

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 5
ON PUBLIC SAFETY

ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR

MONDAY, MARCH 9, 2020
 2:30 P.M. – STATE CAPITOL, ROOM 437

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ITEMS TO BE HEARD

0820 DEPARTMENT OF JUSTICE

ISSUE 1: DEPARTMENT OVERVIEW AND PRIORITIES

The Attorney General will provide an overview of the Department of Justice’s (DOJ) priorities.

PANELISTS

- Xavier Becerra, Attorney General

BACKGROUND

Under the direction of the Attorney General, DOJ provides legal services to state and local entities, brings lawsuits to enforce public rights, carries out various law enforcement activities, collects criminal justice statistics from local authorities, manages the statewide criminal history database, conducts background checks required for firearm purchase, licensing, and other purposes, and provides various services to local law enforcement agencies including the provision of forensic services. The Governor’s budget proposes \$1.1 billion to support DOJ operations in 2019-20, an increase of \$22 million over the revised amount for 2019-20. Of the total amount proposed for DOJ operations in 2020-21, nearly one third—\$370 million—is from the General Fund.

Total Expenditures for the Department of Justice

(Dollars in Millions)

	2018-19 Actual	2019-20 Estimated	2020-21 Proposed	Change From 2019-20	
				Amount	Percent
Legal Services	\$465	\$547	\$554	\$7	1.3%
Law Enforcement	230	300	309	9	3.1
California Justice Information Services	206	239	244	5	2.1
Totals	\$902	\$1,086	\$1,107	\$22	2.0%

ISSUE 2: UPDATE ON CALGANG REGISTRY (AB 90)

The Department of Justice (DOJ) will provide a progress and status update on the CalGang Registry and changes made pursuant to AB 90 (2017).

PANELISTS

- Department of Justice
- Legislative Analyst's Office

BACKGROUND

Chapter 695, Statutes of 2017 (AB 90), shifted the responsibilities for shared gang databases from the CalGang Executive Board to the DOJ and set policies, procedures, and oversight for the future use of shared gang databases. Its provisions include the following:

- DOJ to promulgate regulations governing use, operation, and oversight of any shared gang database, including establishing requirements for entering/reviewing gang designations, the retention period for listed gangs, and criteria for identifying gang members. Also requires DOJ to develop and implement standardized periodic training for all persons with access to the CalGang database.
- Required DOJ, by January 1, 2020, to promulgate regulations to provide for periodic audits by law enforcement agencies and department staff to ensure the accuracy, reliability, and proper use of any shared gang databases, and to report the results of the audits to the public.
- Imposed a moratorium on the use of the CalGang database starting January 1, 2018, until the Attorney General certifies that specified information has been purged from the CalGang database.

Currently, there are more than 88,000 Californians in the CalGang database—this is more than a 55% reduction from 2012 when there were more than 200,000 profiles. According to a report released in 2019 by the Urban Peace Institute, Black people are overrepresented in CalGang by 362% and Latinos are overrepresented by 168%. In early February of 2020, DOJ announced it will be conducting an investigation of the Los Angeles Police Department's (LAPD) use of a statewide database of alleged gang members after allegations that officers falsified records to enter people in it. Nearly 20 officers are implicated. LAPD places more individuals in CalGang than any other law enforcement agency. Between November 1, 2017 and October 31, 2018, LAPD was responsible for 20,583 records.

Staff Recommendation: Hold Open.

ISSUE 3: AUDIT OF THE BUREAU OF GAMBLING AND ASSOCIATED BUDGET CHANGE PROPOSALS

The Auditor's Office will provide an overview of and progress update on the audit of the Bureau of Gambling. The Department of Justice (DOJ) will provide an overview of the associated budget change proposals.

PANELISTS

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

BACKGROUND

The 2019 Budget Act provided 32 two-year limited term positions and adopted the following recommendations from the State Auditor:

1. To ensure that it approaches its backlog strategically and that it is accountable for its use of resources, the bureau should establish a formal plan by November 2019 for completing its review of the remaining pending applications.
2. To ensure that it fairly charges applicants for the costs of their background investigations, the bureau should establish and implement policies by July 2019 that require staff to properly and equitably report and bill the time they spend conducting such investigations.

