by various factors, including the number of facilities being operated. Correctional officer staffing needs are particularly important to plan for, given that before these staff can be assigned to a prison they must first complete a 13-week correctional officer training academy that is paid for by the state. The Governor's 2023-24 budget maintains \$140 million General Fund for CDCR to continue operating the academy and delivering other training to peace officers. Without a capacity reduction plan, the state risks producing more correctional officers than needed from a workload standpoint. This would not be a cost-effective use of training resources.

Recommendations

1. Withhold Action on Budget Adjustments Associated With Deactivations. Given that CDCR intends to submit revised budget adjustments at May Revision, we recommend the Legislature withhold action on these proposals. We will provide recommendations on the revised proposals when they are available.

2. Direct CDCR to Report on How Criteria for Deactivation Decisions Were Prioritized. We recommend that the Legislature direct CDCR to report in spring budget hearings on how it weighted the criteria that it used to identify CAC, CVSP, and the six yards for deactivation. To the extent the Legislature disagrees with how the department weighted factors, it could direct CDCR to deactivate different prisons and/or yards.

3. Develop Near-Term Capacity Reduction Target to Guide 2023-24 Budget Decisions and Additional Deactivations. Given the risks associated with the state's current lack of a capacity reduction plan, we recommend that the Legislature develop a near-term capacity reduction target for the amount of capacity to be reduced in 2023-24 through additional yard deactivations. In order to help guide the development of this target, we recommend that the Legislature take the following steps:

- **Direct CDCR to Report Data and Analysis Showing Number of Empty Beds Needed in 2023-24.** The state prison system currently has and is projected to continue to have a significant number of empty beds. We recommend that the Legislature direct CDCR to report in spring budget hearings any available data and analysis justifying the number of empty beds that are needed in the budget year. To the extent that complete data or analysis will not be available in time to inform spring budget hearings, the administration should report on the steps and timeline necessary to complete it.
- **Determine Near-Term Capacity Reduction Target.** Based on the data and analysis reported by the department, we recommend that the Legislature determine a near-term capacity reduction target. To the extent that there is significant uncertainty or gaps in the data or analysis provided by the department, this could remain a relatively conservative target.
- **Direct CDCR to Deactivate Additional Yards in 2023-24 to Meet Near-Term Capacity Reduction Target.** Because full prison deactivations can require significant advanced planning, we recommend that the Legislature direct CDCR to deactivate additional yards in the budget year in order to meet the near-term capacity reduction target. By deactivating yards, the state will be able to begin achieving near-term operational savings while it finishes developing a long-term plan to deactivate full prisons. Deactivating these yards does not preclude the state from reactivating them in the future as necessary.

4. Direct CDCR to Provide Information to Guide Future Budget Decisions. To guide future budget decisions and help the state avoid ongoing unnecessary spending, it is important to identify an appropriate long-term capacity reduction target, specific prisons to be deactivated, and any planning activities—such as relocating key infrastructure—that must occur before deactivation can occur.

- **Direct CDCR to Report on Long-Term Empty Bed Need.** We recommend that the Legislature direct CDCR to submit a report by January 10, 2024 that identifies long-term empty bed needs and provides key information needed to plan for future prison deactivations. Specifically, the report should include thorough data and analysis supporting an estimate of the number of empty beds that the state will need to maintain in the long term. In conducting this analysis, CDCR should consider options—aside from maintaining empty beds—for how to manage unexpected increases in the population. The options considered should include, but not be limited to, establishing agreements with sheriffs to delay transfers from jail to prison, reducing prison terms through credits under the CDCR’s existing authority, and the possibility of quickly reactivating yards or prisons as necessary.
- **Determine Long-Term Capacity Reduction Target.** With the report described above, the Legislature will be in a better position to determine an appropriate number of empty beds to operate in the long term. Based on this, we recommend that the Legislature determine a long-term capacity reduction target.
- **Direct CDCR to Report on Major Implications of Deactivating Each Prison and Costs to Address Them.** We recommend that the Legislature direct CDCR to submit a report by January 10, 2024 that provides—for each prison or for a subset of prisons identified by the Legislature—an inventory of any major implications of deactivation and a description of the options for and cost to mitigate those implications. For example, a major implication of deactivating Folsom State Prison would be that the state would have to find an alternative means of producing license plates. Accordingly, the report should briefly describe this implication, and discuss options and costs of mitigating it. With this information, the Legislature would be able to weigh the costs and benefits of selecting a particular prison for deactivation.
- **Achieve Long-Term Capacity Reduction Target Through Prison Deactivation.** After establishing a long-term capacity reduction target, the Legislature would be able to estimate the number of prisons that can be deactivated over the next several years. Using information reported by CDCR on the implications of deactivating each prison, the Legislature could make decisions about which implications it is comfortable accepting and/or paying to mitigate. Moreover, given that some mitigation strategies could take time, having this information will allow the state to begin planning for future prison deactivations. In determining how many and which prisons to close, we recommend that the Legislature consider reactivating yards as necessary to maximize the total number of whole prison deactivations achieved. This is because deactivation of whole prisons is generally more cost-effective than similarly sized capacity reductions achieved through yard deactivations.

STAFF COMMENT

Population Reduction, Budget Increase. Despite a prison population reduction of nearly 70,000, CDCR’s budget has increased significantly, by nearly 40% in the last decade. The rising costs have been attributed to actions taken to reduce prison overcrowding, rising healthcare related costs, and employee compensation. In an attempt to reduce unnecessary spending during this economic downturn, the Administration’s identification of the closure of CCC in

Susanville, the end of the California City leased facility contract, and the closure of several yards at six different prisons will help the state realize \$417 million General Fund at full implementation beginning in 2024-25. There will be additional savings with the closure of Chuckawalla Valley State Prison (CVSP).

