

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Juan Arambula, Chair

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STATE CAPITOL, ROOM 437

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CONSENT ITEMS

ITEM 5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

ISSUE 1: DISCHARGED OFFENDER RECORDS MANAGEMENT SYSTEM

Governor's Budget

The Governor's Budget proposes \$3.2 million General Fund to cover increased costs related to the storage, scanning, and software maintenance for the Discharged Offender Records Management System (DORMS).

Finance Letter

An April 1 Finance Letter requests proposes to reduce the Governor's Budget proposal by \$1.2 million to reflect that the Unit Health Records would no longer be a part of this project and would be handled by the Receiver. The Unit Health Records represented over 40 percent of the documents that were to be scanned as part of this project.

The Finance Letter also would make a technical adjustment to increase funding in the budget year by \$548,000 to support scanning and storage costs associated with the DORMS project. This funding should have been included in the CDCR's Full Year request but was inadvertently left out of the 2007-08 budget.

COMMENTS

The 2006-07 Budget Act contained \$4.3 million to implement a new electronic DORMS. The system entailed scanning the hard-copy inmate file into an electronic format when an offender was discharged from parole. This would then make it easier to retrieve the file if the offender was returned to custody. Of this funding, approximately \$2.8 million was one-time and \$1.5 million was ongoing to support a contract to scan and store the inmate files in DORMS. The DORMS system is an interim measure while the department continues to pursue its Strategic Offender Management System (SOMS). The SOMS system will ultimately automate inmate files. However, this conversion is not scheduled to occur for several years and in the meantime the DORMS system is being put in place to save staff time and storage space.

ISSUE 2: BUSINESS INFORMATION SYSTEMS - REAPPROPRIATION

This request, an April 1 Finance Letter, would reappropriate \$2.5 million General Fund that was originally budgeted in 2006-07 for the Business Information Systems (BIS) project.

COMMENTS

In 2004 a feasibility study report was approved to procure, develop, implement, and maintain an information technology solution to improve its business practices. This project is the BIS. The total costs of the project are expected to be \$144 million, which is \$8 million less than 2006 estimates of the project. This reduction is due to decreased software costs and contracting services. The project costs have also been reduced by amending the financing strategy to limit the services that are financed.

The reappropriation is needed to align the funding with the new project implementation schedule, which has experienced delays related to finalizing the contract with IBM to implement this project. To date, approximately \$42.4 million has been appropriated for this project. The Governor's budget contains \$23.5 million, including the \$2.5 million in funds proposed for reappropriation.

ISSUE 3: SAN QUENTIN LEAD DECONTAMINATION

This request would provide \$1.5 million General Fund (\$743,000 ongoing) for additional resources for ongoing monitoring and cleaning at San Quentin to protect staff and inmates from additional lead and mold contamination. Additionally, this request would provide staff to allow the CDCR to address this issue on a statewide basis.

COMMENTS

This request is a follow up to an emergency funding request from October 2007 that was approved in response to a health and safety risk associated with high levels of lead and mold identified within several inmate-housing units at San Quentin in September 2007. The situation required immediate action to decontaminate the areas in order to ensure the health and safety of inmates and staff.

This request is related to California Occupational Safety and Health Administration (OSHA) regulations, which require the state to mitigate the identified lead and mold conditions and provide for a safe working and living environment. Per Health and Safety Code Guidelines, Labor Code, OSHA regulations, and Penal Code, it is unlawful to knowingly expose employees to conditions that can adversely affect their health.

ISSUE 4: LEGAL STAFFING INCREASE

This request would provide \$636,000 General Fund and 5 positions to meet increased workload demands related to *Keyhea* cases, which are hearings to determine if psychotic inmates can be involuntarily medicated in order to reduce violence and prevent injury.

COMMENTS

The CDCR is required by statute and the U.S. Constitution to ensure due process in its administration of medical and mental health care to inmates. A permanent injunction required in a California court requires the department to seek a court order authorizing the administration of long-term involuntary psychotropic medications if the inmate is (1) a danger to self; (2) a danger to others; or (3) gravely disabled. These hearings are conducted by administrative law judges through the Office of Administrative Hearings. However, because they are legally superior court proceedings, CDCR must be legally represented by a licensed attorney. The number of *Keyhea* cases has nearly tripled over the past ten years and legal staffing has not been adjusted to keep up with this growth in the number of cases.

ISSUE 5: TECHNICAL ADJUSTMENTS – FULL YEAR EXERCISE

This request, an April 1 Finance Letter, would result in a reduction of \$20.8 million General Fund to account for issues that should have been included in the CDCR's 2008-09 Full Year Exercise.

COMMENTS

This request accounts for the following adjustments:

- **Electromechanical Security Door Operating and Locking System** – A reduction of \$10.3 million that was one-time funding in the 2007-08 budget year to continue the replacement of electromechanical security door operating and locking systems.
- **Administrative Segregation Intake Cell Modification** – A reduction of \$12.8 million that was one-time funding in 2007-08 to implement facility modifications necessary to ensure compliance with suicide prevention plans.
- **Business Information Systems** – An increase of \$1.8 million on a one-time basis to account for funding to purchase IT equipment that was left out of the 2007-08 Full Year Exercise.
- **Discharge Offender Records Management System** – an increase of \$548,000 for scanning and storage contract costs that was left out of the 2007-08 Full Year exercise.

ISSUE 6: PRISONER REENTRY INITIATIVE

This request, an April 1 Finance Letter, would provide \$1.4 million Federal Trust Fund authority and 6 positions for the United States Department of Justice's Prisoner Reentry Initiative Grants (PRI). \$1.1 million and 2 positions are related to the CDCR's 2006 PRI-1 award, \$540,000 and 4 positions are for a second (PRI-2) award. The position authority will provide the program support to implement the program.

