

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Juan Arambula, Chair

WEDNESDAY, MAY 16, 2007, 11:30 AM
STATE CAPITOL, ROOM 447

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5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 1: OVERVIEW OF THE REHABILITATION ISSUES WITHIN CDCR – INFORMATION ITEM

The mission of the California Department of Corrections and Rehabilitation (CDCR) is to improve public safety through evidence-based crime prevention and recidivism reduction strategies.

The criminal justice system operates at multiple levels of government: the local, state, and federal levels. The primary goal of the system is to provide public safety by deterring and preventing crime, incarcerating individuals who commit crime, and reintegrating criminals back into the community.

More than 80 percent of all inmates currently in prison will eventually be paroled to local communities, most within a couple of years of being sent to prison. More than 122,000 inmates were released in 2005 including 64,000 offenders released after serving their court-imposed sentence, as well as 58,000 offenders released after being returned for a parole violation.

Unfortunately, California has one of the highest recidivism rates in the nation, with almost 60 percent of released offenders returning to prison within three years, often because of new criminal activity. With so many offenders returned to the community, and with such high recidivism rates among parolees, state officials have emphasized the need to design and implement effective strategies to reduce recidivism.

Benefits from Rehabilitation Programs. Various studies have demonstrated that well-designed rehabilitation programs such as drug treatment, academic and vocational education, and cognitive behavioral therapy can reduce recidivism when targeted to the right offenders by addressing issues that contribute to their criminal behavior. Such programs can benefit public safety by reducing criminal behavior, as well as reducing the prison population and ameliorating overcrowding conditions. Some corrections officials also argue that prison rehabilitation programs benefit prison operations and staff safety by engaging inmates in meaningful work and preventing idleness.

Availability of Programs. Despite these apparent benefits, the availability of rehabilitation programs is limited in California. For example, currently about 5 percent of prison operation spending is for rehabilitation programs such as academic and vocational education. Studies suggest that most inmates have significant substance abuse problems and only about one-third can read at a high school level. Nevertheless, at any given time the state has only enough drug treatment slots for about 6 percent of

all inmates and classroom academic and vocational education programs are only available to about 12 percent of the total inmate population.

In part, this reflects the state's historical emphasis on punishment over rehabilitation, as well as ongoing funding constraints due to state budget problems. The 2007-08 state budget as originally proposed does include about \$51 million in additional funds for inmate and parolee rehabilitation programs. Most of this funding is part of the administration's "Recidivism Reduction Strategies" proposal, and amounts to about a 12 percent increase in funding for these programs.

Barriers to Programs. Should the state wish to make rehabilitation programs a higher priority, it will need to invest additional funds, as well as address other barriers to the implementation of effective programs for inmates and parolees. Most notably, those inmates who are assigned to rehabilitative programs are often not able to attend them because of high teacher vacancies and frequent prison lockdowns. In addition, program expansion is difficult in existing prisons because the physical space within prison walls that could be used for prison programs is now often filled with bunks of inmates due to prison overcrowding.

Ultimately, an approach that addresses inmate population management as well as increased rehabilitation programs would likely reduce prison overcrowding, inmate recidivism and, therefore, criminal justice system costs.

Panel 1

- Stuart Drown, Executive Director, Little Hoover Commission
- Brian Brown, Senior Fiscal and Policy Analyst, Legislative Analyst's Office

Panel 2

- Kimberly Bond, President, California Therapeutic Communities, Substance Abuse
- Dr. Carol Eggleston, Cal State San Bernardino, Center for the Study of Correctional Education

Panel 3

- Kathryn Jett, Director, Division of Addiction & Recovery Services, CDCR
- Frank Russell, Director, Division of Education & Vocation Programs, CDCR
- Doug McKeever, Division of Correctional Health Care Services, CDCR

0690 OFFICE OF EMERGENCY SERVICES

ISSUE 1: ESTABLISH ACCOUNT FOR PUBLIC AND PRIVATE PARTNERSHIP

Senate Bill 546 (Chapter 232, Statutes of 2005) authorized the Office of Emergency Services (OES) to partner with private sector interests to integrate private sector and governmental emergency preparedness efforts. In addition, this bill creates the Disaster Resistant Communities Account in the General Fund into which private donations may be deposited. The purpose of the bill is to encourage collaboration between OES and private interests and increase integration of available disaster preparedness resources.

