

MINUTES
BOARD OF STATE AND COMMUNITY CORRECTIONS MEETING
Thursday, June 9, 2016
Meeting held at: BSCC Board Room
2590 Venture Oaks Way, Room 101, Sacramento, CA 95833

I. Call to Order:

The meeting commenced at 10:04 a.m.

Chair Linda Penner welcomed the Board Members and public to the June 9, 2016 Board of State and Community Corrections (BSCC) meeting.

Ms. Penner announced that Aaron Maguire, BSCC's General Counsel was present and asked for roll call.

Ms. Maria Rodriguez-Rieger called roll and announced there was a quorum.

The following members were in attendance:

Ms. Penner	Mr. Dean	Mr. Ertola	Mr. Bejarano
Mr. Viera Rosa	Ms. Scray Brown	Judge Garrett	Mr. Steinhart
Mr. Growdon			

ABSENCE OF BOARD MEMBERS

Mr. Kernan, Ms. Perez, Mr. Budnick and Ms. Silbert were not present.

II. INFORMATION ITEMS:

1. Chair's Report.

Ms. Penner requested permission to move Agenda Item F, the Edward Byrne Memorial Justice Assistance Grant, Glenn and Lake County Relinquishments, to the end of the agenda. There were no objections from the Board or audience.

2. Executive Director's Report:

Ms. Howard provided updates on the following:

- I. Budget
 - Strengthening Law Enforcement Grant
 - Proposition 47

- Change of Conflict of Interests Law applying to Board's Executive Steering Committees
 - Federal Title II Compliance Monitoring applications
 - Edward Byrne Memorial Justice Assistance Grant (JAG) amounts
- II. The Proposition 47 Executive Steering Committee would be holding their first and second meetings on June 23 and 24, 2016 and a Public Hearing session on the evening of June 23rd from 6:00 p.m. to 8:00 p.m. at the BSCC's Training Room.

3. Legislative Update Report:

A hard copy of the report was included in the meeting material and posted on the BSCC's website.

4. Legal update.

Mr. Maguire provided an update regarding conflict of interest issues regarding executive steering committee members. The Fair Political Practices Commission (FPPC) had determined that "the Board's executive steering committees are public officials that make or participate in governmental decisions and the Board must designate the members in its conflict of interest code." A letter from the FPPC was included in the meeting material.

These were information only.

III. CONSENT ITEMS:

A. Minutes of the Board of State and Community Corrections April 14, 2016 Meeting Minutes: Requesting Approval.

B. Approval of the Draft Incompatible Activities Statement for the Board of State and Community Corrections (Gov. Code, §19990): Requesting Approval.

Government Code section 19990 requires all state departments to adopt a statement of incompatible activities. This item requested the Board adopt a new statement of incompatible activities, which had not been updated since 2006.

Staff recommended the Board approve the proposed updated statement of incompatible activities and direct staff to begin the adoption process.

Ms. Penner asked if anyone would like any items pulled from the Consent Calendar Items. No board members requested items to be removed.

Mr. Steinhart requested that the minutes contain more details in the future.

There were no public comments.

Mr. Dean moved to approve items A and B. Mr. Bejarano seconded. The motion carried.

IV. DISCUSSION AGENDA ITEMS:

C: Proposed Revisions: Minimum Standards for Local Detention Facilities, Title 15 and Title 24, Executive Steering Committee's Recommendations: Requesting Approval.

Pursuant to Penal Code Section 6030, the Board of State and Community Corrections (BSCC) is required to biennially review, and revise if necessary, the Minimum Standards for Local Detention Facilities.

Staff recommended approval of proposed revisions, with the exception of definitions related to visiting in Title 15, Section 1006, Definitions and Title 15, Section 1062, Visiting. If approved, Section 1062 would not be revised as was proposed and would continue to provide:

- (a) The facility administrator shall develop written policies and procedures for inmate visiting which shall provide for as many visits and visitors as facility schedules, space, and number of personnel will allow. For sentenced inmates in Type I facilities and all inmates in Type II facilities there shall be allowed no fewer than two visits totaling at least one hour per inmate each week. In Type III and Type IV facilities there shall be allowed one or more visits, totaling at least one hour, per week.
- (b) In Type I facilities, the facility administrator shall develop and implement written policies and procedures to allow visiting for non-sentenced detainees. The policies and procedures will include a schedule to assure that non-sentenced detainees will be afforded a visit no later than the calendar day following arrest.
- (c) The visiting policies developed pursuant to this section shall include provision for visitation by minor children of the inmate.