COMMENTS

The PRI-1 grant has been extended to June 30, 2009. The grant is to provide assessment and planning support for non-violent offenders reintegrating into society. The CDCR is currently working with four local non-profit agencies in Oakland, Fresno, Sacramento and San Diego to coordinate grant services. To date, over 780 offenders have been screened and identified for referral as part of the PRI program.

The PRI-2 grant proposal targets offenders paroling to the County of Los Angeles and establishes a partnership between the CDCR, the City of Los Angeles' Workforce Development board and a Faith-Based Community Organization identified through a formal selection process. The PRI-2 will largely follow the model emerging from the implementation of the PRI-1.

**ISSUE 7: BUDGET PROVISION TO REVERT UNSPENT FUNDS TO THE
GENERAL FUND**

The last two Budget Acts (2006 and 2007) have contained a provision in item 5225-001-0001 that identifies amounts and purposes of specified General Fund expenditures contained within the item (the 2007 Budget Act also included this provision for Item 5225-002-0001). The provision states that any unspent funds shall revert to the General Fund.

It is the subcommittees intent that any General Fund expenditures approved for fiscal year 2008-09 be included in a provision consistent with Provision 22 of Item 5225-001-0001, Budget Act of 2006, and Provision 16 of Item 5225-001-0001 and Provision 22 of Item 5225-002-0001, Budget Act of 2007. In addition, any ongoing funding that was contained in the above mentioned Provisions 16 and 22, Budget Act of 2007, shall be included in the 2008 provision.

COMMENTS

These provisions increase the Legislature's oversight and ensure accountability for expenditures.

ITEMS TO BE HEARD

ITEM 5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

The California Department of Corrections and Rehabilitation (CDCR) is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and re-incarceration of those parolees who commit new offenses or parole violations.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates eight juvenile correctional facilities, including three reception centers. In addition, CDCR manages 13 Community Correctional Facilities, 49 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and 188 adult and juvenile parole offices, as well as houses inmates in 5 out-of-state correctional facilities.

The budget proposes total expenditures of \$10.1 billion for CDCR operations in 2008–09 from all fund sources. This is \$14 million, or less than 1 percent, above the revised estimate for current-year expenditures. The department's budget includes increased spending for projected increases in the prison and parole populations, inmate and parolee rehabilitation programs, responses to federal court cases relating to inmate medical and dental care and other issues, peace officer recruitment and training, and inflation adjustments. This additional spending is largely offset by proposed budget reductions, primarily related to reducing the inmate and parolee populations through two policies: (1) release of certain inmates from prison up to 20 months early and (2) summary parole supervision. The Divisions of Adult Operations and Parole Operations have proposed expenditures of \$9 billion in 2008-09 (prior to the budget balancing reductions) and the Board of Parole Hearings has proposed expenditures of \$118 million.

ISSUE 1: AB 900 PROGRAMMING UPDATE - INFORMATIONAL

Chapter 7, Statutes of 2007 (AB 900, Solorio) authorized additional prison and jail bed capacity. The legislation authorized \$7.4 billion in lease-revenue bonds and appropriated \$350 million General Fund to implement this legislation. The legislation also contained considerable legislative directives related to rehabilitative programming, including \$50 million General Fund targeted for rehabilitative programming. Specifically AB 900 requires the following changes to rehabilitative programming at CDCR:

New Beds Must Include Program Space

Requires all new state prison beds to include substance abuse treatment, work programs, academic and vocational education, and mental health care. Also authorizes CDCR to use portable buildings for inmate rehabilitation treatment and housing to ensure sufficient program space is available.

Expanded Substance Abuse Beds

Requires implementation of 4,000 new dedicated substance abuse treatment beds with post-release aftercare treatment for parolees.

Mandatory Risk/Needs Assessment

Requires individualized program risk/needs assessment for all inmates at reception centers and the development of an individualized treatment plan.

Complete Plans

Requires development of a plan to obtain more treatment and rehabilitative services for the inmate and parolee populations. Also requires the development of a prison-to-employment plan to ensure programs provide sufficient skill to assist in successful re-entry and employment.

Rehabilitation Oversight Board

Creates the California Rehabilitation Oversight Board (C-ROB) to evaluate CDCR rehabilitation and treatment programs and recommend changes to the Governor and the Legislature.

Mental Health Day Treatment

Requires the development of community services to assist parolees suffering from mental illness.

Education Incentives

Requires implementation of a system of incentives designed to increase participation in education programs and encourage inmates to complete educational goals.

Rehabilitative Staff Pipeline Development

Requires development of a staffing pipeline plan to fill vacant prison staff positions, obtain treatment services from local governments, and increase the number of rehabilitation and treatment personnel with proper education and credentials.

Management Deficiencies

Requires CDCR to develop and implement a plan to address management deficiencies within the department.

There are numerous benchmarks identified in AB 900 that must be met and verified by a three-member panel comprised of the State Auditor, the Inspector General, and an appointee of the Judicial Council before funding would be made available for Phase II of the prison bed construction plan approved in AB 900. To date, the three-member panel has not met to consider developments made by the department with regard to the benchmarks. CDCR recently released (April 10, 2008) a document entitled "Prison Reforms: Achieving Results" that provides an update on the progress the department has made in meeting each of the benchmarks listed above, including a projected completion date. In this document the department projects that it will have completed all of the benchmarks by December 2008.

ISSUE 2: AB 900 IMPLEMENTATION PROPOSALS

The Governor's Budget proposes \$2.5 million General Fund and 65 positions (funded from the rehabilitation allocation in AB 900) in the current year and \$35.4 million General Fund and 177.7 positions (\$31.4 million funded from the rehabilitation allocation in AB 900 and \$4 million new General Fund) in 2008-09 to implement the following proposals:

1) Implementation Support for AB 900

The Governor's Budget includes \$1 million to support 10 new positions in the Office of Research that will enhance the collection, validation, and reporting of data associated with AB 900.

Specifically, the positions will enable the department to establish two new divisions within the Offender Information Services Branch of the Office of Research. The new divisions will be the Systems Development Unit that will improve the current data collection systems and the Data Collection and Validation Unit that will improve the collection and validation of data and train persons responsible for collecting and entering data.