Note on California City Correctional Facility (CAC). CAC, the leased facility, is a Level II general population prison currently staffed by state workers. As a leased facility, the state is not responsible for any capital needs at this prison, providing significant savings to the state. CDCR entered into contract to lease the facility in October 2013 to house state incarcerated individuals to reduce overall system overcrowding. Staff notes two implications regarding the selection of ending the CAC contract in lieu of closing a state owned prison:

- As a leased facility, the state is not responsible for any capital needs at this prison, providing significant savings to the state compared to state owned prisons.
- The facility is comprised completely of cells and no congregate dorms, providing for additional protection against communicable diseases.

Long term prison infrastructure management. The Legislature adopted the 2021 SRL requiring CDCR to provide a long term infrastructure investment plan in order to better understand the department's strategy and prioritization of capital investments against the backdrop of a declining prison population. The purpose of the report was to also serve as a strategic tool for the Department so that unnecessary investments could be avoided with sufficient planning. Staff notes that the SRL report, which was provided to the Legislature just 10 months before the announcement of the various facility closures in December 2022, identified several pending capital improvements to CVSP, including the near completion of a health care facility improvement project (started in 2016 and projected completion date of October 2023), new potable water wells (started in 2021 and not yet completed), renovation of water tanks (started in 2022 and not yet completed), and fence repairs and upgrades (started in 2021 and 2022 and not yet completed), totaling approximately \$32 million. In addition, as noted by the LAO, CVSP was also on the list of prisons to receive a prison-wide Audio/Visual Surveillance System as part of the 2022 Budget Act (This year's budget has proposed resources for AVSS implementation at the remaining prisons).

Durable Prison Capacity Portfolio. While CDCR has provided some requested information related to capital and other maintenance investments that are needed for its prisons, it still remains unclear as to how that information is used to make closure decisions. And while Penal Code 2067 lays out factors for consideration in prison closure selections, it is unclear how factors are weighed by the Administration and CDCR and whether the selections fulfill the statutory directive regarding maximizing state savings. CDCR has stated the need sufficient for flexibility due to specialized missions that exist in certain prisons and needing sufficient flexibility for their operations. These are reasonable concerns worthy of accommodation but with 15,000 empty beds, growing to more than 20,000 empty beds in the next few years, the Subcommittee may wish to direct CDCR to use this opportunity to create or modify a long term, durable prison capacity portfolio based on factors including but not limited to:

- A sufficient capacity buffer to the 137.5% court ordered population cap (in 2018, CDCR stated this buffer was approximately 2500 beds)
- Population needs, including program delivery and facility design that mitigates the spread of disease

- Population projections
- Operating costs
- Overall physical condition of the prison, including but not limited to, capital investments that have been made or are needed in the near future
- Access to and availability of reentry programs, rehabilitation programs and program providers, including but not limited to higher education programs, vocational programs, and other rehabilitative programs offered by non-profit entities or community based organizations
- Ability to recruit and retain staff, in particular medical and mental health staff
- Geographical proximity that supports family connection

Such a strategy would provide the Legislature additional information, greater transparency, and more meaningful oversight over prison closure decisions. In addition, the Subcommittee may wish to review Penal Code 2067 to determine whether updated and clarifying language may be needed.

Staff Recommendation: Hold Open.

ISSUE 2: AUDIT OF CDCR'S CONTROLLED SUBSTANCES CONTRABAND INTERDICTION EFFORTS

The Inspector General's Office will provide an overview of their recent audit of CDCR's controlled substances contraband interdiction efforts.

PANELISTS

- Amarik Singh, Inspector General
- Ron Davis, Acting Deputy Director of Facility Operations, Division of Adult Institutions, CDCR

BACKGROUND

The Office of Inspector General (OIG) completed an audit of CDCR's contraband interdiction efforts at four prisons from March 1, 2019 through January 7, 2022. The audit included the following components:

1. Observations of routine entrance searches, enhanced entrance searches of employees, routine, cell searches, searches at interior prison work change checkpoints, and searches of prison mail rooms;
2. Review of CDCR's processes for investigating the sources of the drugs discovered in prisons and the data related to the drug discoveries; and,
3. Analysis of the impact of visiting restrictions that were implemented in response to the COVID-19 pandemic.

The OIG states:

"[d]espite strategies the department has implemented, our audit identified several operational weaknesses within the department's drug interdiction program, allowing drugs to continue to enter California's prison system. We identified deficiencies with entrance screening, routine searches of incarcerated people's living areas and within prison property, searches of incarcerated workers, and investigations into the source of drugs discovered. One area of weakness was over the department's collection and reporting of data, resulting in data errors, which the California State Auditor previously reported in August 2017, and again by the department's Office of Audits and Court Compliance in February 2019. We found the department does not take full advantage of its canine program and use of electronic drug detecting devices, after having implemented two pilot programs, and accompanying research studies finding them to be effective. Specifically, we found the department underutilizes its canine program despite having legal authority to use canines to search incarcerated people, visitors, staff, and their property, and to search prison property. The department also has authority to use electronic devices capable of detecting, or assisting in detecting, drugs, but only uses these devices in limited circumstances.

We understand that reducing the prevalence of drugs in California's prison system is an ongoing challenge for the department. However, drugs have entered prisons even after

the department implemented COVID-19 response efforts and suspended in-person visiting, beginning March 2020, to mitigate potential exposure to COVID-19. The avenues for drugs entering prisons during the first year of the pandemic, with visiting restrictions in place, at primary entry points remained staff, contractors, official visitors, and mail. Therefore, it is important that the department work to strengthen its drug interdiction program at points of entry, and to detect, discover, and investigate drugs once the drugs are inside secured perimeters, to establish a safer prison system in which drug use, drug trafficking, and drug contraband is reduced.”

