

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Rudy Bermudez, Chair

WEDNESDAY, MARCH 30, 2005, 1:30 PM
STATE CAPITOL, ROOM 437

ITEM	DESCRIPTION	
5240	Department of Corrections	2
Issue 1	New Parole Model	2
Issue 2	Unbudgeted Programs	3
Issue 3	Proposition 69 DNA Collection	3
Issue 4	Foreign Prisoner Transfer Treaty Program	4
Issue 5	Corrections Administration – Various Proposals	6
Issue 6	Use of Sworn Employees in Headquarters	6
Issue 7	Plata v Davis Settlement Costs	6
Issue 8	Pharmacy Costs	8
Issue 9	IT Projects – Report Language	9
5430	Board of Corrections	10
Issue 1	Juvenile Justice Funding	10
Issue 2	Standards and Training for Corrections	11
0840	Board of Prison Terms	12
Issue 1	Foreign Prisoner Transfer Treaty Program	12

ITEMS TO BE HEARD

ITEM 5240 DEPARTMENT OF CORRECTIONS

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: NEW PAROLE MODEL

The Department of Corrections is currently in the process of revising its policy for the treatment of parolees and inmates in prison who are awaiting imminent release on parole. This plan includes: prerelease programming, electronic monitoring, GPS tracking, treatment programs used as intermediate sanctions as an alternative to the revocation of parole and a return to custody. The estimated outcome of the implementation of his collection of programs is projected to decrease the number of inmates in prisons and to increase the population of parolees. The Department has not yet reported to the Assembly its progress in implementing the new parole model.

The subcommittee may want the Department to discuss elements of the new parole model including:

- Status of the Department's implementation of the new parole model.
- Comparison of the actual impact of the new parole model versus the impact estimated at the beginning of the fiscal year.
- Estimated fiscal and population impact of the ongoing implementation of the new parole model in the budget year.

The subcommittee may want to stay apprised of the progress of these programs and may want to include budget bill language that would:

- Provide quarterly updates (beginning October 1, 2005) on the Department's progress in implementing these programs.
- Significant changes to the programs as compared with the original plan.

- Proposed changes to the programs prior to the next budget cycle.
- Estimated impact of these programs upon the institutional and parole population.
- Comparison of the status of the program during the reporting period as compared with the previous report to the Legislature.
- Cost impact to the Department of the implementation of the programs.

ISSUE 2: UNBUDGETED PROGRAMS

The Legislative Analyst's Office reports that the Department of Corrections has entered into unbudgeted activities related to the activation of, two fire camps and a Community Correctional Facility (CCF). The two fire camps will be facilities transferred from the Department of Youth Authority and are expected to be brought on-line for the 2005 fire season. The LAO estimates the cost of these facilities to be approximately \$300,000 to modify and operate. The CCF is expected to provide substance abuse treatment at an estimated cost of \$1.2 million. The costs associated with these initiatives would be offset by the reduction in the population in the institutions and the accrual of enhanced (2 days for every one day served) sentencing credits earned by fire camp inmates).

The subcommittee may want the Department to provide information on the following:

- What is the status of the conversion of the two fire camps, the estimated operational date, and the projected costs in the current and budget year?
- What are the estimated additional sentencing credits that will be earned by fire camp inmates in the current and budget year?
- What is the status of the CCF contract, estimated operational status, how many beds will be filled in the current and budget year?
- What types of treatment programs provided by the CCF contract beds?
- What are the estimated costs and savings associated with the CCF contract?
- Is the Department anticipating a future request for additional funding associated with the activation of the fire camps and CCF?

ISSUE 3: 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. The Department is currently re-evaluating this request.

The subcommittee may want defer consideration of this proposal and await a revised request for funding to implement the provisions of Proposition 69.

ISSUE 4: FOREIGN PRISONER TRANSFER TREATY PROGRAM

The Foreign Prisoner Transfer Treaty Program is administered jointly between the Board of Prison Terms (BPT) and the Department of Corrections (CDC) and allows inmates, who are citizens of a foreign country, to be transferred to their home country to serve the remainder of their California imposed prison sentence. Under this program the process of transfer is initiated by the inmate, and then approved by the State, the United States government, and the receiving country. According to the Legislative Analyst's Office (LAO), the transfer of an inmate out of a California prison results in a savings of approximately \$18,000 annually. Currently, the BPT has less than two positions dedicated to the Foreign Prisoner Transfer Treaty Program pursuant to an augmentation in the 2002 fiscal year.

