

**AGENDA  
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4  
ON STATE ADMINISTRATION**

**ADDENDUM**

**Assemblymember Rudy Bermudez, Chair**

**WEDNESDAY, APRIL 27, 2005, 1:30 PM  
STATE CAPITOL, ROOM 437**

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## ITEMS TO BE HEARD

### **ITEM 5240 DEPARTMENT OF CORRECTIONS**

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The Department of Corrections (CDC) consists of five programs: Institution Program; Health Program, Inmate Education Program, Community Correctional Program, and Central Administration Program. Within the Institution Program there are 32 operating correctional institutions (Delano II anticipated to open during 2005-06), including 11 reception centers. The Health Care Services Program provides health care to the Department's inmate population. This includes the delivery of medical, dental, and psychiatric services. The Inmate Education Program provides academic and vocational education programs. The Community Correctional Program manages the Department's parole population. The Administration Program is organized into the Executive, Support Services, and Field Operations divisions.

#### **ISSUE 1: PROPOSITION 69 DNA COLLECTION**

In November 2004, the voters passed Proposition 69, which expanded the collection of DNA samples from convicted felons and persons arrested on suspicion of various misdemeanors and felonies. Initially, the provisions of the initiative would require the collection of DNA samples from those adults arrested of major felonies. As of 2009, the collection of DNA sample from those adults arrested for any felony would be mandated.

Funding for this implementation of this initiative would come from an increase in criminal penalties by one dollar for every ten dollars currently imposed. These revenues would be deposited in a DNA Identification Fund in support of state and local costs associated with the implementing the provisions of this program. During the first two years, the State would receive 70 percent of the revenue. In the third year, the amount allocated to the state would be 50 percent and in the fourth and subsequent years, the State would receive 25 percent of the revenues. Local governments would receive the balance of the revenues in support of sample collection, analysis, tracking and processing of related crime scene evidence. In order to fund costs in the initial year, Proposition 69 provides for a loan from the state General Fund of \$7 million. This loan would have to be repaid, with interest, no later than four years after the loan was made. In the initial years of implementation, the State would incur costs associated with the collection of DNA samples from those persons currently incarcerated and found by the court to have committed a qualifying offense under the new law. This would include inmates, wards, and parolees not sampled under the prior law. Local governments would be responsible for the collection of samples for newly convicted felons as well as those persons arrested related to qualifying offenses.

The Administration proposes additional funding for the Department of Corrections (as well as the Department of Youth Authority and the Department of Justice) related to the implementation of the provisions of Proposition 69. The Legislative Analyst's Office believes that this request (as well as that by the Department of Youth Authority) is over-budgeted.

**March 30<sup>th</sup> Action:** During the discussion of this item, the Department indicated that it is currently re-evaluating this request.

The April 1 Finance Letter reduced the request for funding by \$467,000 to \$3,129,000. The request estimates the need to test both inmates and parolees. The Department also states that the current practice of participation by counties on a reimbursement basis can no longer continue, however, it does not specify the reason for that decision.

**ISSUE 2: IT PROJECTS – REPORT LANGUAGE**

The Department of Corrections has a number of IT projects being planned regarding accounting and fiscal administration, tracking of medical records, pharmaceutical tracking, and inmate and parole records. These projects may cost over \$100 million over a number of years before they become operational.

The subcommittee may want to adopt trailer bill language to direct the Department of Corrections to report every six months to the budget committees of both houses beginning October 1, 2005, on the status of all pending IT projects with a cumulative cost exceeding \$10 million. Reporting on these projects would cease upon becoming fully operational. Reporting would not be required for project upgrades that would not increase the categories of data managed by the IT system.