Staff also recommended that the Board direct staff to begin the Administrative Procedures Act and publish notice of regulatory action in the California Regulatory Notice Register.

The following public comments were heard:

Steve Meinrath (ACLU) (Title 15 & 24 Regulation)

PREA: Mr Meinrath asked why the BSCC is not responsible for ensuring that county jails are adhering to PREA regulations? If the BSCC does not enforce PREA requirements, then no other state agency will and failure to follow PREA is evidence of willful indifference. Mr. Meinrath asked why would a state agency not want to put

sheriffs on notice that PREA is required by law? He further urged the Board to add staffing levels that are consistent with the federal law.

Visitation:

Mr. Meinrath expressed concern that the working group meetings were not open to the public. He also raised concerns that the ESC was entirely sheriffs' representatives with one public defender on the ESC. The working groups met in private and took evidence along with witnesses who were not known to the public. The public is not aware of the information and research the working groups reviewed. Mr. Meinrath stated that the working group decided to eliminate In-Person visitation and urged the Board to reject the regulation on visitation.

Carole Urie: Executive Director of Returning Home Foundation: Topic: Article 6 Section 1062 & Visitation

Ms. Urie urged that video visitation not replace in-person visitation. She cited research on the negative effects of limiting visitation to video visitation and suggested that a combination of video visitation and in-person visitation is the optimal solution for visitation. She suggested a wording change for the definition of visitation.

Israel Villa (MILPA): (Formerly Incarcerated)

Topic: Video Visitation

Mr. Villa urged the Board to delay the vote of video visitation only. He raised concerns about profit and private interests and stated that in-person visits are important for those incarcerated and their families.

Carlos Franco (MILPA): (Formerly Incarcerated)

Topic: Video Visitation

Mr. Franco stated that in-person visitation will benefit familial relationships and rehabilitation of those incarcerated. Taking away in-person visitation would cause more harm to those incarcerated.

Patricia Soung Attorney (Children's Defense Fund)

Topic: In-Person Vs. Video Visitation & ESCs: Ms. Soung summarized that the heart of her concern is the benefits of in-person visitation for the incarcerated and the future outcomes to rehabilitation. She stated that the ESCs should always be a robust group and not just represent law enforcement.

Brian Goldstein (CJCJ):

Topic: In-Person vs. Video Visitation & ESCs

Mr. Goldstein stated that in-person visits are essential for those incarcerated and their families. He also stated that the composition of the ESCs and workgroups should be a collection of subject matter experts and reflective of the goals of the ESC

Mr. Bejarano moved to approve the proposed revisions, with the exception of the definitions related to visiting in Title 15, Section 1006, Definitions and Title 15, Section 1062, Visiting as recommended by the Minimum Standards for Local Detention Facilities, Title 15 and Title 24, Executive Steering Committee's Recommendations and for staff to begin the Administrative Procedures Act and publish notice of regulatory action in the California Regulatory Notice Register. Mr. Ertola seconded.

Mr. Steinhart made a motion amending Mr. Bejarano's motion to include that before the final adoption of the Revised Title 15 and 24 Standards, the Board would receive a legal analysis of the federal Prison Rape Elimination Act (PREA) compliance questions that were raised in public comments. Judge Garrett seconded. The motion carried.

D: Strengthening Law Enforcement and Community Relations, Executive Steering Committee's Funding Recommendations: Requesting Approval.

This agenda item requested approval of the Strengthening Law Enforcement and Community Relations Grant (Strengthening Grant) awards as recommended by the Strengthening Grant Executive Steering Committee.