The administration requests a permanent appropriation of \$1 million from the Disaster Resistant Communities Account with provisional language allowing for the appropriation of additional private donations.

LAO

No Funds, No Plan. Despite seeking the appropriation, OES reports that it has collected no donations to the account. In addition, the department could not provide a plan for how the funds would be spent even if received. Instead, OES reports that a working group of state entities, private companies, and nonprofit organizations currently is developing some spending options.

COMMENTS

While the concerns of the LAO are warranted, the OES is seeking to create an expedited process in anticipation of private donations in response to a significant disaster. However, the subcommittee should be provided with additional information regarding the concrete efforts the OES has taken to engage private entities in pursuit of implementing Chapter 232. What areas would be of critical priority, if and when private funds materialize?

Accordingly, it may be appropriate to reduce the appropriation level and require expenditure reporting, in order to ensure the legislative oversight.

0820 DEPARTMENT OF JUSTICE

ISSUE 1: CORRECTIONAL WRITS AND APPEALS UNITS STAFFING AUGMENTATION

The Department of Justice represents the state in habeas corpus lawsuits filed in state and federal court. Correctional habeas corpus lawsuits are individual or class-action litigation in which inmate seeks some type of immediate relief, such as release from prison or an immediate change in conditions of confinement. State and federal habeas corpus litigation can be divided into three general categories: 1) challenges to the denial of parole to inmates sentenced to life imprisonment; 2) matters relating to parole revocation; and 3) general issues, such as challenges to conditions of confinement.

Habeas corpus litigation is specialized and fast-paced, since the purpose is to make immediate determinations about the lawfulness of someone's incarceration. In general, DOJ is typically given fewer than 30 days to respond to a prisoner's petition. In response, the administration created a stand-alone Correctional Writs and Appeals unit to litigate this specific caseload.

The Governor's budget anticipates a dramatic increase in the number of state and federal habeas corpus petitions, due to the increase in prison population and 2005 Ninth Circuit Court of Appeals decision (*Rosas v. Neilsen*) that relaxed the restrictions for granting a federal appeal. In response the administration seeks to create a stand-alone Correctional Writs and Appeals Unit within the department's Civil Division. Specifically, they project a year-to-year increase of 45.23 percent in the number of federal Habeas Corpus cases received, and a 1,238 percent increase in the number of federal Habeas Corpus appeals received.

To that end, the Governor's budget proposes a General Fund augmentation of \$4.8 million and 31.2 additional positions (including 14 Deputy Attorney General IIIs).

COMMENTS

A number of concerns have been raised about the department's ability to hire to the requested staffing level. In 2006-07, the department had a 19 percent vacancy rate for Deputy Attorney General III (DAG III), which equates to about 93.3 positions. In addition, the 2007-08 budget requests a total of 49.1 new Deputy Attorney General III positions. Therefore, the department is asserting that it has the capability to hire 142.4 positions on July 1, 2007.

LAO

Citing an increase in workload, the department requests \$4.8 million in General Fund support and 31 positions (14 attorneys and the remainder clerical and paralegal staff) for the Correctional Writs and Appeals section. This would provide the section with a total of 65 positions (including 41 attorneys) to address workload related to habeas corpus cases. However, based on LAO review of the estimated number of attorney hours required for federal habeas litigation, as well as the current number of attorneys working in the section, the department would only require an additional ten attorneys—four fewer than requested—and related staff to meet the expected workload from federal habeas corpus cases.

Based on the LAO analysis of the budget request and the projected correctional habeas corpus workload, the LAO recommends reduction of the proposal by nine positions (including four attorneys) for a total General Fund savings of \$1.4 million.

ISSUE 2 : DNA PROGRAM FUND SHIFT

The Governor's budget proposes to transfer \$694,000 for support of the DNA analysis component of the Sexual Habitual Offender Program from the Sexual Habitual Offender Program (SHOP) Fund to the General Fund, because revenues to the special fund are insufficient to support all elements of the program in future years.

The SHOP Fund is composed of fees that DOJ assess on various agencies to search the Child Abuse Central Index and court-ordered fines attached to certain sexual offense convictions. According to the Department, the fund has sufficient resources to support the function of the DNA program in the budget year; but is projecting a shortfall in 2009-10.