The specific findings of the audit and recommendations are provided in a factsheet from the OIG and has been posted for the public on the Assembly Budget website.

STAFF COMMENT

This Subcommittee requested data from CDCR on contraband found in the prisons from 2017 to 2022. Staff notes that all visitation was stopped on March 11, 2020 and all family visits and tours were stopped on March 24, 2020. Phased reopening of in-person visitation began on April 10, 2021. Visits were suspended again at least on one occasion due to a surge in COVID-19 cases starting January 8, 2022 and lasting 15 days.

**Contraband Discovered in Institutions from
January 01, 2017 - December 31, 2022.**

Type of Contraband	2017	2018	2019	2020	2021	2022
Cell Phones	16,175	16,091	13,450	11,778	10,083	9,004
Heroin (lbs)	30.5	34.8	37.5	27.6	33.8	39.2
Marijuana (lbs)	104.9	147.7	73.3	100.8	101.7	144.0
Methamphetamines (lbs)	45.4	51.3	54	60.3	95.4	99.7
Tobacco	730.1	649.5	481.2	544.1	254.9	313.2

Data obtained from CDCR's Office of Research

Staff Recommendation: Hold Open.

ISSUE 3: STAFF MISCONDUCT INVESTIGATION EXPANSION

CDCR will provide an overview of their proposal for additional resources related to their staff misconduct investigation efforts and an update on the implementation of the new staff complaint process and the Office of Inspector General will provide an update on their oversight efforts. Attorneys from Rosen Bien Galvan & Grunfeld LLP (RBGG), who represent class members of *Armstrong v. Newsom*, will provide additional information related to the implementation of the staff complaint process.

PANELISTS

- Amy Miller, Director of Div. of Correctional Policy Research and & Internal Oversight, CDCR
- Amarik Singh, Inspector General
- Gay Grunfeld, Rosen Bien Galvan & Grunfeld LLP
- Penny Godbold, Rosen Bien Galvan & Grunfeld
- Allison Hewitt, Department of Finance

David Chriss, Deputy Director of Office of Internal Affairs, CDCR, and Jared Lozano, Deputy Director of Facility Support for the Division of Adult Institutions, CDCR, are available for questions from the Subcommittee.

BACKGROUND

History. CDCR is under federal court orders (*Coleman*, since 1995, and *Plata*, since 2006) for failing to provide a constitutional level of mental and medical health care. In addition, CDCR is under the *Armstrong* remedial plan, stemming from violations of the Americans with Disabilities Act and the *Clark* remedial plan to address issues specific to prisoners with developmental disabilities. The impetus for this new staff complaint process was partially based on a 2019 report, released by the Office of Inspector General (OIG), regarding staff complaints at Salinas Valley State Prison. Findings in the report showed significant deficiencies in the existing staff complaints process, poor quality controls, and significant risk of bias. While the OIG report was specific to Salinas Valley, complaints from across the state indicated the problem was systemic. In addition, the Subcommittee received the following excerpts which represents some of the types of staff misconduct allegations in the prisons:

1. *Armstrong v. Newsom*: Notice of Motion and Motion to Stop Defendants from Assaulting, Abusing, and Retaliating Against People with Disabilities at R.J. Donovan Correctional Facility; Memorandum of Points and Authorities. February 2, 2020.

“An officer called [an incarcerated person] who uses a walker a “crippled motherfucker,” before pepper spraying him in the face, hitting him in the face with the pepper spray canister, and then kicking and stomping [him] on [his] back and neck. The assault occurred because the [incarcerated] person had threatened to complain about the officer refusing to provide assistance carrying a heavy box of legal mail.”

“...staff stood on the back of an acutely suicidal person while he yelled, ‘I can’t breathe!’ He died. Prior to his death, officers ignored the man’s cries for help for thirty minutes before finally dragging him out of his cell and handcuffing his badly bleeding wrists.”

“...[an incarcerated person] with a mobility disability protested on September 24, 2019 that an officer was searching him in a way that was incompatible with his disability-based limitations...In response, the officer told the [incarcerated person], “I don’t give a shit,” slammed [him] to the ground, and then punched and kicked him in the face and ribs. After the class member was restrained in handcuffs, the officer stepped on the class member’s head and high-fived nearby staff members.”

2. Letter from RBGG to CDCR Office of Legal Affairs dated November 13, 2019

“One person was allegedly thrown out of his wheelchair and then, while on the ground, was kned in the head by staff so hard it caused bleeding in his brain such that he had to be placed into a medically-induced coma.”

“In one attack, five staff members broke a mentally ill person’s arm without any apparent justification for the use of force. Then, staff denied him access to medical care for nearly six hours...while other incarcerated people pleaded with staff to allow him to be taken to be seen by medical staff. In another brazen incident that is now the subject of a federal lawsuit, three incarcerated people with disabilities were publicly attacked by multiple officers in the middle of an occupied dayroom for doing nothing more than yelling at those officers to stop beating a fellow prisoner.”

3. Letter from RBGG to Special Master Matthew A. Lopes, Coleman Special Master Team dated November 7, 2019

“Plaintiffs’ counsel conducted nineteen interviews with California Institution for Women (CIW) class members...[a] significant number of interviewees reported to Plaintiffs that there is a pervasive culture of misconduct among staff members at CIW. Numerous CIW class members, who did not want to be named due to fear of retaliation, provided detailed and credible accounts of being sexually assaulted by male correctional officers. Among other examples, CIW class members described staff members who solicited class members for sexually explicit photos; staff members who traded contraband in exchange for sexual favors from class members, verbal sexual harassment...and staff members that retaliated against class members who reported sexual assault.