According to the State Auditor's Report that was released on May 16, 2019, it states:

- Our review of 23 gaming license applications found that the bureau regularly exceeded the statutory time frame of 180 days for completing its review of applications. Although the bureau cited a lack of available resources as a factor in the delays, we question its efficiency given that temporary funding it received from the Legislature for 32 additional positions has more than doubled its licensing staff since fiscal year 2015–16. The temporary funding is set to expire in June 2019, yet the bureau has not sufficiently demonstrated what an appropriate permanent staffing level would be. In fact, despite its increased staffing, the bureau still has a backlog of almost 1,000 applications, likely in part because its productivity has diminished since it hired its new staff. In contrast, the commission complied with its separate regulatory time frame of 120 days when it approved applications at its regular licensing meetings. However, its practice of holding evidentiary hearings to deny license applications—an approach the commission explained it implemented to conform to the Gambling Act—contributed to significant delays and use of extra staff resources in its handling of such applications.
- The bureau and the commission have established regulatory fees that do not align with the actual costs that they incur when performing oversight activities. These fees—which applicants and gaming business owners pay—raise questions about the legality and

fairness of the current fee structure. In part, because some of the fees are higher than necessary, the balance in the Gambling Fund has doubled over the past five years, and it is projected to increase to \$97 million by June 2020. If the balance reaches this amount, it will represent a surplus of more than five times the combined annual operating expenditures of the bureau and commission. This excessive surplus has enabled the bureau to engage in inconsistent billing and time-management practices. Specifically, the bureau's billing processes have resulted in many applicants' not paying for the actual costs of their background investigations. Further, bureau licensing staff have reported spending the majority of their time on activities that may not be productive or even directly related to license applications.

Bureau of Gambling Control (BGC). The BGC within DOJ and the California Gambling Control Commission jointly regulate the state's gambling industry—which currently includes 86 cardrooms and 65 tribal casinos. The bureau has investigation, compliance, and enforcement responsibilities, while the commission has policymaking, licensing, and adjudication responsibilities. In 2019-20, the bureau received nearly \$36 million to support its workload. Of the total, about 42 percent comes from the Gambling Control Fund (GCF)—which receives revenue from the cardroom industry—and nearly all of the remainder from tribal gaming revenues. State law generally requires businesses, business owners, and employees who operate, work, or benefit from gaming activities to be licensed. Businesses or individuals submit applications to either obtain a license or renew a license, along with a processing fee, to the bureau. The bureau is then responsible for conducting background investigations and making recommendations to the commission on whether licenses should be approved, renewed, or denied. The length of time it takes to conduct such investigations depends on the type of license. For example, the investigations related to business owner license applications can be significantly more extensive than for a regular cardroom employee. These investigations include various inquiries, such as a criminal background check and a review of financial statements.

Since 2015-16, BGC has received limited-term funding to address a growing backlog of licensing investigations cases. Despite these additional resources, the backlog has persisted. Currently, the section has 52 analyst positions—32 supported by limited-term funding and 20 supported by ongoing funding—tasked with completing background investigations.

Proposed Funding

Cardroom and Third Party Providers of Proposition Player Services Oversight Budget Change Proposal

The Governor's budget requests 30 positions and \$5.4 million Gambling Control Fund in 2020-21, and \$5.6 million annually thereafter, to provide efficient and effective regulation of California cardrooms and Third Party Providers of Proposition Player Services (TPPPPS), in accordance with recommendations outlined in a recent audit by the California State Auditor.

Licensing Section Support Staff Budget Change Proposal

The Governor's budget requests 8 positions and \$867,000 Gambling Control Fund in 2020-21, and \$779,000 annually thereafter to the Department of Justice to provide oversight and clerical support to the Licensing Section.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following background and assessment of the **Licensing Section Support Staff Budget Change Proposal**:

The Legislature directed the California State Auditor to conduct an audit of the cardroom licensing process. In May 2019, State Auditor identified three major concerns related to BGC. Specifically, they found that: (1) inefficiencies have driven delays and compounded backlogs in licensing processes; (2) fees charged do not align with regulatory costs, resulting in fairness concerns; and, (3) inconsistent regulations and practices have resulted in the unequal treatment of applicants. The State Auditor also made specific recommendations for the bureau to address these findings. These included implementing procedural changes to improve the timeliness and efficiency of processing applications (for example ensuring that analysts spend most of their time on actual licensing workload), developing a plan to address the remaining backlog strategically and accountably, and conducting a cost analysis of all of its activities.