The LAO proposes supplemental report language that would direct the Department of Corrections to update its Operations Manual to include current state policies and

procedures regarding this program. This would be in addition to a recommendation that the Board of Prison Terms develops updated information regarding this program for distribution to all new inmates. The LAO also recommends providing additional staff to the BPT to process the increase in anticipated requests for transfer related to the enhanced distribution of information on the program to inmates. The additional staff could also be utilized to train CDC staff regarding the requirements to operate this program. This augmentation is estimated to increase the number of persons participating in his program with a commensurate reduction in the inmate population in CDC institutions, thus resulting in a cost savings to the department. The LAO has suggested a savings of \$125,000 for CDC to offset a cost increase of \$110,000 for BPT.

Since the Foreign Prisoner Transfer Treaty Program is jointly operated by CDC and BPT, the subcommittee may want to direct the Youth and Adult Corrections Agency to report pursuant to budget bill language on the following in order to monitor the progress of this program:

- Report by October 1, 2005, on the progress in developing an informational brochure for the Foreign Prisoner Transfer Treaty Program that would be made available to all incoming inmates. If at the time of the report, there are not sufficient copies made for distribution, the Agency shall provide the Legislature with a corrective action plan that includes deadlines for compliance with this requirement and will require the Agency to report by April 1, 2006, on the status their progress.
- Report quarterly beginning October 1, 2005, on its progress in increasing the number of languages that information on the Foreign Prisoner Transfer Treaty Program can be presented to inmates. This should identify the languages in which the brochures are available. The agency may also include information on efforts to provide information related to the program to inmates when translated brochures are not available, or where the inmate has limited reading abilities.
- Send to the Joint Legislative Budget Committee no later than October 1, 2005, the revised operations manual provisions that include updated information on the Foreign Prisoner Transfer Treaty Program. No later than February 15, 2006, the Legislative Analyst's Office shall complete an analysis of the revised provisions and inform the Budget Committees in each house of their findings.
- Report quarterly for the 2005-06 fiscal year beginning October 1, 2005, on the number of new inmates receiving information on the Foreign Prisoner Transfer Treaty Program as compared with the total number of new inmates entering the institutions.
- Report quarterly beginning October 1, 2005, on the number of adult inmates by home country with foreign citizenship incarcerated in state facilities.

- Report by October 1, 2005, of a plan to provide training to CDC staff regarding the Foreign Prisoner Transfer Treaty Program. The Agency shall report quarterly beginning January 1, 2006, on the implementation of the training program including the number of staff trained and the number of staff to be trained, until it has completed the training of all appropriate staff.
- Report by October 1, 2005 on plans to provide updated information to existing (not new) inmates related to the Foreign Prisoner Transfer Treaty Program to determine if inmates would like to participate in the program subsequent to their initial notice of the program.

ISSUE 5: CORRECTIONS ADMINISTRATION- VARIOUS PROPOSALS

The Governor's Budget proposes increases for salary savings, price increases, employee discipline, post relief, and contracts with the Department of Mental Health. The Legislative Analyst's Office recommends reductions related to these proposals. The Department of Corrections is reviewing the Analyst's recommendations and is in the process of reviewing the request. An amended request is anticipated by the May Revision.

The subcommittee may want to defer taking a vote on this issue pending a revised proposal being prepared by the Department.

ISSUE 6: USE OF SWORN EMPLOYEES IN HEADQUARTERS

The Legislative Analyst's Office (LAO) has recommended a reduction of the number of sworn positions employed in the Department of Corrections headquarters office. Generally these positions are not expected to require contact with inmates. The proposed savings would total \$1.3 million. Subsequent to the release of the Analyst's recommendation, CDC has been working with the LAO to further refine an analysis of the positions. As a result, a compromise in this issue is expected prior to the May Revision.

The subcommittee may want to ask the Department and the LAO what discussions if any are occurring regarding this issue. Should negotiations be ongoing, the subcommittee may elect to defer consideration of this issue pending the development of a compromise on this issue.

ISSUE 7: *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 follow 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 that reads as follows:

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.

ISSUE 8: 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.

ISSUE 9: 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 quarterly 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.

ITEM 5430 BOARD OF CORRECTIONS

The Board of Corrections (BOC) works with local agencies to develop and maintain standards for the construction and operation of local jails and juvenile detention facilities, as well as standards for the employment and training of local corrections and probation personnel. The Board also provides technical assistance to the local government in order to help them achieve and maintain those standards. The Juvenile Justice Grant Program (Schiff-Cardenas) requires each participating county to have the BOC approve their respective multi-agency juvenile justice plans prior to the dispersal of funds.

The BOC consists of fifteen members, twelve appointed by the Governor and confirmed by the Senate. In addition there are statutory members consisting of the Secretary of Youth and Adult Correctional Agency, Directors of the Department of Correction and Youth Authority.