BACKGROUND

The Office of Research carries out short-term and long-term process and impact evaluations for programs within CDCR; conducts research projects to enhance the classification of offenders according to their treatment needs and risks; conducts research designed to assess institutional program needs; and provides research-based information to CDCR administrators, staff, and others outside the department.

The department indicates that the Office of Research is involved in all aspects of implementing the new rehabilitative programming approach. The Office has been involved in validating the COMPAS tool for the California population and is embarking on a comprehensive evaluation of all of CDCR's rehabilitative programming efforts.

The Office of Research had suffered significant reductions over the past decade, which reduced its ability to evaluate program effectiveness and maintain data essential to measuring program effectiveness. Approximately \$3.5 million was added to restore resources to the Office of Research in the 2006 Budget Act. These funds were augmented in the current year by \$1.7 million in order to add evaluation components to several of the Reducing Recidivism Strategies that were funded in the 2006-07 and 2007-08 fiscal years.

2) Adult Program Support

The Governor's Budget includes \$301,000 and 6 positions in the current year and \$8.6 million and 30 positions in the budget year to provide the department with the necessary staffing to manage the rehabilitative efforts directed by AB 900 and the recommendations made by the Expert Panel, and the Governor's rehabilitation strike team. The funding in the current year and \$5.7 million in the budget year will be funded by the General Fund appropriation for rehabilitative programming contained in AB 900. \$2.9 million in the budget year is new General Fund.

This proposal includes \$5 million to support development of the pilot project to implement the California Logic Model. This funding will be provided by the appropriation contained in AB 900.

BACKGROUND

The Legislature has made considerable efforts to improve CDCR's rehabilitation efforts over the past two years. The department is currently pursuing significant changes to the rehabilitative programming available in state prison. These new efforts require a considerable amount of development and care in implementing.

Historically, the implementation and expansion of rehabilitation efforts has been challenging for the department. There are numerous operational issues within the state prisons that must be dealt with so that the institutions are safe and inmates are able to program. There are significant implementation challenges in expanding rehabilitation programming in the prisons that will require a considerable amount of coordination and careful planning.

The proposal will support the following efforts:

- **Office of Program and Policy Development and Fidelity** - The department requests 13 positions to establish a new unit within the Adult Programs division that will be responsible for designing and implementing new evidence-based programs, including those identified in the Expert Panel report. This office will also be responsible for implementing a pilot of the California Logic Model referred to as the Proof Project. This new office will also ensure standardized curriculum and appropriate training to ensure that programs are implemented consistent with program design and standards.
- **Prison to Employment Section** - The department has requested six positions starting in the current year to establish a Prison to Employment Section within the Division of Education and Vocations Programs. This section will be responsible for evaluating the existing education programs to determine if the programs provide inmates with sufficient skills to likely result in offender employment in the community. This section will also be responsible for making recommended changes to better meet this goal. Funding for this section will be allocated from the appropriation in AB 900.
- **Program Support Unit** - The department has requested six positions to support a new Program Support Unit within the Adult Programs division. This unit would be responsible for coordinating and overseeing budget requests to ensure integrated approaches and non-duplicative requests. The department indicates that establishing this unit will enable personnel implementing programs to focus on program operations as opposed to administrative tasks.

- **Local Government Liaison Office** - The department has requested five positions to support a Local Government Liaison Office within the Adult Programs division. This office would be merged with the existing Division of Community Partnerships and be responsible for working with other state departments, local government, and community based organizations to establish formal partnerships to serve parolees in the community. This Office will also help to coordinate community outreach and education for implementing community portions of the California Logic Model.

Additionally, the department has started developing the Proof Project at California State Prison, Solano. This project will be used to test and demonstrate implementation of the California Logic Model recommended by the Expert Panel. The department has formed cross jurisdictional teams to implement this site-specific project and has developed a governance structure to establish clear lines of authority and facilitate appropriate and timely decision making. This effort will ultimately be expanded to the Deuel Vocational Institution, the Northern California Reentry Facility in Stockton, and Parole Region I.

3) Inmate Risk and Needs Assessment

The Governor's Budget includes \$1.9 million General Fund and 49 positions in the current year and \$10.6 million General Fund and 98.7 positions in the budget year to enable the CDCR to develop, implement or expand in the following areas:

- **Assessment**
 - Assess newly received offenders' risk to recidivate so that the CDCR can focus its rehabilitative resources most effectively
 - Assess newly received offenders' criminogenic needs so that the CDCR can respond with interventions that will enhance their readiness for successful post-prison return to the community
- **Case Management**
 - Develop policies and procedures for case management plans
 - Develop case management plans collaboratively with offenders to encourage offender participation in programs
 - Develop case management plans for offenders that will guide decisions about assignment to rehabilitative programs
 - Match moderate to high risk to recidivate offenders with rehabilitative interventions according to their risk needs
 - Apply effective methods during interventions to facilitate offenders playing an active role in preparing for their reentry into the community
- **Staff Training Plan**
 - Develop a staff training plan to be used at the CDCR training academies to initiate and maintain a high level of competence in rehabilitative programming
 - Initiate a training program that encourages a climate for reaching rehabilitation goals and improving the workplace environment
 - Initiate contracts for rehabilitative skills training for institution staff
 - Implement a training team to deliver rehabilitative skills training

BACKGROUND

The first step in the California Logic Model is the assessment of an inmate's risks and needs. The department has been using the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) instrument in its pre-parole planning efforts for the last few years. The COMPAS instrument is a research-based risk and needs assessment tool that is comprised of 141 questions used to determine the overall risk potential and criminogenic needs profile of the offender.

The department started using this instrument to assess inmates in four reception centers at intake in June 2007. This pilot was expanded to the eight remaining reception centers beginning in November 2007. The department indicates that the assessment is completed for a portion of the new commitments that have more than 240 days to serve.