We find that the request for the additional resources is premature. BGC has only recently taken steps to implement a number of the recommendations made by the State Auditor. This means that the full impact of such changes on the overall licensing process is still unknown. For example, the State Auditor recommended BGC reassess its policies on how much time analysts spend on actual licensing workload as well as how they report spending their time. This should make analysts more productive as they should be reducing time spent on workload unrelated to licensing. This should reduce the total amount of resources needed on an ongoing basis to process cases. Only after these efficiencies have been fully implemented will it be possible for the Legislature to determine whether the bureau needs additional resources to address its workload on an ongoing basis. Moreover, this request should be considered concurrently with a request for ongoing resources for analyst positions. This is because these non-analyst positions directly impact the need for the analyst positions. By approving these non-analyst positions, the ongoing need for the analyst positions should decline given that some analyst workload is being shifted to them.

Therefore, it is premature to approve these positions before the Legislature determines how many analyst positions to approve as part of the 2021-22 budget, given that the two-year, limited-term funding currently supporting the 32 positions expires at the end of 2020-21.

LAO Recommendations:

In light of the above concerns, the LAO recommends the Legislature reject the Governor's proposal.

STAFF COMMENTS

Staff notes a discrepancy in the justification for the budget change proposal **Cardroom and Third Party Providers of Proposition Player Services Oversight budget change proposal**. The DOJ cites the State Auditor's report as justification for the additional resources but the audit concerned only the licensing portion of the BGC's responsibilities, not enforcement.

In addition, considering that the Legislature provided two-year limited term licensing staffing in the 2019 Budget, it may be premature to provide permanent support staff positions. As such, the Legislature may wish to evaluate the **Licensing Section Support Staff Budget Change Proposal** within the context of reevaluating the previously allotted limited term positions in a future budget year.

The Subcommittee is in receipt of letters from a number of card rooms and businesses that come under the purview of the BGC asking the Subcommittee to reject the requested additional resources to the BGC. Below is a summary of their comments:

- There are 72 licensed card clubs in California. Nearly half of all cardrooms have fewer than ten tables.
- BGC's current funding and staffing include 230 employees, equating to more than 3 employees per licensee, compared to other agencies like the California Medical Board which has one employee per 988 licensees or the Alcohol and Beverage Control Board that has one employee per 196 licensees. In addition, BGC requests an additional 10 peace officer positions, for a total of 58. In comparison, the Department of Consumer Affairs' investigation unit that covers 3.6 million individuals has a total of 60 sworn peace officers.
- Comparing California and Nevada and the resources spent to regulating gambling entities, advocates state Nevada spends approximately \$100,000 to regulate each casino, while California spends more than \$300,000 per casino (including tribal casinos).
- The ask for four additional positions for game approval is also not justified as the BGC has not approved any new games in the past three years, with a backlog of 99 applications.
- A request for resources is premature absent a cost analysis by 2020, as recommended by the State Auditor. The DOJ is in the process of proposing regulatory changes that could potentially eliminate 50 percent of card club table games and also put some card clubs out of business—which would indicate fewer resources needed for regulation and enforcement, not more.

Staff Recommendation: Hold Open.

ISSUE 4: BUREAU OF FORENSIC SERVICES FUND AND EQUIPMENT REFRESH

The Department of Justice (DOJ) will open this issue with an overview of the proposal regarding the Bureau of Forensic Services Fund and Equipment Refresh.

PANELISTS

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

BACKGROUND

The Bureau of Forensic Services (BFS) provides forensic laboratory support and analysis to cover 500 local law enforcement agencies in all of California's 58 counties. BFS also supports investigative activities for numerous state agencies including the Department of Justice's (DOJ) Bureau of Investigation, the California Department of Corrections and Rehabilitation, and the California Highway Patrol, as well as provide backup support to local city and county laboratories.