Litigation and CDCR’s Response. In *Armstrong v. Newsom*, the court issued two orders on September 8, 2020 and March 11, 2021 where findings of systemic abuses were found against incarcerated people with disabilities in six prisons. The remedy that was ordered included the installation of security cameras, the use of body worn cameras, additional supervisory staffing, and a reformed staff complaint process. An expert has been appointed to oversee the implementation of these measures. On July 30, 2020, the court also entered a preliminary injunction to protect two incarcerated people with disabilities from being retaliated against by correctional officers after they filed complaints about abuses perpetrated against other incarcerated people with disabilities. These two individuals were attacked and verbally threatened by correctional officers.

In March 2022, CDCR finalized remedial plans which included overhauling their staff complaint process (at all prisons), installing fixed surveillance cameras (at all prisons), and implementing body-worn cameras at ten prisons. CDCR is also required to provide to the case expert and plaintiffs’ attorneys (RBGG) with staff misconduct investigation files to be monitored and reviewed to confirm compliance with the remedial plans. CDCR adopted final regulations for the staff misconduct process on October 20, 2022.

New Staff Complaint Process. CDCR has adopted a series of changes to overhaul their staff complaint process which is summarized below:

1. Intake, Screening, and Routing. Grievances will be collected by the prison's Office of Grievances, and screened for any urgent issues (i.e. anything requiring an immediate response). Grievances are sent to the Centralized Screening Team (CST) and processed. Allegations of staff misconduct that do not involve an incarcerated person or parolee is not referred to CST. CST staff may need to follow up with the complaint for additional information and will log each grievance in the new database. Upon review of each grievance, CST staff will take the following actions:

- Return "routine grievances" back to the prisons. These are grievances that do not contain an allegation of staff misconduct.
- If the complaint contains an allegation(s) of staff misconduct toward an incarcerated person or parolee which include "complex issues requiring specialized investigative skills or resources," these will be referred to the Allegation Investigation Unit (AIU) in the Office of Internal Affairs. Those complaints that have an allegation of staff misconduct but are not deemed to include complex skills requiring specialized investigative skills or resources are sent back to the prison.

2. Investigation, Inquiry or Other. Depending on the decision of CST, AIU will perform an investigation or a Local Designated Investigator (LDI) at the prison will perform a local inquiry. At the conclusion of AIU's investigation, an AIU manager must review the report and if the investigation is found to be sufficient, it is provided to the appropriate entity, usually the hiring authority (warden).

If the LDI discovers in the course of their investigation, evidence of staff misconduct that requires specialized investigative skills, the LDI will cease further inquiry and refer the inquiry to the AIU. If the LDI establishes reasonable belief that an allegation occurred that is likely to lead to adverse action, the LDI is to stop the inquiry and escalate the complaint to the hiring authority and if the hiring authority agrees, then it is forwarded to the AIU for investigation or request for direct adverse action. If the hiring authority disagrees, it is returned to the LDI to complete the inquiry. Upon completion of the allegation inquiry, it is sent to the AIU manager for review and approval.

Finally, either the AIU Investigation Report or the LDI Inquiry Allegation Report is returned to the hiring authority for review and disposition. For certain matters, it may be returned to the Employment Advocacy and Prosecution Team in the Office of Legal Affairs. Neither the AIU report nor the LDI report will make a determination on the allegation(s)—they will only provide a finding of facts.

3. Resolution. Once the report is provided to the hiring authority, the process remains largely the same as before. Hiring authorities make a determination as to whether the allegation of misconduct is sustained and order an appropriate action which is then recorded in the new database.

4. Oversight. In addition to the review provided by the court expert and RBGG, under Penal Code 6126(i), the OIG is required to provide contemporaneous oversight of these grievances and submit reports annually beginning in 2021. At full implementation of resources provided to the OIG in the 2022 Budget Act, they will be able to provide oversight of approximately 25% of complaints. Currently, they are able to provide oversight of approximately 8% of complaints.

Proposed Funding

The Governor's Budget proposes \$9.6 million General Fund and 16 positions in 2023-24, \$9.3 million and 16 positions in 2024-25, and \$2.9 million General Fund and 16 positions in 2025-26 and ongoing to continue refining the CDCR's updated staff misconduct allegation complaint screening, referral, and tracking processes and mechanisms; and the associated investigative and disciplinary processes.

The 2022 Budget Act included \$34.4 million and 176.1 full-time equivalent positions in 2022-23 (based on funding a staggered implementation plan), \$34.9 million and 192 positions in 2023-24, and \$34.2 million and 192 positions ongoing.

STAFF COMMENT

Recent Sexual Assault Allegations at Central California Women's Prison (CCWF). A former correctional officer (who resigned in August of 2022 after being approached by internal affairs investigators) from Central California Women's Facility (CCWF) has been accused of sexual misconduct against at least 22 incarcerated women. This individual has been a correctional officer since 1995 and has worked in several male prisons before transferring to CCWF in 2010. A civil case by some of the victims have been filed against the alleged perpetrator, CDCR, and others. CDCR has shared its internal investigation into this individual with the Madera County District Attorney's Office.

The Subcommittee may wish to inquire when investigations are ultimately turned over to an external prosecutor for a criminal investigation. For example, are there instances where the use of excessive force has ever been turned into a criminal investigation? Who ultimately makes the decision to refer a matter for a criminal investigation? In addition to this information, the Subcommittee may wish to have CDCR provide specified annual data of the number and nature of staff complaints or other complaints that have been turned over for criminal investigations. The Subcommittee may also wish to require CDCR to report on civil liability the state has had to pay in legal fees, judgements or orders against the state, and other costs associated with civil litigation filed for correctional officer and other staff misconduct against incarcerated people.

Staff Recommendation: Hold Open.