The department indicates that to date it has done 6,000 COMPAS assessments at intake. This request will enable the department to expand the number of new commitments who receive the COMPAS risk assessment at intake in the Reception Center and ensure that most of the new commitments with more than 240 days to serve get the COMPAS assessment at intake.

The department indicates that the COMPAS assessment will be used in conjunction with various other case factors to make an endorsement to a general population prison. The offender's risk score on the COMPAS instrument will determine the track the offender will be placed on. If the offender is moderate to high risk to re-offend he will be placed on a Rehabilitation Track. If he or she is low-risk to re-offend he or she will be placed on a Life Skills Track. If the offender is placed on the Rehabilitation Track he or she will be referred for appropriate secondary assessments (e.g. substance abuse, academic, criminal thinking). After the appropriate assessments, an individualized case plan will be developed for the inmates on both the Life Skills Track and the Rehabilitation Track. This case plan will be used by the classification committee to make program assignments.

The additional resources requested in this budget proposal will support the additional secondary assessments and the development of the case management plans. In the short term, the department has reported that it has decided to use the case management capabilities of the COMPAS tool to develop a case plan for each offender. The department indicates that it is currently reviewing the feasibility of this plan.

The training portion of this proposal will cover the principles of effective rehabilitation, cognitive behavioral intervention, motivational interviewing, and other skills. The training will be designed to provide department staff with communications skills and techniques designed to reduce offender resistance, increase offender motivation to change, and reduce individual criminal risk.

The CDCR plans to start training existing staff at reception centers directly responsible for implementing the COMPAS risk assessment tool and will also identify other staff that will serve as department-wide trainers who will travel the state in teams and eventually train staff at all institutions.

The CDCR indicates that the training is being developed utilizing external subject matter experts, the new Program Development office within Adult Programs, and the Office of Training and Professional Development.

4) Day Treatment and Crisis Services for Mentally Ill Offenders

The Governor's Budget includes \$6 million to support four positions and contract services to expand the continuum of treatment services available to parolees with mental illness.

BACKGROUND

The CDCR is required by AB 900 to develop community services to assist parolees suffering from mental illness. Specifically, the department is required to provide services for 300 parolees before it can move to Phase II of the prison bed construction authorized in AB 900.

The 2007 Budget Act provided \$4 million to augment the department's efforts in this area. The department is currently using a portion of these funds to provide crisis intervention services on an as-needed basis. The department is also working on developing longer-term contracts for wrap-around services for the mentally ill parolee population.

5) Education for Inmates Reporting & Statewide Tracking

The Governor's Budget includes \$961,464 to support six positions to develop and implement the Education for Inmates Reporting and Statewide Tracking (EdFIRST) project. This project will enable the department to report timely education data on enrollment, program completion, improvement in reading scores, and the relationship between recidivism rates and education programs. The department indicates that this program is an off the shelf program and a feasibility study report has been completed for this project. The project will be funded with the monies included in AB 900 for rehabilitation programming.

BACKGROUND

The C-ROB panel has already identified as a "red flag" the department's lack of information technology resources. The department is currently developing a major offender management system, but this system is still in development. In the meantime, the department currently has no way to report basic data related to inmate education and programming. Data and information on program participation and outcomes are central to implementing evidence based programming. The CDCR should be able to integrate EdFIRST into its larger offender management system once it is developed.

6) Substance Abuse Treatment Expansion – 2,000 Beds

The Governor's Budget includes \$308,000 in the current year and \$8.1 million in the budget year for 29 positions and to fund contracts for substance abuse treatment services to an additional 2,000 inmates and after-care for 1,300 parolees. The department indicates that the full costs to implement this program are \$41 million, which will not be realized until 2010-11. The current and budget year funding will be provided by the appropriation contained in AB 900.

BACKGROUND

The department is required by AB 900 to dedicate 4,000 additional prison beds to substance abuse treatment and provide commensurate post-release aftercare treatment slots for parolees. The department must have 2,000 of these beds established before it can move to Phase II of the prison construction authorized under AB 900.

The department has started the development of plans to provide 2,000 additional beds with substance abuse treatment services. The department has selected eight sites where additional treatment beds will be established and has started efforts to draft requests for proposals to select contractors.

COMMENTS

Staff notes that while the majority of these requests (\$31.4 million of \$35.4 million) will be funded from the rehabilitation funding appropriated in AB 900, the costs of the requests in 2009-10 and 2010-11 will grow to \$68.7 million and \$75.9 million respectively.

ISSUE 3: IN CUSTODY DRUG TREATMENT PROGRAM BEDS

The Governor's Budget proposes \$1.3 million General Fund and 11 positions to oversee the management and contracting of the community beds ordered by the *Valdivia* court.

BACKGROUND

In an April 2007 court order in the *Valdivia* lawsuit, the CDCR was ordered to provide remedial sanctions for parolees that have violated parole. The order requires CDCR to establish 1,800 community-based treatment beds for parolees that violate their parole conditions due to a drug or alcohol dependency. The department was required to establish these beds by April 2008. The CDCR has secured these beds in the community through contracting with the Substance Abuse Services Coordination Agencies (SASCAs).

In the recent report to the Legislature on expanding rehabilitation services, the department has indicated that it has already established 850 community beds statewide and 560 jail beds statewide. The department plans to ensure that there will be no fewer than 400 in-custody drug treatment beds in each of the four parole regions, with the exception of Los Angeles which will have no fewer than 600 beds.

COMMENTS

These treatment beds will reduce the number of inmates returned to custody for short term parole violations, thereby reducing the inmate population. The treatment programs should also help to reduce recidivism for this population, which could result in significant long-term savings to the state's prison system.

ISSUE 4: COMMUNITY WORK CREWS

The Governor's Budget proposes \$2.4 million General Fund and 28.8 positions (\$5.8 million ongoing) to create inmate community work crews at most CDCR prisons.