In 1996-98, the DOJ developed an 8 year replacement schedule for major equipment in BFS. In 2005-06, DOJ received a one-time \$2.5 million General Fund allocation to replace equipment and was asked by the Legislature to create a plan for the ongoing replacement of equipment which was created in 2006-07. BFS equipment replacement has been partially funded by the DNA Identification Fund, but the fund has been experiencing decreasing revenues. The most recent solution to the funding shortage was a General Fund redirection of \$15 million into BFS for 2017-18 and 2018-19, followed by a one-year authority increase of \$6 million in 2018-19 to support continued revenue declines.

The 2018 Budget Act allocated an additional one-time \$6 million General Fund to support the DNA Identification Fund and a one-time allocation of \$5.4 million General Fund to address the replacement of equipment. The Budget Act of 2019 provided a subsequent allocation of \$2.6 million. According to the DOJ, an analysis resulted in a proposed replacement schedule which indicated the need for \$5.8 million annually to support the necessary equipment replacement needs.

Proposed Funding

The Governor's budget requests \$32 million one-time funding in 2020-21, including \$22 million General Fund and \$10 million Fingerprint Fees Account, to backfill the continued decline in fine and fee revenues in the DNA Identification Fund. In addition, this request includes \$7.3 million General Fund in 2020-21 and ongoing to regularly maintain and replace forensic laboratory equipment, and to perform maintenance of state-owned laboratories.

In total, the Governor's budget proposes \$101 million in total operational support for BFS with nearly 50 percent coming from the General Fund, 37 percent from the DNA Identification Fund, and the remainder from various other sources.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis and recommendations:

Governor's Proposals Appear Reasonable... We find that the Governor's proposals generally appear reasonable as DOJ has provided sufficient workload justification for the total level of funding proposed for BFS operations and the ongoing need for equipment and repair funding. We also find it reasonable for DOJ to purchase land and begin the planning process for a new consolidated forensic laboratory campus.

...But Do Not Fully Address Ongoing Decline in DNA Identification Fund Revenues. The Governor's proposal does not provide a permanent solution to the ongoing decline in criminal fine and fee revenues that are deposited in the DNA Identification Fund to support BFS. As such, an ongoing and sustainable funding solution for BFS would still need to be identified.

BFS Provides Certain Local Governments Substantial Benefits. City and county law enforcement and prosecutorial agencies are predominantly responsible for collecting and submitting forensic evidence for testing as well as using the evidence to pursue criminal convictions in court. A large share of BFS resources are dedicated to providing support to these agencies. However, certain counties and cities benefit significantly more than others. Specifically, while 12 counties and 8 cities currently use their own resources to support local criminal laboratories, 46 counties generally do not have to use any of their resources for criminal laboratory services. This is because BFS is effectively subsidizing the agencies in these counties with tens of millions of dollars in services annually.

Local Governments Lack Incentive to Use BFS Services Cost-Effectively. BFS's current funding structure provides the agencies it serves with little incentive to use its services in a cost-effective manner. Since BFS does not charge for its services, these local agencies lack incentive to prioritize what forensic evidence is collected and submitted for testing. Their submissions instead are generally only limited by BFS's overall capacity and service levels, as determined by the amount of funding provided to the bureau in the annual state budget. In contrast, counties and cities that use their own resources to support their labs—or those that decide they want to pay a private laboratory for testing—have greater incentive to carefully prioritize what evidence should be tested and how quickly it should be done.

LAO Recommendations:

Approve Governor's Proposals. We recommend that the Legislature approve the Governor's proposals to provide: (1) General Fund support to backfill a projected decline in criminal fine and fee revenue in the DNA Identification Fund; and, (2) increased funding for equipment and facility maintenance and repairs, workload associated with SB 22, and site acquisition and the planning phase for a proposed consolidated forensic science laboratory campus.