General Counsel Aaron Maguire advised that members Michelle Scray Brown and Judge Garrett may wish to recuse themselves during the voting because San Bernardino Police Department had applied for funding and the Vallejo Police Department was being recommended for funding.

The ESC funding recommendations were:

Fully award 9 grants totaling \$5,257,939 for programs and initiatives intended to strengthen the relationship between law enforcement and the communities they serve.

- Offer a partial award in the amount of \$442,061 to the Contra Costa County Sheriff's Office, which fell at the funding cut-off point in the ranked list.
- Authorize staff to offer full or partial funding to the next-ranked applicant(s) should an applicant recommended for funding be unable or unwilling to accept the award in order to expend the total balance.

Mr. Dean moved to approve the Strengthening Law Enforcement and Community Relations, Executive Steering Committee's Funding Recommendations and authorize staff to offer full or partial funding to the next-ranked applicants should an applicant recommended for funding be unable or unwilling to accept the award in order to expend the total balance. Mr. Ertola seconded. The motion carried. Judge Garrett abstained.

There were no public comments.

E: Juvenile Accountability Block Grant (JABG), Evidence-based Training Project, Funding Extension: Requesting Approval.

This agenda item requested approval to extend additional funding to the current grantees of the Juvenile Accountability Block Grant (JABG) Evidence-based Practices (EBP) Training Project. If approved, this would extend the project through March 1, 2017 and use approximately \$190,000 in unspent JABG funds that would otherwise revert to the Office of Juvenile Justice and Delinquency Prevention on March 1, 2017.

General Counsel Aaron Maguire advised the Board that Mr. Growdon had a “non interest” within the meaning of Government Code section 1091.5.

Ms. Brown moved to approve using unspent Juvenile Accountability Block Grant funds to extend funding to the current grantees of the Evidence-Based Practices Training Project as recommended by the State Advisory Committee on Juvenile Justice and Delinquency Prevention. Mr. Dean seconded. The motion carried. Mr. Growdon abstained.

There were no public comments.

F. Edward Byrne Memorial Justice Assistance Grant, Glenn and Lake County Relinquishments: Information Only.

This was an information item. Glenn and Lake Counties have relinquished Edward Byrne Memorial Justice Assistance Grant funds in the amounts of \$99,926 and \$398,723, respectively. The funds would be combined and offered to the next-ranked counties on the small county list from the most recent competitive process. These amounts included unspent funds from year one of the grant and the full amount from year two. The anticipated year three funds were also a part of the relinquishments.

Staff would proceed down the small county ranked list generated from the most recent competitive process, offering the relinquished funds to the next-ranked counties until the funding is depleted or the minimum scoring threshold is reached. Any funds not claimed will be moved into year three to either offset any deficit or add funding to the grant award.

This was information only. No action was taken.

There were no public comments.

G. Edward Byrne Memorial Justice Assistance Grant, Reimbursement Award to San Bernardino County: Requesting Approval.

On May 9, 2016, the federal Bureau of Justice Assistance (BJA) announced a non-competitive, single source reimbursement grant for 500K for San Bernardino County to

partially reimburse for the cost of the active shooter incident on December 2, 2015 and the investigation that followed. The reimbursement is for local law enforcement regular and overtime expenditures related to the incident and the investigation. The San Bernardino Sheriff's Department and the San Bernardino Police departments would equally divide the award and receive \$250,000 each. On May 20, 2016, at the direction of the BSCC Chair and Executive Director, staff filed an application with BJA for the funds.

Staff recommended that upon receipt of the funds, the Board direct staff to seek the requisite budgetary approvals from the California Department of Finance to disburse the funds to San Bernardino County.

San Bernardino County, Sheriff John McMahon spoke in support.

General Counsel Aaron Maguire advised the Board that Ms. Brown had a "non interest" within the meaning of Government Code section 1091.5.

Mr. Dean moved that upon receipt of the funds, staff seek the requisite budgetary approvals from the California Department of Finance to disburse the funds to San Bernardino County. Mr. Growdon seconded. The motion passed. Ms. Brown abstained.

H. Senate Bill 863 (Adult Local Criminal Justice Facilities Construction Program): San Bernardino County Scope Change for Partial Conditional Award: Requesting Approval.