BACKGROUND

These work crews would provide services to local jurisdictions such as litter removal, weed abatement, and minor repairs. The department would not be reimbursed by the local jurisdictions for the services performed by the work crews. This funding would be used to establish correctional officers that would supervise the work crews as well as some one-time costs for equipment.

As part of a reduction plan in 2003-04, the CDCR eliminated correctional officer positions that provided custodial supervision to Inmate Community Work Crews. Once the positions were eliminated, local jurisdictions had to assume the responsibility of maintaining the level of service the CDCR's inmate workforce previously provided.

It is the CDCR's intent to provide this community service to all local jurisdictions that may need assistance, including those that currently reimburse the CDCR for services. This program is intended to establish good will with local communities and maintain collaborative partnerships statewide.

COMMENTS

Six prisons currently have community work crews, but local communities reimburse the state for its costs of providing the services. The LAO recommends modifying the department's request for funding related to inmate community work crews to (1) eliminate a General Fund augmentation for these new positions, and (2) reflect funding of the new positions from reimbursements from local jurisdictions. The LAO notes that there may also be additional institutional savings that will occur from providing additional inmates with work opportunities that can earn them work-time credits.

ISSUE 5: CORRECTIONAL CASE RECORDS

An April 1 Finance Letter includes funding to support 77 case records positions at a cost of \$5.2 million General Fund. The CDCR proposes to fund these positions from institutional savings of \$7.8 million as a result of correcting the prison release dates which in most cases results in reducing days served. This will result in a \$2.5 million General Fund reduction to the Governor's budget proposal.

BACKGROUND

In 2005-06 there were three published decisions by the courts (referred to as *Reeves*, *Tate*, and *Phelon*) and one unpublished decision (referenced as *C/D2*) that changed the method of calculating release dates for specific offenders. Each of these decisions clarified how the department should handle calculating release dates in specific situations. Specifically, these decisions now require the department to track separate release dates for violent and non-violent terms, applying different rates of credit when one term stops and the other starts.

The department's existing offender tracking system is no longer able to accurately calculate the release date of an offender given the numerous law changes and rule changes implemented by the state and ordered by the court. This has resulted in a significant increase in manual work by the case record staff to manually calculate release dates. Eventually, the SOMS system will be able to handle this task, but it is not planned to be implemented until 2010.

Recent press and a lawsuit have raised awareness of CDCR's current inability to ensure that inmate release dates are calculated correctly. The lawsuit alleges that up to 33,000 inmates release dates have not been calculated correctly which in most cases has resulted in CDCR incarcerating individuals past their appropriate release date. The CDCR agrees that many of the release dates are not calculated correctly and has a sizeable backlog of cases that it needs to review to ensure compliance with the court decisions.

COMMENTS

This problem has arisen mainly due to a shortage of trained case records staff at prisons around the state, which has resulted in a backlog of cases. The department has indicated that eliminating this backlog could reduce as many as 600 beds in the budget year.

ISSUE 6: CONDEMNED ROW HOBBY PROGRAM

An April 1 Finance Letter proposes \$118,000 General Fund and 2 positions to comply with the *Thompson* Consent Decree by making art hobby craft available to all Grade A condemned Inmates.

BACKGROUND

The *Thompson* Consent Decree states; 1) Grade A inmates shall be afforded art hobby craft; including oils; 2) other inmates shall be afforded art hobby craft; excluding oils. Grade A inmate participation has historically been limited to 90, which is the same number offered to General Population inmates. The Lancaster Order, dated June 21, 2007, found the CDCR in violation of the *Thompson* Decree in terms of providing or making available art hobby craft to all Grade A condemned inmates.

A cell front survey was conducted resulting in 301 of the approximately 485 potentially eligible Grade A condemned inmates indicating a desire to participate in the hobby program. The additional positions requested are to handle the workload required to manage the hobby program and comply with the court's order to provide in-cell hobby programming to all Grade A Condemned Inmates.

COMMENTS

Currently the Condemned Hobby Program is facilitated by one employee who serves approximately 90 inmates, which allows for one visit per week. Expanding the program without additional staff would increase the ratio to 301:1, which would allow for only one visit per month.

ISSUE 7: EXECUTIVE EXEMPT POSITIONS

An April 1 Finance Letter proposes to redirect existing resources to establish the following 5 exempt positions:

1. Undersecretary of Adult Programs
2. Chief Deputy Secretary for Facility Planning, Construction and Management
3. Chief Deputy Secretary for Correctional Healthcare Services
4. Director for Division of Addiction and Recovery Services
5. Director for Correctional Health Care Services

BACKGROUND

AB 900 greatly expands Adult Program's and Facility Planning, Construction and Management's scope by requiring additional evidenced-based programs and the establishment of delivery models in all institutions. Additionally, the Rehabilitative Strike Team states in January 2008 report that leadership at the top to create a clear and compelling vision is needed for the type of transformational change that is envisioned by the Strike Team.

According to the CDCR, these exempt positions are needed to improve are needed to improve oversight of the rehabilitation requirements set by AB 900 and the recommendations of the Governor's Strike Team and Expert Panel.

COMMENTS

This proposal also contains Trailer Bill Language to amend Government Code, which references the creation of the CDCR and number of Undersecretaries and Chief Deputy Secretaries that the Governor can recommend to the Senate for confirmation.

ISSUE 8: HUMAN RESOURCES SUPPORT

The Governor's Budget proposes \$4.7 million General Fund to support 10 new positions and convert of 34 limited-term positions to permanent. The department is also requesting funding to continue 15 limited-term positions to support dental and mental health hiring in the budget year.

BACKGROUND

In 2006-07, the Legislature approved the Comprehensive Health Care Finance Letter, in which 71 limited-term positions were provided to the CDCR to assist with the statewide recruitment selection and hiring of vacant positions. These positions were to assist in meeting the expectations of the *Coleman* and *Perez* courts. In order to continue these efforts, the CDCR is requesting to continue 34 of these limited-term positions on an ongoing basis. In addition, the CDCR is requesting 10 new positions and the continuation of 15 limited-term positions into 2008-09 (which will eventually become permanent) to perform other Human Resource activities related to recruitment and hiring.