Require Local Governments to Partially Support Bureau Beginning in 2021-22. Given the substantial benefit that local agencies receive from BFS services, we recommend the Legislature take steps to require local agencies to partially support BFS. Under our recommendation, agencies that receive service from BFS would be required to pay for a portion of the services they receive. This would provide them with a greater incentive to prioritize workload that is submitted to DOJ. Additionally, local agency contributions would reduce the amount of state funding required to support BFS, which would provide an ongoing solution to the decline of fine and fee revenue deposited into the DNA Identification Fund. Since it will take time to calculate each agency's appropriate share of support and to allow the agencies to adapt to the new BFS funding structure, we recommend that this new structure go into effect in 2021-22.

Require Development of Plan for Calculating Local Government's Share of Bureau Support. We recommend the Legislature direct DOJ to develop a plan to calculate each local agency's share of the BFS services it uses and report this plan by January 10, 2021 to enable its consideration as part of the 2021-22 budget. This should include staff, operating expenses (such as the regular replacement of equipment), and facility costs (such as maintenance costs). The Legislature should provide guidance to DOJ on the development of the plan. For example, we recommend the Legislature direct DOJ to develop a plan in which at least half of BFS operating revenues come from local agencies. This funding would replace the 50 percent of BFS's budget which is proposed to be supported by the General Fund in 2020-21. DOJ would then be provided with flexibility to develop the specifics of the plan after consulting with stakeholders. For example, DOJ could require local agencies to pay more or less based on various factors—such as the specific type of forensic service being sought, the speed of the service, the size of the agency, or the crime rate in a local jurisdiction. If structured appropriately, this could provide a permanent ongoing funding solution for the support of BFS.

Direct DOJ to Update Future Facility Request if Necessary. Requiring local agencies that use the services of BFS to help support the costs of the bureau would incentivize them to find the most cost-effective way to obtain laboratory services. This could result in some agencies choosing to use other labs instead of BFS (such as private or other government labs) or send fewer cases to BFS. This, in turn, could result in BFS modifying the services it provides if there is a change in demand for specific services or in particular regions. To the extent that this results in changes to BFS's overall workload or organization, it could impact its need for the proposed consolidated forensic science laboratory campus. As such, we recommend the Legislature direct DOJ to update its future budget request for the next phase of the project to reflect any necessary changes.

Staff Recommendation: Hold Open.

5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**ISSUE 5: UPDATED ON INTEGRATED SUBSTANCE USE DISORDER TREATMENT PROGRAM**

The California Department of Corrections and Rehabilitation (CDCR) will provide a progress update on the implementation of the Integrated Substance Use Disorder Treatment Program (ISUDTP).

PANELISTS

- California Department of Corrections and Rehabilitation (CDCR)
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

The 2019 Budget included \$71.3 million General Fund and 280.2 positions in 2019-20, \$161.9 million General Fund and an additional 150.8 positions in 2020-21 (for a total of 431.0 positions ongoing), and \$164.8 million General Fund in 2021-22 and ongoing for the Integrated Substance Use Disorder Treatment Program (ISUDTP). The proposal included the following components:

Changes to Existing Programs: CDCR will change the requirements of contractors who provide Substance Use Disorder Treatment (SUDT) and Cognitive Behavior Therapy (CBT) programs, including enhancing the qualifications of providers.

Establishes New Statewide Medication Assisted Treatment (MAT) Program (\$8 Million, Increasing to \$29 Million in 2021-22). These programs existed as pilot programs in three prisons and will be expanded statewide for individuals with alcohol or opioid use disorder.

Increases Medical and Corrections Staffing: CDCR will increase medical staff to implement the MAT program and screen inmates for substance use disorders. Custody staff will also be increased to escort prisoners and provide security for this program.

CDCR proposed a phased approach that would result in full implementation over a five year timeline. The population of prisoners that will be served by this program are prioritized in the following manner:

1. Patients who enter prison already on MAT have presumably been assessed prior to their arrival and started on a care plan. The number of patients presenting to RCs on MAT is expected to steadily increase as a result of the expansion of MAT in county jails by the Department of Health Care Services (DHCS) and in the community through the Medi-Cal expansion program.
2. Patients already in prison who categorize themselves as high risk by: surviving resuscitative

efforts following a drug overdose; a recent hospitalization for SUD-related in the past year; having SUD and a coexisting chronic pain condition on chronic opioid therapy; having SUD during pregnancy; or other conditions associated with high risk for drug overdose.