**March 30 Action:** Issue not heard

**ISSUE 3: PLATA V DAVIS SETTLEMENT COSTS**

In April 2001, the Prison Law Office filed a class action lawsuit titled *Plata v Davis* on behalf of nine named inmates and other inmates challenging the State's ability to provide adequate medical care to prison inmates. Specifically the deficiencies included: lack of consistency with regard to policies that organize how services are provided that creates inconsistencies in the expectations of inmates and their advocates with regard to services they are seeking; inadequate coordination of effort between medical and custody administration resulting in breakdown in access to medical services in a correctional setting; inadequate number of registered nurses coupled with noncompetitive salaries for those positions; inadequate and inconsistent follow-up of medical treatment including medication, diagnostic tests and procedures and or therapies ordered by a physician; lack of consistency in managing inmates with chronic illness through the use of nationally recognized guidelines; lack of on-site monitoring of medical services; and the absence of automated systems to facilitate the scheduling and tracking of medical appointments. After settlement negotiations, the parties filed a proposed agreement with the federal court in the form of a Stipulation for Injunctive relief. United States District Judge Thelton Henderson conducted a fairness hearing related to the settlement agreement on June 13, 2002. At the hearing, the judge took testimony and issued his finding that the Stipulation for Injunctive Relief was fair, adequate and reasonable. Compliance with the terms and conditions of the settlement agreement is dependent upon the phase implementation of the Inmate Medical Services Program Policies as the Department of Corrections to meet the minimum level of care necessary to fulfill the department's obligation entered into a settlement. The benefits of the proposed changes include: more timely and comprehensive assessment of inmate needs as they enter CDC; improved access to medical services; the implementation of a comprehensive chronic care program using standardized data collection forms and guidelines consistent with National Commission on Correctional

Health Care panels where at each visit, an assessment will be made on how well the inmate is doing as compared with established standards; staffing of emergency rooms by registered nurses 24 hours a day, seven days a week; 30 day follow-up assessment by the primary care physician whenever a referral of an inmate to a specialist has been made.

Consistent with the settlement agreement, a multi year plan was approved beginning in 2002-03 through 2007-08. According to the Legislative Analyst's Office this would ultimately result in the addition of approximately 1, 400 positions and cost \$90 million annually. The Governor's Budget proposes the addition of \$30.1 million and 109 positions to address the following elements of the settlement: physician evaluation and training (\$14.7 million); treatment of high-risk patients (\$2.9 million); physician and nursing classification and supervision (\$2.2 million); Quality Medical Assistance Teams and Inmate Medical Scheduling and Tracking System (\$8.576 million total). In addition the department is seeking \$15 million in additional funding as a baseline adjustment in order to extend the Plata changes to another five institutions. The LAO recommends reductions in a number of areas totaling \$2.998 million. Our understanding is that the Administration is currently in discussion with the LAO to re-evaluate its request and it is hoped that a compromise proposal will result from these discussions.

The LAO recommends supplemental report language directing the CDC to annually inform the Legislature on its progress in improving the inmate health care system.

On or before December 1, the California Department of Corrections shall annually provide a report to the chairs of the fiscal committees in both houses on the status of the implementation of the Plata settlement agreement. The report to the Legislature shall identify specific outcomes relating to the settlement agreement and its goal of providing increased access and higher quality health care services. The report shall include information on medical related inmate appeal, medical staff vacancies, and census data (bed usage) for each prison and community hospital facility.

The subcommittee may want to defer voting on the proposed reductions of \$2.998 million related to this issue until a compromise is reached. If the Administration believes that there will be no further discussions, the subcommittee may want to adopt the reductions proposed by the LAO.

The subcommittee may want to adopt the supplemental report language to have CDC report to the Legislature on its progress on improving medical care to inmates consistent with the Plata settlement. However, this language does not have provisions for terminating the reporting requirements. Alternately, the subcommittee may want to adopt trailer bill language directing CDC to report to the Legislature by October 1, 2005 and quarterly thereafter on the status of its compliance with the Plata settlement, until the court is no longer monitoring the department.

In the March 30, 2005 hearing on this issue, the subcommittee adopted proposed trailer bill language to report quarterly beginning October 1, 2005 on the status of its

compliance with the Plata settlement. The subcommittee also adopted a reduction of \$2.998 million.