This request would provide positions to support the following:

- **Office of Executive Recruitment and Program Performance Management** - 4 new positions to support the recruitment and hiring of executive level management. This office currently has 10 permanent positions.
- **Office of Personnel Services, Customer Service Staff** - 6 new positions to provide managers and supervisors with technical expertise concerning the hiring process, classification and pay, merit issues, training, progressive discipline and general personnel management issues. This office is also responsible for developing consistent policies and procedures and work on numerous changes to classification and pay that are needed to better recruit and retain qualified individuals. This office currently has 188.3 permanent positions.
- **Office of Workforce Planning** - Convert 3 limited-term positions to permanent to continue support for recruitment efforts to attract trained staff for 500 plus classifications (excluding entry-level peace officers). This office currently has 26 permanent positions.
- **Office of Selection Services** - Convert 4 limited-term positions to permanent to continue support for the administration of examinations required to hire qualified staff in a timely manner. This office currently has 44 permanent positions.
- **Institution Personnel Office Statewide** - Convert 27 limited-term positions to permanent to continue to support hiring and selection at the institutions.
- **Dental and Mental Health Hiring Plan** - Continue 15 limited-term positions to support a variety of hiring activities at the institutions and headquarters related to hiring large numbers of dental and mental health staff required by federal court actions. The department proposed to make these positions permanent starting in 2009-10.

COMMENTS

Court activities driven by lawsuits such as Coleman, Perez, and Valdivia, have resulted in an increase need for the CDCR to focus attention and streamline recruitment, selection and hiring processes to meet hiring needs. Additionally, the department's undertakings related to AB 900 will impact human resource operations.

ISSUE 9: TB TESTING AND HEPATITIS B VACCINATIONS

An April 1 Finance Letter proposes \$3.5 million General Fund to support a contract to provide TB testing and Hepatitis B vaccination service to CDCR staff.

BACKGROUND

State law requires that all CDCR employees get an annual TB test. New hires are also offered a Hepatitis B vaccination, which they can refuse if they choose. Historically, the department has used CDCR clinical staff to perform this testing and vaccination. In 2007 the Receiver decided that CDCR clinical staff would no longer perform this function.

COMMENTS

The Receiver has stopped performing these important health and safety functions that have historically been performed by CDCR staff that his office now oversees. It is reasonable to augment the CDCR's budget to provide them with resources to administer staff TB testing and Hepatitis B vaccinations. However, a portion of this request may be overstated.

ISSUE 10: COMMUNITY CORRECTIONAL FACILITY ENHANCEMENTS

An April 1 Finance Letter proposes \$529,000 to support converting 4.6 limited-term Correctional Sergeant positions to permanent positions for the following three private prisons: (1) Baker CCF, (2) Leo Chesney CCF, and (3) Mesa Verde CCF.

BACKGROUND

The department has contracts with several private prisons located in California to house CDCR inmates. These contracts are overseen by the department and the contractors are required to operate the facilities in accordance with CDCR rules and regulations. Custody at the private prisons is provided by the contractors, which are not sworn law enforcement staff. Historically there has been only a limited CDCR peace officer presence at these contracted facilities. Currently, each private prison facility has two CDCR peace officer staff and additional correctional counselors that are also CDCR peace officer staff. Funding was provided for 4.6 limited-term positions to provide three private prisons that are not located close to a state prison with one CDCR peace officer during third watch.

COMMENTS

The LAO finds that events at private prisons have been very few and in most cases the facility has been able to call for appropriate backup to address the situation. The CDCR has recently entered into contracts with several private prisons out-of-state and it is not staffing these facilities to provide CDCR peace officer coverage on third watch.

ISSUE 11: RUTHERFORD/LUGO LIFER HEARINGS

The Governor's Budget proposes \$8.2 million General Fund to support 72.8 positions to ensure more efficient and timely parole suitability hearings for inmates sentenced to life terms.

An April 1 Finance Letter reduces this request by 306,000 in the budget year to account for a delay in the Deputy Commissioner start date.

BACKGROUND

The department entered into a Stipulated Agreement and accompanying remedial plan in March 2006 to settle the *Rutherford v. Schwarzenegger* lawsuit. This class action lawsuit was filed on behalf of lifer prisoners that had reached their minimum eligible parole dates without receiving a parole suitability hearing within the timeframes required by law. The remedial plan requires the department to develop and implement a statewide scheduling and tracking system for life prisoner parole hearings. The court specifically included an information technology project component in the remedial plan. This case is now referred to as *Lugo v. Schwarzenegger* since the inmate named Rutherford has passed away.

In December 2007, the *Lugo* court ordered the Board of Parole Hearings (BPD) to develop a plan by February 1, 2008 that would clear up the backlog of hearings by June 1, 2009. The department is currently working on a plan for eliminating the backlog with the plaintiffs in the case and the court.

The board continues to have problems with the postponement of lifer hearings. The board indicates that over one-third of the hearings continue to be postponed by the board because of (1) panel unavailability, (2) backlog in getting updated psychological evaluations, and (3) errors or delays caused by case records. The board estimates that it currently has a backlog of 1,200 to 1,300 hearings. The board indicates that it is working on many fronts to try and reduce the number of postponements and backlog

Another factor exacerbating the board's ability to get rid of the backlog is the continued debate over the tool or tools it should use in conducting the psychological examination. There has been considerable debate over the last few years and the board indicates that it has still not determined what examination it will use. Until this is decided there will continue be problems with postponements related to the psychological evaluation and general confusion that has arisen about when a psychological evaluation is too old and what type of psychological examination should be conducted.