ISSUE 1: JUVENILE JUSTICE FUNDING

The COPS/Juvenile Justice Grant program (Item 9210) provides funding to local police, sheriff, district attorney and probation offices. Programs operated by the police, sheriff and district attorney are combined into what is known as the Citizens' Option for Public Safety or COPS program. The programs operated by probation offices comprise the juvenile justice programs. Pursuant to the Section 30061 et. seq. of the Government Code, funding for the COPS and Juvenile Justice Programs are equally divided. In the current year, funding for the COPS/Juvenile Justice programs received \$200 million. For 2005-06, in the Local Government Budget Item (#9210), the Administration proposed \$100 million in funding for the COPS program and no fund per the formula for Juvenile Justice Programs. Instead of traditional funding for Juvenile Justice, it proposes \$25 million (\$24.75 million in local assistance and \$250,000 for state administration) for "juvenile justice activities." The Administration has indicated that this reduction is a placeholder for a \$75 million reduction in the total expenditures for Juvenile Justice Programs by the state. This would create a number of options for funding which could include the extension of the current program by 3 months, continuation of the program at a reduced (\$25 million a year) level, or to create a new program to supersede the existing Juvenile Justice Programs. The Administration's proposal to change the level of funding to the Juvenile Justice Programs as compared to the COPS program would require a statutory change.

The Administration indicates that it is negotiating with local governmental representatives in an effort to negotiate a reorganization of the juvenile justice relationship between state and county governments. It is hoped that the reorganization would be completed and available for consideration by the Legislature at the May Revision. It is not clear that there will be sufficient time for the Legislature to complete a thorough review of the proposal during the May Revision process that is generally used to consider adjustments to population, caseload and enrollment during this abbreviated

timeframe. For example, a plan to transfer of all juvenile justice responsibilities to local governments would require a number of operational processes associated with the closure of a State department. Statutory and regulatory integrity would need to be maintained to ensure continuous and consistent oversight of the participants (wards) on a statewide basis. The lack of involvement of all of the legislative stakeholders during the negotiation process, would complicate the approval process over this shortened time frame. It is also not clear to the committee at this time that all of the local interests are being addressed.

In the absence of a comprehensive Juvenile Justice Program the subcommittee may want to continue the existing COPS/juvenile justice program formula, and may want to move the \$25 million set aside for juvenile justice activities in the Board of Corrections' budget to the Local Government Financing (Item 9210) budget. Should the Administration develop and submit a reorganization plan to the Legislature at a later date, the subcommittee may consider it at the time.

ISSUE 2: STANDARDS AND TRAINING FOR CORRECTIONS

The Board of Corrections is proposing an augmentation of \$2.7 million and 18 positions to provide technical assistance to cities and counties regarding standards and training to local correctional and probation employees in order to be in compliance with minimum statewide standards.

The LAO recommends withholding of this augmentation request pending the receipt of additional information.

The subcommittee may want to ask the LAO whether it has received the additional information and if a revised recommendation has been made.

ITEM 0840 BOARD OF PRISON TERMS

The Board of Prison Terms (BPT) is the state's adult parole authority that sets the terms and conditions of parole. The BPT conducts hearings for those who have life sentences and those who have been charged with violating their parole. At the request of the Governor, the BPT investigates applications and forwards recommendations for pardons and commutations of sentences. It also has the discretion to recommend to the court that a prisoner be re-sentenced when circumstances warrant compassionate release.

ISSUE 1: FOREIGN PRISONER TRANSFER TREATY PROGRAM

The Board of Prison Terms and the Department of Corrections jointly operate the Foreign Prisoner Transfer Treaty Program. This allows the transfer of a foreign national to serve the remainder of inmate's term in his or her home country (see similar issue in Item # 5240, Issue 4)

The Legislative Analyst's Office (LAO) has proposed additional funding in support of outreach activities, and to enhance the processing efficiencies of the program. The Board staff has been asked to review the LAO's recommendation and determine whether additional efficiencies could be obtained through an alternate staffing package. Any changes to the LAO recommendation would require commensurate savings to the Department of Corrections associated with a reduction in the inmate population.

The subcommittee may want to adopt enhancements to the Foreign Prisoner Transfer Treaty Program to provide adequate notice to the inmates of their right to seek advice from the consulate and the efficient processing of the inmate's request to transfer to his or her home country in accordance with international law.

Since the program is operated jointly with the Department of Corrections, the subcommittee may choose to place reporting requirements on the Youth and Adult Correctional Agency as identified in the Item # 5240 (Department of Corrections) discussion.