3. Patients who are anticipating release from prison in the near future. Patients with untreated opioid use disorder are approximately 45 times more likely to die within the first two weeks of release compared with age matched controls in the community. Therefore, to allow enough time to implement a comprehensive treatment plan – estimated to require approximately 12 months to complete for most patients – CCHCS will target patients with an expected release date within 15-18 months. This group will comprise the largest proportion of the three targeted as our first priority.

Staff Recommendation: Hold Open.

ISSUE 6: SUICIDES IN PRISON

The California Department of Corrections and Rehabilitation (CDCR) will provide an overview of recent increases in suicides in state prisons and the Department's response to reducing suicides. In addition, the California Peace Officers Association will provide an overview of issues impacting their membership that contribute to suicides among their members.

PANEL 1 SUICIDES AMONG CORRECTIONAL OFFICERS

- Tiffanie Thomas, California Correctional Peace Officers Association
- Steve Durham, California Correctional Peace Officers Association

PANEL 2 PRISONER SUICIDES

- California Department of Corrections and Rehabilitation
- Michael Bien, Rosen, Bien, Galvan and Grunfeld, co-counsel on *Coleman v. Newsom* and *Armstrong v. Newsom*

BACKGROUND**California Correctional Peace Officers Association**

The California Correctional Peace Officers Association (CCPOA) represents correctional officers employed by the California Department of Corrections and Rehabilitation. CCPOA was founded in 1957 following the suicide of a fellow officer, concerns over working conditions and the pay scale, CCPOA represents 33,380 members. Members pay \$101.16 per month in union dues.

Based on a survey of 8,000 correctional officers (COs)s and parole officers employed by CDCR, a 2018 UC Berkeley study found that COs are at high risk of depression, post-traumatic stress disorder (PTSD), and suicide. Other findings include:

- Nearly 30 percent report being seriously injured at work and 85 percent reported seeing someone seriously injured or killed.
- One in three officers have experienced at least one symptom of PTSD.
- One in three officers expressed experiencing depression.
- Half of the officer expressed not feeling safe at work.
- Ten percent of officers have thought about committing suicide. The rate of suicidal thoughts is even higher for retired officers (14 percent). Over 70 percent have not told anyone about their suicidal thoughts.
- Eighteen percent of officers reported ever using the Employee Assistance Program (EAP) and only three percent have made use of the Peer Support Volunteer program. Officers cite concerns with privacy and repercussions if they use EAP for assistance with work-related mental health issues.

The number of suicides among COs has risen. Between 1999 and 2015, there were 96 confirmed or suspected suicides among current and retired officers. During the majority of this period of time, the suicide rate among COs exceeded the state's overall suicide rate. The number peaked in 2012 with 13 suicides, a rate more than four times the state's general population.

Inmate Suicides

Suicide Data from CDCR

Upon request from the Subcommittee, CDCR provided the following information related to prisoner suicides in state custody:

- Between 1999 and 2019, 624 prisoners have committed suicide in CDCR's prisons. Twenty-two of the suicides were committed by female prisoners. CDCR experienced the highest number of suicides (43) in 2006. This past year, 2019, is the next highest number with 38, and increase of 10% from the previous year and 40% from 2014. In 2019, California State Prison, Sacramento (CSP Sac) experienced the highest number of suicides with 9 occurring in the prison. From 1999 to 2019, Sac had the highest overall number of suicides with nearly 8% of the total.
- Based on data of suicides that occurred between 1999 to 2019, suicide victims fell into the following racial groups:
 - African-American: 13.5%
 - Hispanic: 33.3%
 - White: 42.5%
 - Other: 10.7%
- Based on data of suicides that occurred from 2005 to 2019, suicide victims fell into the following age groups:
 - Ages 18-24: 31 or 6.5%
 - Ages 25-34: 147 or 30.8%
 - Ages 35-44: 153 or 32.1%
 - Ages 45-54: 98 or 20.5%
 - Ages 55 or older: 48 or 10.1%
- Hanging was used in the vast majority of suicides (83.5%). Other methods of suicide include exsanguination, strangulation, asphyxiation, drowning, overdose, fall/jump, and water toxicity.