ISSUE 4: STATEWIDE CORRECTIONAL VIDEO SURVEILLANCE PROGRAM CONTINUATION

CDCR will provide an overview of their proposal for the statewide correctional video surveillance program to be implemented at ten additional prisons.

PANELISTS

- Ron Davis, Acting Deputy Director of Facility Operations, Division of Adult Institutions, CDCR
- Caitlin O'Neil, Legislative Analyst's Office
- Sarah Tomlinson, Department of Finance
- Allison Hewitt, Department of Finance

Madelynn McClain, Deputy Director of Fiscal Services, CDCR, and Richard Gillespie, Deputy Director of IT Operation and Support, CDCR, are available for questions from the Subcommittee.

BACKGROUND

CDCR and the Office of Inspector General reports going as far back as 2008, and various media articles indicated pointed to a dangerous culture at High Desert State Prison. In 2015, the Office of the Inspector General released a special review of High Desert State Prison (HDSP). The report included the following findings:

- "A perception of insularity and indifference to inmates exists at HDSP, exacerbated by the unique geographical isolation, the high stress environment, and a labor organization that opposes oversight to the point of actively discouraging members from coming forward with information that could adversely affect another officer."
- "Accounts from both staff and inmates depict a culture of indifference...hardline officers run some yards with little regard for vulnerable inmates...the staff complaint process is broken...HDSP does not have a process for addressing officers who are repeatedly accused of misconduct by different inmates..."
- Interviews of incarcerated individuals indicated a prevalence of racism: Black inmates were called the N-word or "skid marks," they were locked down longer, given less time to eat, faced harsher punishments, etc. while white incarcerated individuals were given better jobs, priority access to canteen produces, etc.

The troubling report included a slate of recommendations including the immediate installation of cameras. While this report was focused on HDSP, concerns were raised about the pervasiveness of correctional officer misconduct toward people in prison. For example a court monitoring team in fall of 2016 documented numerous allegations of officer misconduct, including physical abuse, denial of food, verbal abuse, tampering with mail and property, inappropriate response to suicide attempts or ideation, and retaliation for reporting misconduct.

Installation of Audio Video Surveillance Systems (AVSS) in CDCR prisons. In total, the state has provided funding to CDCR for the installation of AVSS at 22 prisons and body-worn cameras at 10 prisons. As of November 2022, AVSS has been installed at nine prisons and body-worn cameras have been deployed at nine prisons. Currently, there are 11 state-owned prisons that have not been funded to receive AVSS. One of these prisons, CCC, is planned to

be deactivated by June 30, 2023. The timeline for resources and installation of AVSS so far is described below:

- In 2016, CDCR installed an AVSS with 207 high definition cameras in designated high-traffic and large congregation areas at HDSP. This served as a technical pilot, enabling CDCR to test the viability of operating this type of equipment on CDCR's network. Also in 2016, a Coleman Special Master monitoring team recommended CDCR install video surveillance cameras to increase observation and provide transparency in areas where actions leading to allegations of staff misconduct commonly occur.
- In 2017-18, CDCR received funding to complete the AVSS at HDSP and install the AVSS at Central California Women's Facility (CCWF). These locations were determined to have an immediate need for AVSS based on criteria such as the number of violent incidents in 2015-16.
- In 2018-19, CDCR received funding and installed 178 video surveillance cameras in the mental health areas at California State Prison, Sacramento (SAC).
- In September 2020, the United States District Court ordered CDCR in *Armstrong v. Newsom* to install surveillance cameras in all areas of Richard J. Donovan Correctional Facility (RJD) where incarcerated people have access, including, but not limited to, all exercise yards, housing units, sally ports, dining halls, program areas, and gymnasiums, within 90 days. CDCR was further ordered to retain footage of use of force and other triggering events indefinitely, and all other footage for a minimum of 90 days. The Court also ordered the use of body-worn cameras within 60 days for all correctional officers at RJD who may interact with protected class members.
- On January 19, 2021, CDCR deployed BWCs in compliance with the court's order at RJD. All correctional officers and sergeants who interact with the incarcerated population are required to wear a BWC. In addition, CDCR activated 966 high-definition cameras in designated high-traffic and large congregation areas on April 5, 2021, in accordance with the *Armstrong* court directive. In March 2021, the United States District Court ordered CDCR in *Armstrong v. Newsom* to implement the same remedial measures that were required at RJD at five prisons—California State Prison, Los Angeles County, California State Prison, Corcoran, Substance Abuse Treatment Facility, California Institution for Women, and Kern Valley State Prison. The 2021 Budget Act included resources to enable CDCR to implement these measures and implement AVSS at Salinas Valley State Prison, California Correctional Institution, and Mule Creek State Prison and complete the AVSS installation at CA State Prison Sacramento.

Proposed Funding

The Governor's Budget proposes \$87.7 million General Fund and 19 positions in 2023-24, and \$7.5 million in 2024-25 and 2025-26, to implement audio video surveillance systems at ten state-owned institutions. CDCR also requests a total of \$14.7 million ongoing General Fund beginning in 2026-27 to account for licensing, software, and refresh costs in addition to the ongoing staffing and operational resources associated with this request.

CDCR plans to submit a revised proposal by the May Revision as CDCR had purchased but not yet installed AVSS equipment for Chuckawalla Valley State Prison (funded in the 2022 Budget Act) which is slated for closure. CDCR states that it will be able to install this equipment at another prison.