The BSCC had conditionally awarded San Bernardino County \$50,523,000 in Senate Bill 863 Adult Local Criminal Justice Facilities Construction Financing Program funding, which represents a partial award of the \$80 million the county originally had requested. This report asked the Board to approve a scope change requested by the county that would reduce the size and cost of its original jail construction proposal. The partial funding for San Bernardino County became available when San Francisco County formally relinquished its conditional award on March 23, 2016.

San Bernardo County Sheriff John McMahon spoke in support.

Judge Garrett moved to approve San Bernardino County's scope change for its Senate Bill 863 (Adult Local Criminal Justice Facilities Construction Program) partial conditional award. Mr. Bejarano seconded. The motion carried. Ms. Brown abstained.

I. Senate Bill 863 (Adult Local Criminal Justice Facilities Construction Program): Placer County Scope Change for Partial Conditional Award: Requesting Approval

The BSCC had conditionally awarded Placer County \$9,500,000 in Senate Bill 863 Adult Local Criminal Justice Facilities Construction Financing Program funding, which represented a partial award of the \$40 million the county had originally requested. This

report asked the Board to approve a scope change requested by the county that would reduce the size and cost of its original jail construction proposal.

The proposed scope reduction would include a 45-bed, two-tier Mental Health Unit for acute and chronic mental health inmates housed at the South Placer, Roseville Campus. The Placer County scope reduction is consistent with its original SB 863 proposal. The county would be building a portion of the original proposed SB863 project.

There were no public comments.

Mr. Dean moved to Approve Placer County's scope reduction for its Senate Bill 863 Adult Local Criminal Justice Facilities Construction Financing Program partial conditional award. Mr. Ertola seconded. The motion carried.

V. PUBLIC COMMENTS

There were no public comments.

VI. CLOSED SESSION

California Division of Occupational Safety and Health Citations- Discussion of Appeal to Occupational Safety and Health Appeals Board.

Per the Bagley-Keene Open Meeting Act, Section 11126 § (2) (A)

The Board moved into closed session for the California Division of Occupational Safety and Health Citations - Discussion of Appeal to Occupational Safety and Health Appeals Board. As allowed *per the Bagley-Keene Open Meeting Act, Section 11126 § (2) (A)*.

The meeting was reconvened. General Counsel Aaron Maguire announced that the Board recommended that the BSCC should appeal the citation fees.

Public comments were requested.

There were no public comments.

The meeting was adjourned.

Next meeting: September 22, 2016

Meeting adjourned at 12:06p.m.

Respectfully submitted,

Original signed by

MARIA RODRIGUEZ-RIEGER
Executive Assistant
Board of State and Community Corrections

ROSTER OF PERSONS IN ATTENDANCE

BSCC Board Members

Ms. Penner, Chair, Board of State and Community Corrections
Mr. Viera Rosa, Director, Adult Parole Operations, CDCR
Mr. Growdon, Sheriff, Lassen County Sheriff's Department
Mr. Dean, Sheriff, Ventura County Sheriff's Department
Ms. Scray Brown, Chief Probation Officer, San Bernardino County Probation Department
Mr. Ertola, Chief Probation Officer, Nevada County
Judge Garrett, Retired Judge, Solano County
Mr. Bejarano, Chief of Police, City of Chula Vista Police Department
Mr. Steinhart, Director, Commonweal Juvenile Justice Program

BSCC Staff

Kathleen Howard, Executive Director
Tracie Cone, Communications Director
Aaron Maguire, General Counsel
Maria Rodriguez-Rieger, Executive Assistant
Mary Jolls, Deputy Director, Corrections Planning and Programs (CPP)
Magi Work, Deputy Director, County Facilities Construction (CFC)
Allison Ganter, Deputy Director, Facilities Standards and Operations (FSO)
Evonne Gardner, Deputy Director, Standards and Training for Corrections (STC)
Colleen Curtin, Field Representative, CPP
Ricardo Goodridge, Field Representative, CPP
Daryle McDaniel, Field Representative, CPP
Colleen Stoner, Field Representative, CPP