2017 Audit on Suicides in CDCR

In 2017, the California State Auditor released a report titled "California Department of Corrections and Rehabilitation: It Must Increase Its Efforts to Prevent and Respond to Inmate Suicides" that reviewed policies related to suicide in four prisons. Key findings included the following:

- Although Corrections established policies for responding to inmates that have attempted or are at risk of attempting suicide, the four prisons we reviewed did not consistently follow the policies in responding to, planning treatment for, and observing such inmates.
 - All four prisons either failed to complete or inadequately completed required risk evaluations for more than 70 percent of the 36 inmates we reviewed that required these evaluations.
 - For half of the 36 inmates, mental health staff did not adequately justify the risk levels assigned.
 - Out of 25 inmates requiring treatment plans, the four prisons did not develop adequate plans for 23 and did not develop plans for two.
 - Prison staff from all four prisons insufficiently monitored at-risk inmates—they did not observe them at the required time intervals.
- Drug involvement, inmates transfer, and domestic violence may contribute to the higher rate of female inmate suicides and suicide attempts at California Institution for Women (CIW) than at other prisons, yet it and other prisons have not ensured staff are trained on suicide prevention and response.
- Although Corrections has known for years that prisons inadequately complete risk evaluations and treatment plans, it has not ensured prisons comply with its policies and has not completed an audit process it began developing in 2013.

The audit also reported the following:

- According to a 2016 report by a mental health expert appointed by a U.S. district court, the average suicide rate in Corrections was 22 per 100,000 inmates from 2005 through 2013, significantly higher than the average rate of 15.66 per 100,000 inmates in U.S. state prisons during the same period.
- Although female inmates made up about 4 percent of Corrections' inmate population from 2014 through 2016, they accounted for about 11 percent of the suicides. Almost all of the suicides during this period occurred at the California Institution for Women (CIW).

According to a progress update from the State Auditor's office published in February of 2019, of the 23 recommendations, CDCR has fully implemented 12. Of the remaining 11 recommendations, one is partially implemented, 9 recommendations are considered either pending, legislation proposed but not enacted, legislation vetoed, or not feasible, and the Department will not implement 1 recommendation.

Coleman v. Newsom

The Coleman case is a class action lawsuit that challenged the adequacy of the mental health care systems which was placing the lives of prisoners at serious risk of death, injury, and prolonged suffering. A Special Master assigned to this lawsuit has engaged Lindsay M. Hayes, a national expert in the field of suicide prevention within detention settings, and has been appointed as a Federal Court Monitor and expert to special masters in the monitoring or suicide prevention practices in a number of adult and youth detention facilities.

In 2015, a report was submitted to the court with a comprehensive set of recommendations from Mr. Hayes for CDCR to enhance their suicide prevention policies and practices and the court ordered CDCR to adopt those recommendations. Of the 32 initial recommendations, 3 were withdrawn at the recommendation of the Special Master. CDCR has made varying degrees of progress on the 29 remaining recommendations but have not fully completed them.

Correspondence received by the Subcommittee indicate that the deficiencies in the overall delivery of mental health care plays a significant role in contributing to suicides and risk of suicide. Issues raised include individuals not transferred to a higher level of mental health care when they should have, custodial restrictions that prevent the delivery of appropriate care, deficient “hand off” processes when a prisoner transitions from a higher level of care to a lower level of care, insufficient mental health staffing (in particular, psychiatrists), and the expanding use of cages for the delivery of care (depicted below and on the following page).

Treatment Cages for Group Therapy in the Enhanced Outpatient Program Administrative Segregation Unit at Mule Creek State Prison:



Source: Declaration of Craig Haney in Opposition to Motion to Terminate, *Coleman v. Newsom*, Case 2:90-cv-00520-LKK-JFM, ECF No. 3378 at 141.

Treatment Cages for Individual Mental Health Clinical Contacts, Enhanced Outpatient Program Administrative Segregation Unit, Mule Creek State Prison:



Declaration of Craig Haney in Opposition to Motion to Terminate, *Coleman v. Newsom*, Case 2:90-cv-00520-LKK-JFM, ECF No. 3378 at 147.

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.