Previously Allocated Resources

The 2022 Budget Act provided \$80.3 million General Fund and 32 positions in 2022-23, and \$7.6 million General Fund in 2023-24 and ongoing to deploy fixed cameras at ten institutions, body-worn cameras at four institutions, and manage/maintain recorded video. The prisons funded were Avenal State Prison, California Medical Facility, Pleasant Valley State Prison, Solano State Prison, San Quentin State Prison, Calipatria State Prison, Centinela State Prison, California Health Care Facility, Chuckawalla Valley State Prison, and Ironwood State Prison; and to implement body worn cameras at CA State Prison Sacramento, Salinas Valley State Prisons, CA Central Women's Facility, and CA Correctional Institution. CDCR estimated that full deployment will be completed in 2023-24.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis and recommendations:

AVSS Can Have Benefits, but Results in Additional General Fund Cost Pressures. Given that AVSS appears to be a useful investigation tool, we find that it is reasonable to install AVSS at prisons that the state intends to operate in the long term. However, the proposal has a significant budget-year cost and would drive General Fund costs on an ongoing basis. This is notable, given the budget problem facing the state. Specifically, the Governor's budget proposes various budget solutions to address the estimated budget problem for 2023-24. However, our estimates suggest the budget problem is likely to be larger in May. Moreover, even under Governor's budget assumptions, the proposed solutions also are insufficient to keep the state budget balanced in future years, with projected out-year deficits in the \$4 billion to \$9 billion range.

Not Cost-Effective to Implement AVSS at Prisons That Could Be Deactivated. As we discussed earlier in this brief, the state is expected to have significant excess prison capacity. Specifically, we estimate that the state could be in a position to deactivate around five additional prisons by 2027. However, the administration has not identified specific prisons for future deactivation. As such, under the Governor's proposal, there is a risk that any of the ten prisons proposed for AVSS installation would be deactivated shortly after the installation—thereby the benefits of AVSS at these prisons could barely be realized.

Recommendation. Reject Portion of Funding Tied to Expansion of AVSS at Ten Prisons. Given the budget problem facing the state and the risk of installing AVSS at prisons that are deactivated shortly thereafter, we find that it is not prudent to expand AVSS to new prisons at this time. Accordingly, we recommend that the Legislature reject the portion of the proposal—\$87.7 million and 19 positions in 2023-24—to install and maintain AVSS at ten prisons. When there is greater clarity as to which additional prisons will be deactivated, the administration could submit a request for resources to install AVSS at additional prisons.

STAFF COMMENT

Current CDCR policy requires the retention of video footage for 90 days only. CDCR acknowledges the usefulness of video recordings as evidence during investigations of discovered or reported incidents. Data provided to the Subcommittee last year showed that use of video footage at two prisons was impactful in approximately two-thirds of all staff complaints, incident reports, and rule violations. CDCR's new staff complaint process also removes the time constraints for when a staff complaint can be filed. Although CDCR states that the vast majority of complaints are filed during that period of time, the staff complaint process is new and it is unclear how those numbers may change. In 2022, there were approximately 168,000 complaints filed, of which 20,000 included an allegation of staff misconduct. Of the complaints that included an allegation of staff misconduct, even if 97% of them were filed during the 90 day period, that still leaves 600 complaints that would not have the benefit of potential video footage evidence.

Further, the investment of AVSS systems at all prisons and body worn cameras at ten prisons were initiated by allegations of severe staff misconduct and costly litigation—critical issues that the state has a strong interest in curbing. AVSS can also help to track down contraband and support other measures to improve the welfare and security of prisons, the staff, and the incarcerated population. Arguably, some of these investigations can be complicated and can benefit from longer retained footage and longer retention allows the state to maximize the value of the expensive AVSS systems and body worn cameras.

The Subcommittee may wish to require CDCR to retain the video footage for a longer period of time and direct CDCR to provide an estimate of costs related to extended video retention. In addition, the Subcommittee may wish to direct the CDCR to establish a policy to safeguard footage that has been identified in connection to an incident or complaint, as well as other measures to ensure the accuracy and consistency of video recording for both AVSS and body worn cameras.

Staff Recommendation: Hold Open.

NON-DISCUSSION ITEMS

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

0552 OFFICE OF INSPECTOR GENERAL

ISSUE 5: ADDITIONAL CA REHABILITATION OVERSIGHT BOARD RESOURCES (SB 903)

The Governor's Budget proposes \$117,000 in Fiscal Year 2023-2024 and ongoing and one position to support implementation of Chapter 821, Statutes of 2022 (SB 903). The California Rehabilitation Oversight Board (C-ROB) was established as part of the Public Safety Offender Rehabilitation Services Act of 2007 to evaluate the California Department of Corrections and Rehabilitation's rehabilitation and treatment programs and recommend changes to the Legislature and Governor. SB 903 requires C-ROB, in addition to its pre-existing duties, to begin examining the department's efforts to address the housing needs of incarcerated persons, including those who are identified as having serious mental health needs, who are released to the community as parolees. SB 903 also requires C-ROB to include data in its annual reports to the Legislature and Governor indicating the number of parolees who are experiencing homelessness, and the number of those parolees experiencing homelessness who have previously been identified as having serious mental health needs.

Appropriations Analysis. The Assembly Appropriations analysis identified \$120,000 General Fund annually to the Office of Inspector General to address the additional workload. The Senate Appropriations analysis was the same.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION**ISSUE 6: VARIOUS BUDGET PROPOSALS**

1. Technical Adjustments. The Governor's Budget proposes a net zero realignment of budget authority within CDCR programs and to transfer \$8 million General Fund in 2023-24 and ongoing from CDCR to the California Arts Council to support the Arts in Corrections program. Each year, the Budget Act provides CDCR funding and CDCR makes adjustments through various Executive Orders and Budget Revisions. Due to changes in business practices and previous errors in scheduling authority amounts by program, CDCR has identified necessary technical adjustments among various programs. These technical adjustments will accurately align budget authority with anticipated expenditures. In addition to these technical adjustments, there is an adjustment of \$8 million of funding from CDCR's In-Person Program to appropriate funding to support the Arts in Corrections program.