COMMENTS

The department is requesting resources in the following three areas:

- **Hearings Division** - \$628,000 is requested to add three commissioner positions to reduce the number of postponements due to panel unavailability. The budget includes trailer bill language to implement this effort.
- **Forensic Assessment Division** - \$6.2 million (\$3.8 million limited-term) for clinical staff to enable more timely psychological evaluations prior to parole suitability hearings. The limited-term funding will be used to contract for clinical staff to address the current backlog of assessments that need conducted. The backlog was estimated to be over 600 as of July 2007.
- **Case Records Unit** - \$1.4 million for additional case records staff to support the field records offices that have the largest volume of life inmates.

The Legislature has provided \$8.3 million in on-going funding to support changes at the BPH to comply with the *Lugo* lawsuit.

ISSUE 12: RELOCATION OF DIVISION OF HEALTH CARE SERVICES

The Governor's Budget proposes \$5 million General Fund (\$2.6 million of which is ongoing to lease new office space and \$2.4 million one-time for new furniture) in order to relocate the Division of Correctional Health Care Services (DCHCS).

BACKGROUND

The DCHCS houses three main units: Mental Health, Dental Health, and Administration. The Dental Health and Administration units are currently located at 501 J Street in Sacramento, in the same building that houses the medical Receiver's Plata Support Division. Due to a lack of available space in this building, the Mental Health unit is currently operating out of a temporary site at 1300 National Drive in Sacramento.

This proposal would consolidate all three units into a single space at a location in the Sacramento area that is still to be determined. The primary reason for this proposed consolidation and relocation is the Receiver's expansion plan of the Plata Support Division at 501 J. The CDCR also cites the potential for better coordination among units.

COMMENTS

The DCHCS is currently authorized to have 292 positions. However, the department based its calculation for office space on 478 staff. The administration has indicated that it did so in anticipation of future court orders that it believes will expand its staff. However, the administration was unable to point to any specific court rulings to justify such a large increase. In addition, even if there were justification for leasing so much space, we find little justification for buying so much furniture now for staff that is not yet authorized.

ISSUE 13: ARMSTRONG COURT COMPLIANCE

The Governor's Budget proposes \$15.7 million General Fund and 24 positions in the current year and \$43.9 million and 221 positions in the budget year in order to comply with court rulings in the *Armstrong v. Schwarzenegger* inmate class action lawsuit.

An April 1 Finance Letter proposes to reduce the Governor's Budget request by \$9.3 million and 2 positions in the current year and \$29.8 million and 183.5 positions in the budget year.

The combined proposals result in \$6.4 million and 24 positions in the current year and \$14.1 million and 37 positions in the budget year (\$6 million and 29 positions ongoing).

BACKGROUND

The *Armstrong* court has ruled that the department is in violation of the Americans with Disabilities Act (ADA) and has ordered it to bring its practices and institutions into compliance through various specific actions. This proposal requests resources to begin addressing the various court requirements. Specifically this request provides resources for the following areas:

- **Office of Court Compliance** – 3 positions to institutionalize independent departmental self-monitoring, oversight, and program compliance to allow the CDCR to take responsibility for monitoring compliance.
- **Division of Adult Parole Operations** – 6 positions to serve as regional ADA coordinators and monitor and track staff usage of the Disability and Effective Communication System (DECS) in the field. 2 of the 6 positions will be responsible for entering all information from the assessment tool completed by the regional coordinators.
- **Division of Adult Institutions** – In-state travel funding for *Armstrong* staff of \$30,000 to allow for training twice a year. One-time funding of \$239,000 for the purchase of medical equipment (including canes, walkers, and wheelchairs) and appliance bags and ongoing funding of \$130,000 for wheelchair maintenance.
- **Division of Audits and Compliance** – 6 positions and funding to conduct audits related to the Office of Court Compliance and its compliance with *Armstrong*.
- **Facilities Management** – 4 fifteen-month limited-term positions to, 2 Subject Matter Experts with expertise in ADA structure and 2 Architectural Assistants. Funding is also requested for travel to conduct site assessments (\$44,000) and travel for Telecom staff to complete the design and engineering requirements for DECs connectivity drops at institutions (\$37,000, which includes \$12,000 for overtime). Facilities Management is also requesting one-time funding of \$3.7 million to repair and/or replace path of travel walkways and ongoing funding of \$1.9 million for ADA related maintenance and repair.
- **Transportation Unit** - \$70,000 in one-time funding to purchase a vehicle to transfer inmates with mobility impairment disabilities and \$5,000 ongoing for gas and maintenance.

- **Enterprise Information Systems** – 4 fifteen-month limited-term positions and 14 permanent positions for the connectivity and maintenance of the DECS system, \$1.4 million in one-time funding for the purchase of equipment, software, training and overtime, and \$275,000 in ongoing funding for software and contract services.
 - This proposal also includes proposed Budget Bill Language that would allow this item to be augmented by up to \$15 million upon approval of a Feasibility Study Report or a Special Project Report by the Office of the State Chief Information Officer that identifies a gap and a need for an information technology solution between the development of the Strategic Offender Management System, and the requirements of the *Armstrong* Court Order.

COMMENTS

The Federal Court in *Armstrong* has issued a series of court orders from May of 2006 through September of 2007 relative to the CDCR's systematic failure to comply with the *Armstrong* Remedial Plans. *Armstrong* requires effective communication in all parole proceedings, which amount to over 400,000 a year. *Armstrong* also requires accommodating approximately 41,000 prisoners within CDCR institutions with disabilities as well as parolees with disabilities. This request appears to meet requirements of the latest court order, September 2007, which requires:

- DECS use by January 2008 for all affected staff.
- The Division of Parole Operations to use DECS by January 2008 in all parole proceedings.
- DECS training.
- The CDCR to provide access to programs and services, including clear path of travel, to ensure same services as non-ADA inmates.
- Inability to accommodate for a disability does not constitute good cause for delay of any parole proceeding.
- Appropriate staff for compliance reporting.