COMMENTS

Considering the fiscal condition of the state, the subcommittee may wish to consider value of increasing General Fund expenditures to remedy out-year accounting concerns.

ISSUE 3: CALIFORNIA CRIMINALISTICS INSTITUTE

Penal Code §11060 established the California Criminalistic Institute (CCI) for the purpose of facilitating a comprehensive and coordinated approach to meet the high technology forensic science needs of crime laboratories operated by the Department of Justice and local law enforcement agencies. The CCI currently hosts most of its courses out its Sacramento office. Forensic scientists from Southern California that enroll in CCI courses must coordinate travel and lodging to attend week long courses. However, periodically, CCI holds a course in Southern California, incurring significant travel costs.

The Los Angeles Regional Crime Lab is currently being constructed on the campus of California State University Los Angeles. In conjunction with the Los Angeles Police and Los Angeles Sheriff Offices, CSU Los Angeles has built in three laboratories for CCI usage at no cost to the department. Additionally, the consortium will further attempt to provide office space for the three CCI staff, but they cannot guarantee the space at no cost.

The Governor's budget proposes \$489,000 General Fund and 3.0 permanent positions to establish a Southern California satellite office for the California Criminalistics Institute. This request includes \$71,000 for facilities cost (\$34,000 ongoing).

COMMENTS

The establishment of a satellite office for CCI represents a huge cost savings for local law enforcement. Local agencies are currently spending \$1,000 per pupil to have their staff enrolled in CCI courses. In 2005, local law enforcement in Southern California sent a total of 242 pupils to CCI courses, for a cost of about \$242,000. However, the committee should note that there is no present "binding" agreement between the Los Angeles agencies and the department because the department lacks the authority to enter into such an agreement.

ISSUE 4: TWO-PARTY CONTRACTS

The Governor's budget proposes \$9.4 million for the Legal Services Revolving Fund to implement a two-party contract process to allow the DOJ to enter into contracts directly with expert witnesses, consultants, investigators, court reporters, and other vendors whom are hired to assist in litigation on behalf of DOJ's reimbursable state agency clients.

The DOJ represents various state agencies in litigation. The department often must enter into contracts for expert witnesses and investigators in supporting this litigation. Up until 2004-05, the DOJ prepared and paid external contracts for expert witnesses and other contracts needed to support litigation. These contracts would then be reimbursed by the appropriate state agency involved in the litigation. These contracts are referred to as two-party contracts.

However, in 2004-05, DOJ discontinued the use of two-party contracts because of the structural deficit it faced in its Legal Services Revolving Fund. This deficit was the result of some state agencies failing to reimburse DOJ for its expert contracts. The DOJ then discontinued the use of two-party contracts and instead established a three-party contract process. The three-party contract process requires the state agency client, DOJ, and the vendors all be parties to a contract. This process also makes the state agency client directly responsible for paying the contract. This significantly reduced the structural deficit in the DOJ's Legal Services Revolving Fund.

COMMENTS

According to the Department, the usage of the three-party contracts has hindered their ability to provide efficient and effective counsel to their clients. Specifically, the Department cites the length of time it takes client agencies to process contract and payments for expert witness, consultants, and investigators has delayed their ability to begin preparing for pending cases.

Additionally, the Department has increased their resources within the Legal Services Revolving Fund to ensure the necessary cash flow is available to maintain current departmental operations, in order to address prior challenges with the two-party contract system.

**ISSUE 5: LABORATORY FACILITIES OPERATIONS MAINTENANCE AND REPAIR -
CONSENT**

DOJ operates 10 regional crime laboratories to provide forensic services to law enforcement agencies in counties without a county or police department crime lab. Additionally, the department operates three labs to provide services to law enforcement statewide: the Jan Bashinski DNA laboratory in Richmond and the Latent Prints/Questioned Documents and Toxicology labs in Sacramento. All 13 labs have received and maintained accreditation from the American Society of Crime Laboratory Accreditation Board, ensuring that the laboratory is providing the highest quality of service to the criminal justice system.

Historically, the department leased facilities for its laboratory operations with repairs and maintenance typically included in the lease agreements. More recently, DOJ has used bond funds to finance the construction of its newer facilities: Central Valley, Fresno, Redding, Riverside, Santa Barbara and Santa Rosa. Annual maintenance checks and services are expected for the newer labs during the first five years of operation. After the first five years of occupancy, the warranties that repaired and maintained the buildings infrastructure expired.