2. BIS Migration to S/4HANA. The Governor's Budget proposes \$8.1 million General Fund in 2023-24, \$9.3 million in 2024-25, and \$7.8 million in 2025-26 to migrate CDCR's System Applications and Products (SAP) software to SAP's new system offering, S/4HANA. SAP interfaces with other State systems to include: FI\$Cal, for purchasing and accounting; the State Controller's Office, for Pay and Time evaluation; the Department of Public Health, for COVID testing and vaccination data; and the Office of the Inspector General, for allegations of staff misconduct data. System support for the current version of SAP will end in 2027. Existing systems must move to the new cloud-based platform (S/4HANA) before that date, and CDCR projects the migration will take three years. CDCR states that without this migration, SAP will become obsolete and prone to security breaches and a loss of functionality.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis and recommendations:

Initiating Migration to S/4HANA in 2023-24 Appears Premature. Under the Governor's proposal, the financial applications within BIS would be migrated to S/4HANA and—pending the results of the fit-gap analysis—subsequently transitioned to FI\$Cal at some point before 2032. In other words, the state would eventually be paying for both the migration to S/4HANA and the transition to FI\$Cal, which does not seem cost-effective. However, as discussed above, the state may be able to contract with SAP or a third-party vendor to provide extended maintenance for the ECC 6.0 software supporting BIS. This would allow CDCR to delay migration to S/4HANA. Accordingly, it appears premature to begin migration at this time.

Key Information Needed to Determine Costs of Delaying Migration. In order to determine whether it is cost-effective to delay the migration to S/4HANA, the Legislature would need to know the cost and potential trade-offs of contracting with SAP or a third-party vendor to temporarily provide extended maintenance for the ECC 6.0 software currently supporting BIS. However, it is unclear to what extent CDCR evaluated such options given that it did not provide information on the costs and potential trade-offs associated with them. Without this key information, it is difficult for the Legislature to determine whether to approve the department's proposal or delay the transition to

S/4HANA. Moreover, we note that if the administration has not made efforts to assess options to delay migration to S/4HANA, it raises concerns that the administration is not putting the necessary effort into moving CDCR onto FI\$Cal.

Recommendation: Withhold Action and Direct CDCR to Report Key Information. We recommend that the Legislature direct CDCR to report in spring budget hearings on: (1) the annual costs to contract with SAP to continue providing maintenance; (2) the estimated annual costs to provide maintenance through a third-party vendor; and, (3) any potential challenges associated with these options and strategies to mitigate them. This information would allow the Legislature to evaluate whether the benefits of delaying migration are worth the costs. Until it receives this information, we recommend the Legislature withhold action on the Governor’s proposal. We will review information provided by the department and make recommendations to the Legislature after the information is available.

3. Employment Leave Expansion (AB 1041). The Governor’s Budget proposes \$1.9 million General Fund in 2023-24 and 2024-25 to comply with the anticipated workload increase associated with the expansion of individuals that an employee may take leave to include a “designated person” as established and defined by Chapter 748, Statutes of 2022 (AB 1041). In calendar year 2021, CDCR processed 18,604 requests that fall under the Family and Medical Leave Act, California Family Rights Act (CFRA), and pregnancy disability leave. In 2022, CDCR has received 16,746 requests through October 1, 2022, and projects to process approximately 22,500 requests through the end of this calendar year. While CDCR is projecting a 20 percent increase, or approximately 4,500 additional cases, the true impact will be unknown until CDCR is able to collect more data in the coming years. Due to the unknown impact, CDCR is requesting two-year, limited-term resources. CDCR intends to reevaluate the needs based on data collection in 2023 and 2024.

Appropriations Analysis. The Assembly Appropriations analysis identified additional costs of an unknown amount for state departments to the extent this bill increases use of CFRA or paid sick days. The Senate Appropriations analysis was the same and stated that the magnitude of these costs was unknown (General Fund and special funds).

4. eDiscovery Ongoing Needs. The Governor’s Budget proposes 11 positions and \$10 million General Fund in 2023-24 and ongoing to continue to develop and implement CDCR’s comprehensive eDiscovery platform. According to CDCR, establishing an eDiscovery platform will ensure CDCR properly preserves digital evidence information in a timely manner, including data that does not travel over email such as contract documents, invoices, data on computers, cell phones, servers and databases. CDCR states that this proposal will support the Security Initiative and the Office of Legal Affairs’ objectives by improving existing processes, allowing CDCR to build or procure expertise and critical infrastructure systems vital to meet current and projected needs, while implementing a proper managerial workflow and the minimum resources required to meet present organizational demands. This request implements a more automated eDiscovery process, enhancing efficiencies for litigation and Public Records Act request response processes and expanding the available services to prepare for the ever-evolving mobile workforce.

5. Roof Replacement Design and Construction. The Governor’s Budget proposes \$1.5 million one-time General Fund in 2023-24 for design and \$62 million in 2024-25 for construction of roof

replacements at the Richard J. Donovan Correctional Facility. CDCR also requests \$627,000 General Fund to support three positions beginning in 2023-24 with \$621,000 ongoing for the positions to provide the resources needed to manage the growing roof replacement workload. In 2023, roof replacement activities will be active at 11 institutions. Due to the volume of work associated with the current and projected roof replacement projects, existing architectural resources are not sufficient to address the ongoing design work associated with roof replacements. Currently, there are 118 buildings, encompassing 6.1 million square feet, of roofs in either construction, or pending construction start. CDCR anticipates the pace of construction to increase over the next few years as supply chain issues resolve.