On April 5, 2005, the LAO completed a further evaluation of the Plata settlement costs and recommended reductions totaling \$13.7 million or an additional reduction of \$10.702 million. These saving are to be allocated as follows:

- \$9 million savings for the two University of California contracts with the San Diego and San Francisco contracts for physician assessment and training, medical credentialing, peer review and on-site physician consultation.
- \$1.6 million savings to reduce the number of facilities captains (\$785,750) and attorneys (\$323,000) to train security staff on policies and procedures designed to ensure that inmates are escorted in a timely manner to their medical appointments and state implementation of the settlement agreement. This proposal also includes over-budgeted costs for travel (\$237,000) and excess office space (\$275,000).
- \$3.1 million savings related to the price increase for operating expenses and equipment that does not reconcile with identified needs.

In addition, the Department has budgeted \$5.5 million for Plata compliance in the current year. The LAO has indicated that CDC only needs \$2.5 million and therefore \$3 million may be saved in the current year.

In the April 13 hearing the subcommittee adopted an additional savings of \$7.602 million.

The subcommittee may want to adopt an additional savings of \$3.1 million related to price increases for operating expenses and equipment, and an additional \$3 million for 2004-05.

**ISSUE 4: PHARMACY COSTS**

The Department of Corrections is in a partnership with the Department of General Services (DGS) to purchase pharmaceuticals for Corrections as well as the Department of Mental Health, Department of Developmental Services, Department of Youth Authority and the California State University. According to the Legislative Analyst's Office (LAO) nearly one-half of the drugs purchased through the DGS are not acquired through the benefit of a contract. In addition, CDC pays approximately retail price for drugs provided to parolees. Further, CDC is in the process of implementing a pharmaceutical IT system. At this time it is not implemented on a system-wide basis nor is it integrated with the medical services system.

The State of Texas has implemented an integrated medical-pharmaceutical IT system that tracks the utilization and inventory of drugs which is believed to have resulted in cost savings for the State. Texas has also partnered with the University of Texas to utilize the purchasing power of the University to effect lower drug costs.

The LAO recommends that the State move toward additional contracting of state drug purchases including that for state parolees; encourage collaboration between major purchasers of drugs at the state level and the further the development of an integrated IT system that would track the location of the drugs as well as monitor the prescribing practices of physicians and the consumption of the medication by the patients.

On March 16, 2005, the subcommittee held an informational hearing on the DGS's role in the purchase of pharmaceuticals and CDC's efforts toward improving the efficiencies in pharmaceutical purchasing and utilization. At this time it is not clear that CDC will complete the implementation of its pharmaceutical projects before the end of 2005-06.

The subcommittee may want to adopt budget bill language that requires the Department of Corrections to report quarterly to the budget committees of both houses on the status of the ; implementation of projects to track the purchase and physical inventory of drugs; purchasing strategies to reduce the cost of drugs; unnecessary use of the medications; unnecessary disposal of the medications; prescribing practices within the department; and use by CDC patients as compared to standard profiles of similar patients.

**April 13 Action:** Issue not heard.

**March 30 Action:** Issue not heard.

**ISSUE 5: TRAINING**

Law enforcement personnel generally have requirements for ongoing training to maintain and improve their skills. Correctional officers at the Department of Corrections are to annually receive 40 hours of classroom training. This covers topics such as blood borne pathogens, use of force or time on the shooting range. The department has developed an 8 hour course on Ethics which includes discussions on the "Code of Silence". This appears to be in response to a February 17, 2004 memo jointly signed by the Secretary of the Youth and Correctional Agency and the Director of Corrections which cites a department policy of zero tolerance toward any employee, regardless of rank that "fail to report violations of policy or who acts in a manner that fosters the code of silence".

The subcommittee may want to ask the following questions:

- What classes constitute the 40 hours of mandatory training for 2005? Is there a different group of classes for institutions and for camps?
- Does a correctional officer have any flexibility in which classes to take?
- Can a correctional officer earn more than 40 hours a year of training? Would it all be on paid time?

Additionally, the department annually requires 12 hours of "on the job training" (OJT). This generally consists of self-study programming and may be intended to provide the student with a refresher of previously presented materials. These types of course may include crime scene evidence preservation and Information technology security. While the training materials seem to provide a list of subject matter experts, it is not clear whether the classes allow for reasonable access to these persons in a timely matter through the distribution of telephone numbers or e-mail addresses.