The Governor's budget includes total General Fund support of \$793,000 (\$572,000 on-time) to support scheduled maintenance and repair at DOJ's own forensic laboratory facilities. Of that, \$221,000 is ongoing to reimburse the Department of General Services for providing custodial, engineering and groundskeeping services at the Santa Rosa Laboratory.

ISSUE 6: TECHNICAL FUND SHIFT – CONSENT

The Governor's budget proposal requests a permanent technical shift of \$893,000 from reimbursements to the Indian Gaming Special Distribution Fund. This will enable the department to be funded for its investigatory role directly from the Indian Gaming Special Distribution Fund instead of through a reimbursement basis with the Gambling Control Commission.

The Division of Gambling Control is mandated to conduct background investigations on all companies as well as individuals investing and/or providing financial support to casino owners to determine suitability. This responsibility is mandated through the California Tribal-State Gaming Compacts. The division is only responsible for the investigations, while the suitability determinations are made by the Gambling Control Commission.

Currently, the Division's investigative services are funded by the Indian Gaming Special Distribution fund, but reimbursement of these cost are being directed to the General Fund. Therefore, expenditures incurred by the Indian Gaming Special Distribution Fund are not being recovered as intended.

**ISSUE 7: CALIFORNIA FIREARMS LICENSE CHECK SYSTEM WORKLOAD -
CONSENT**

The Governor's budget proposal includes \$83,000 from the Dealers' Record of Sale Fund to add one permanent position to implement AB 2521. Legislation (AB 2521, Jones), enacted in 2006, requires DOJ to keep a centralized list on the Internet of exempt federal firearms licensees. These include dealers, pawnbrokers, importers, or manufacturers of firearms with licensed premises in California that declare an exemption from state firearms dealer licensing requirements. The new law prohibits an exempt federal firearms licensee that is not on the DOJ's centralized list from importing or receiving firearms. The law also requires DOJ to assess an annual fee (\$115) upon exempted federal firearms licensees to maintain the list and ensure compliance with the law.

ISSUE 8: REDEVELOPMENT WORKLOAD – CONSENT

The Governor's budget proposal includes \$407,000 from the General Fund to support 3.3 new positions to implement the provisions of SB 1206. The department estimates that there are approximately 10 to 20 new redevelopment plans annually. The department will use these positions to review these plans and lawsuits filed by others and possibly engage in litigation if appropriate.

Senate Bill 1206 amended statutory elements necessary to establish that land is blighted for the purpose of redevelopment: (1) narrowing the descriptions of conditions underlying blight; (2) using a performance standard to justify a finding of blight; and (3) deleting antiquated subdivision conditions as conditions that establish blight, absent a showing that land is also predominantly urbanized and economically blighted.

8940 MILITARY DEPARTMENT

ISSUE 1: TUITION ASSISTANCE

The administration requests \$1.7 million General Fund augmentation to establish a tuition assistance program for members of the California National Guard (CNG). The program, which would annualize to \$3.3 million in fiscal year 2008-09, is intended to assist California National Guard members that are not eligible for federal programs, such as the Montgomery GI bill. The funding would reimburse for tuition, book fees, and student fees at universities and colleges in California.

California offers fewer benefits to National Guard members than other states. The proposed tuition assistance program would bring the state in line with most others. The Military Department assumes 1,816 California National Guard members will participate in the program. The budget also includes placeholder Trailer Bill Language to implement the new tuition assistance program through a regulatory process.

COMMENTS

Senate Bill 983, by Senator Lou Correa, was introduced on February 23, 2007. The language contained within SB 983 is identical to the administration's proposed trailer bill language. On April 11, 2007, the bill passed through the Senate Committee on Veterans Affairs and is currently placed on the Senate Appropriations suspense file.

ISSUE 2: SERVICE MEMBER CARE POSITION - CONSENT

The Military Department requests \$165,000 General Fund and one position to provide Service Member Care. The position will provide emergency crisis counseling, referral and personal support, combat stress evaluation, and mental health services to the State military force. Unlike law enforcement agencies, the California National Guard has no full-time support system in place for service members and the federal government offers no long-term mental health benefits to National Guard Members.