ISSUE 14: MENTAL HEALTH WORKLOAD STUDY

An April 1 Finance Letter proposes position authority for 407.7 positions, which would be funded by available salary savings in order to staffing as recommended by the Mental Health Staffing Workload Study associated with the *Coleman* lawsuit.

BACKGROUND

Pursuant to SB 1134, Chapter 511, the CDCR was required to complete a workload study to assess the total level of resources needed for the implementation of the Revised Program Guide for the Mental Health Services Delivery System (MHSDS). This study was completed in June 2007 and this request has been developed as a result of the recommendations identified in the study.

In 1995, the *Coleman* court found that the CDCR violated the Eighth and Fourteenth Amendments by being deliberately indifferent to the mental health needs of inmates. In 1997, the CDCR established initial policies and procedures for providing mental health services at all institutions through the MHSDS Program Guide, which was approved by the *Coleman* Court. Revisions to the Program Guide have been an ongoing requirement of the *Coleman* case.

The Revised MHSDS Program Guide includes all amendments and represents up to date policies and procedures for compliance with the *Coleman* court. Implementing the MHSDS Revised Program Guide is an integral part of the strategy to exit the *Coleman* case.

COMMENTS

The Mental Health Programs has over 620 vacancies statewide. The CDCR proposes to use salary savings from these significant vacancies to fund the requested positions in the budget year.

Staff notes that, although the staffing study was ordered by the court, the court has yet to require implementation of the findings.

ISSUE 15: INMATE DENTAL SERVICES PROGRAM

The Governors Budget proposes \$2.6 million General Fund and 19 positions to comply with a *Perez* court order and Title 15 requirements.

BACKGROUND

On December 19, 2005 the CDCR entered into a settlement agreement with the Prison Law Office in the *Perez vs. Tilton* class action lawsuit. The plaintiffs alleged that CDCR Dental Services violated the Eighth Amendment of the United States Constitution. The lawsuit alleged that inmates suffered unnecessary pain and sustained permanent damage to their oral health. To bring dental services into compliance with constitutional mandates, the CDCR established the Inmate dental Services Program (IDSP).

On May 1, 2006 an amended Stipulated Order was issued in the *Perez* case. The IDSP was ordered to establish and fund 20 positions. Four positions were established through a 2007-08 Finance Letter. This request would provide funding for the remaining 16 positions required by the court order.

The proposal also requests 3 positions to establish a Dental Authorization Review (DAR) committee to verify eligibility of outside dental care for inmates. Currently, dental authorization is being reviewed by medical staff that may have little to no dental background.

COMMENTS

While this proposal appears to meet the requirements of the *Perez* court, staff notes that the CDCR did not include salary savings for the positions that are being requested.

**ISSUE 16: CRITICAL OPERATIONAL EFFICIENCIES AND EXPANSION
REQUIREMENTS**

The Governor's Budget proposes \$19.9 million and 90 positions General Fund (\$10.1 million and 65 positions ongoing) to maintain cadet recruitment, increase selection and training of parole agents, and establish a satellite academy.

BACKGROUND

This request is related to addressing vacancy issues with correctional officer and parole officer classifications.

COMMENTS

Staff notes that the need identified in this request may be overstated.

ITEM 8180 PAYMENTS TO COUNTIES FOR HOMICIDE TRIALS

This local subvention item was added to the budget so that the cost of homicide trials not unduly impact local government finances. Current law allows counties to apply to the State Controller for reimbursement of homicide trial and hearing costs that exceed the amount of money derived by the county from a tax of 0.0125 of 1 percent of assessed property value in the county.

ISSUE 1: GOVERNOR'S BUDGET AND BBR

The Governor's Budget proposes \$2.25 million General Fund to support this item in the budget year. This is \$250,000 or 10 percent less than what was included in the budget for 2007-08 due to the Administration's Budget Balancing Reduction.

Actual expenditures from this item have been considerably less than what has been budgeted. The historical expenditures from this budget item are listed in the figure below (dollars in thousands):

	<u>Budgeted</u>	<u>Expended</u>	<u>Revert to GF</u>
2001-02	\$7,500	\$7,500	\$0
2002-03	7,500	5,617	1,883
2003-04	5,000	1,484	3,516
2004-05	4,746	3,062	1,684
2005-06	4,305	1,797	2,508
2006-07	3,500	616	2,884

To date only \$4,000 of the \$2.5 million allocated in the 2007-08 Budget Act has been expended.

The statute governing these reimbursements was amended in 2004 to exclude costs paid by the trial courts. This change was made when the trial courts were consolidated and the primary financial support for the trial courts was transferred from the counties to the state. Since that time reimbursements to counties have declined.

COMMENTS

Now that we have a state system of trial courts it is more likely that the courts would work to solve problems related to a resource-intensive trial. Additionally, demand for these funds has been significantly reduced over the past few years.

ITEM 9210 LOCAL PUBLIC SAFETY PROGRAMS

The State Controller's Office (SCO) provides fiscal control for the receipt and disbursement of public funds. Certain local assistance programs—generally those that allocate funds on a formulaic rather than a competitive basis—are administered by SCO. The SCO disburses the funds directly to local government entities, which then report back to SCO on their expenditure of the funds.

In the current year, SCO will disburse \$292 million in General Fund to local governments for public safety, as well as \$2.9 billion in special funds supported by sales tax revenue. Under the administration's proposal, SCO General Fund programs would each receive a 10 percent reduction, resulting in the provision of \$262 million for local governments. Under the LAO's alternative approach, the SCO General Fund programs would be eliminated, although the funding from part of one program, equal to \$119 million, would be combined with an existing CDCR program.

ISSUE 1: LOCAL PUBLIC SAFETY PROGRAMS - SCO

Below are the local public safety programs for which funding is distributed by the SCO:

Citizens' Option for Public Safety	\$119	\$107
Juvenile Justice Crime Prevention Act	119	107
Small/Rural Sheriffs Grants	19	17
Local detention facility subventions	35	32

COMMENTS

These programs have been heard and will be held open.