**April 13 Action:** Subcommittee had a discussion of the OJT training programs. The Department proposes to review its training programs. Approval of the OJT programs is in dispute. Issue was held open



**ISSUE 6: ELECTRICAL SAVINGS**

The Department of Corrections operates 32 institutions that hold over 150,000 inmates. These inmates require secure detention 24 hours a day 7 days a week. Lighting plays an important role in maintaining a safe and secure environment within and surrounding the prison. Light to illuminate dark areas within the prison prevent persons from hiding where they don't belong, Lighting to provide line of sight so that custody staff can watch the inmates so that they can be counted and their safety can be maintained. Lighting of the outside perimeter so that inmates attempting to escape can be stopped before they can actual leave the grounds, or electrocute themselves on a high voltage electric fence. Lighting becomes pervasive at an institution. While each light costs little to operate, primarily due to improvement of lighting technology, through the use of fluorescent and high intensity discharge lighting, when fixtures are used by the thousands, for many hours a day, the entire lighting bill for CDC could be in the millions of dollars.

The subcommittee may want to direct the CDC to pursue technology to reduce lighting costs. This could include:

- Setting goals of savings of up to 15 percent of lighting costs at CDC institutions in 2005-06.
- Directing the department to report on a plan by October 1, 2005 to save lighting costs.
- To include the exploration of public – private partnerships in achieving the light saving goals.
- Have the department consider the use of power management strategies to reduce lighting costs.

#### **ISSUE 7: MEDICAL COSTS**

The department is involved in better tracking of inmate health care. It is also in the process of entering into competitive contracts to provide in-patient medical services to inmates. These changes are expected to result in savings.

The subcommittee may want to give the department savings targets.

**ISSUE 8: COUNTY REIMBURSEMENTS OF CDC CLIENTS**

The Department of Corrections (CDC) assume responsibility for clients convicted and sentenced to a CDC facility. Should an inmate be retained in a county facility, the state will reimburse the local government for the costs of detention. The decision to keep an inmate in a county facility may occur intentionally through contractual agreement, or while awaiting future court appearances. The state also reimburses counties to hold parolees whose parole is being revoked or are being charged with new crimes.

The Governor's Budget proposes \$32.1 million in 2005-06 to fund reimbursements to counties for housing state detainees.

Generally, reimbursements to counties are limited to \$59 per day by statute. The California Sheriffs Association has expressed concerns that this rate has not been increased in several years and that current rate may not be adequate to cover actual costs, especially in high cost counties.

The subcommittee may want to authorize CDC to pay up to \$64 per day for the housing of CDC inmates in county facilities. The county and CDC would negotiate the actual rate of compensation. The higher reimbursements may allow for a greater supply of housing in county facilities under the proper circumstances. In many cases, the state would retain the option of transporting inmates between the institution and county ( court ) facilities when it is determined to be the most cost effective alternative.

**ITEM 0550            YOUTH AND ADULT CORRECTIONAL AGENCY**

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**ISSUE 1: REDUCTION OF MANAGEMENT STAFF**

The proposed reorganization of the Youth and Adult Correctional Agency into the Department of Corrections and Rehabilitation should result in efficiencies in operations.

The subcommittee may want to give the department savings targets.

**ITEM 5480    COMMISSION ON CORRECTIONAL PEACE OFFICER STANDARDS AND TRAINING**

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**ISSUE 1: REDUCTION OF PROGRAM**

The Agency reorganization that has an enactment date of July 1, 2005, proposes the elimination of CPOST with the replacement with the Correctional Standards Authority. It is not clear how the new agency will address the training standards for correctional and detention employees in a fair and comprehensive manner. CPOST has equal numbers of labor and management members for the purposes of developing training programs and standards.

**ITEM 5430****BOARD OF CORRECTIONS****ISSUE 1: REDUCTION IN FUNDING**

The proposed Agency reorganization (with a scheduled effective date of July 1, 2005) will transform the Board of Corrections (with the Commission on Correctional Peace Officers' Standards and Training) into the Correctional Standards Authority. The Board currently sets standards for local detention facilities and the training of local officers. It also administers local juvenile justice grants. Under the reorganization, the role of the new authority is not clear.