6. Health Care Facility Improvement Program (HCFIP) Supplemental Appropriation. The Governor's Budget proposes \$1,329,614,000 for Construction for the 25 original lease revenue bond funded projects. As of January 2023, construction is approximately 93 percent complete. CDCR continues to make progress on the construction of HCFIP; however an additional \$10.049 million General Fund authority is needed due to increasing construction costs.

The projects include physical plant improvements for outpatient health care services. Total project costs are estimated at \$1,413,549,000, including Preliminary Plans (\$36,030,000), Working Drawings (\$47,906,000), and Construction (\$1,329,613,000). The construction amount includes \$906,494,000 for the construction contract, \$72,301,000 for contingency, \$68,637,000 for architectural and engineering services, \$152,410,000 for agency retained items, and \$129,771,000 for other project costs. Preliminary Plans began in September 2012 and were completed in March 2015. The Working Drawings began in December 2013 and were approved in December 2015. Construction began in September 2014 and will be completed in August 2024.

Originally, Sections 15819.40(b) and (c) and 15819.401 through 15819.403 (e) of the Government Code appropriated \$900,419,000 lease revenue bond financing authority to CDCR to design and construct medical, dental, and mental health treatment or housing space at existing prison facilities. The amount authorized has been increased by \$125,382,000 by Chapter 44, Statutes of 2018 (\$43 million), Chapter 37, Statutes of 2019 (\$49.85 million), and Chapter 29, Statutes of 2020 (\$32.532 million) to fund projects established by the SPWB. This appropriation has been augmented by \$187,346,000 for HCFIP projects (18.3 percent). Additionally, the Budget Act of 2021 appropriated \$115.7 million General Fund and reverted \$48.184 million lease revenue bond authority, essentially converting the remaining lease revenue authority to General Fund and providing additional funding for HCFIP projects in the amount of \$67,516,000. The 2022 Budget Act appropriated \$67.59 million General Fund to complete the construction of HCFIP projects.

7. CA State Prison, Corcoran: Correctional Treatment Center (CTC) Individual Exercise Yards (Continuing). The Governor's Budget proposes \$1,536,000 for the construction phase to create two individual exercise yards adjacent to the CTC. Total project costs are estimated at \$1,917,000, including Preliminary Plans (\$195,000), Working Drawings (\$186,000), and Construction (\$1,536,000). The construction amount includes \$959,000 for the construction contract, \$67,000 for contingency, \$64,000 for agency retained items, and \$446,000 for other project costs. Preliminary Plans began in July 2022 and are estimated to be completed in April 2023. The Working Drawings are estimated to begin in May 2023 and will be approved in July 2023. Construction is scheduled to begin in August 2023 and will be completed in October 2024.

This proposal requests funding for the construction phase of the project. The total estimated project cost is \$1,917,000.

8. CA State Prison, Corcoran: Radio Tower and Equipment Vault (Continuing). The Governor's Budget proposes \$925,000 for the working drawings phase of a radio communications system with infrastructure to support a new radio tower and radio communications vault. Total project costs are estimated at \$10,399,000, including Preliminary Plans (\$806,000), Working Drawings (\$925,000), and Construction (\$8,668,000). The construction amount includes \$3,923,000 for the construction contract, \$196,000 for contingency, \$878,000 for architectural and engineering services, \$1,842,000 for agency retained items, and \$1,829,000 for other project costs. Preliminary Plans began in July 2022 and are estimated to be completed in September 2023. The Working Drawings are estimated to begin in October 2023 and will be approved in July 2024. Construction is scheduled to begin in November 2024 and will be completed in May 2026. The total estimated project cost is \$10,399,000.

9. Valley State Prison, Chowchilla Arsenic and Manganese Removal Water Treatment Plant (Continuing). The Governor's Budget proposes \$34,203,000 for the construction phase of the arsenic and manganese removal water treatment plant. Total project costs are estimated at \$37,164,000, including Preliminary Plans (\$1,508,000), Working Drawings (\$1,453,000), and Construction (\$34,203,000). The construction amount includes \$27,012,000 for the construction contract, \$1,351,000 for contingency, \$1,552,000 for architectural and engineering services, \$1,407,000 for agency retained items, and \$2,881,000 for other project costs. Preliminary Plans began in July 2019 and were completed in May 2021. The Working Drawings began May 2021 and will be approved in August 2023. Construction is scheduled to begin in November 2023 and will be completed in August 2025. The total estimated project cost is \$37,164,000.

10. Pelican Bay State Prison, Crescent City: Fire Suppression Upgrade (Continuing). The Governor's Budget proposes \$35,036,000 General Fund for Construction and extension of the liquidation period for Working Drawings - \$347,000 of Pelican Bay's fire suppression upgrade to correct deficiencies identified by the State Fire Marshal. Currently, the working drawings funding will revert for this project on June 30, 2023, which will not allow time to process final invoices tied to the working drawings appropriation. The project includes correcting fire suppression system deficiencies in eight general population housing units. Total project costs are estimated at \$37,294,000, including Preliminary Plans (\$1,117,000), Working Drawings (\$1,141,000), and Construction (\$35,036,000). The construction amount includes \$24,380,000 for the construction contract, \$1,707,000 for contingency, \$2,579,000 for architectural and engineering services, \$1,481,000 for agency retained items, and \$4,889,000 for other project costs. The Preliminary Plans began in July 2018 and were completed in October 2019. The Working Drawings began in October 2019 and will be approved in July 2023. Construction is scheduled to begin in October 2023 and will be completed in December 2026. This proposal also requests funding for construction phase. The total estimated project cost is \$37,294,000.

Staff Recommendation: Hold Open.

This agenda and other publications are available on the Assembly Budget Committee's website at: <https://abgt.assembly.ca.gov/sub5hearingagendas>. You may contact the Committee at (916) 319-2099. This agenda was prepared by Jennifer Kim.