

MINUTES
BOARD OF STATE AND COMMUNITY CORRECTIONS MEETING
Thursday, September 22, 2016

Meeting held at: Lion's Gate Hotel and Conference Center (McClellan)
Hotel Ballroom, 3410 Westover Street, Sacramento (McClellan), CA 95652

I. Call to Order:

Chair Linda Penner called the meeting to order at 10:04 a.m.

Ms. Penner welcomed Board Members and the public to the meeting and thanked the California Probation, Parole and Correctional Association (CPPCA) for inviting the BSCC to hold its September 2016 meeting at the CPPCA conference.

Ms. Penner announced that Board Member Mimi Silbert, founder of the Delancey Street Foundation, had resigned from the BSCC Board. She then introduced the Governor's replacement: Francine Tournour, director of the City of Sacramento's Office of Public Safety Accountability and administered the oath of office.

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

The following members were in attendance:

Ms. Penner	Ms. Scray Brown	Mr. Bejarano	Mr. Steinhart
Mr. Kernan	Mr. Ertola	Mr. Budnick	Ms. Tournour
Mr. Dean			

ABSENT BOARD MEMBERS

Mr. Viera Rosa, Mr. Growdon, and Judge Garrett were not present.

II. INFORMATION ITEMS:

1. Chair's Report.

Chair Penner reported that the Board has received the following letters on issues facing the Board:

(A) Title 15 and 24 Regulations Revisions

- Returning Home Foundation
- American Civil Liberties Union of California
- Prison Law Office

(B) Strategic Plan Process by the Board of State and Community Corrections

- Center on Juvenile and Criminal Justice

2. Executive Director's Report.

Ms. Howard provided updates on the following:

(A) Board of State and Community Corrections (BSCC) Strategic Planning Process – Handout

Howard said that the handout shows a flow diagram of the BSCC strategic planning process. Howard said the mission of the BSCC should be consistent with BSCC statutes, and that the planning process will have stakeholder involvement and will engage the Board's committees. The Board will set a kickoff strategic planning session for the Board to coincide with the February 2017 Board meeting.

(B) State Advisory Committee on Juvenile Justice & Delinquency Prevention – Visit from the Office Juvenile Justice Delinquency Prevention

Bob Listenbee, administrator of the OJJDP, attended a SACJJDP meeting and talked about common federal and state goals. Listenbee praised California's efforts in juvenile justice reform. Mr. Steinhart said that Listenbee credited California for reducing juvenile justice recidivism and then Mr. Steinhart reinforced the need for data collection.

(C) Proposition 47

The Executive Steering Committee last met on September 7, 2016, focusing on developing a request for proposals.

3. Legislative Update Report:

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

Legal update.

Mr. Aaron Maguire provided information on the following:

(A) Office of Justice Program Guidance Regarding the Applicability of 8 U.S.C. § 1373 to Edward Byrne Memorial Justice Assistance Grants (Byrne/JAG)

In June 2016, the Office of Justice Programs released guidance indicating that Byrne/JAG grantees must comply with section 1373 of Title 8 of the United States Code. Section 1373 of Title 8 prohibits state and local jurisdictions from impeding the sharing of information to/from the Immigration and Naturalization Service. On July 28, 2016, the Office of the Inspector General released a memo written to the Bureau of Justice Assistance, explaining how it would investigate violations of section 1373 of Title 8. According to the memo, California's Trust Act does not violate section 1373, but ordinances similar to the one enacted by the city and county of San Francisco probably would be in violation. Information that the BSCC has received indicates that grantees would have to agree to new federal assurances indicating compliance with section 1373, and that those

assurances would apply prospectively in the new federal fiscal year, which begins October 1, 2016.

(B) Prison Rape Elimination Act and Title 15 Regulations

As follow up to the June Board meeting, the members were provided with a legal analysis as to the applicability of PREA to the Board's Title 15 regulations. Mr. Maguire explained that the "nonduplication" requirements of the Administrative Procedures Act does not bar the Board from incorporating PREA into its Title 15 regulations. The APA also does not require the Board to incorporate PREA into Title 15 regulations. Nor are local jails mandated to follow PREA under the Tenth Amendment of the United States Constitution (although there could be legal consequences if local jails do not meet PREA requirements and claims are brought against agencies arising out of allegations of sexual abuse). Finally, the Board is not an "accrediting organization" within the meaning of PREA and should not lose federal funding for failing to adopt PREA.

Mr. Dean and Mr. Steinhart expressed agreement that parts of PREA might be incorporated into Title 15 and asked for a working group to analyze what provisions of PREA should be incorporated into Title 15.

Steve Meinrath (ACLU) (PREA)

Mr. Meinrath said he was encouraged by Sheriff's Dean comments to incorporate aspects of PREA into Title 15. He said the Board needs to discuss how to incorporate these changes in regulations.

Ms. Brown said that each county has its own legal counsel and the result will be different for each county. Chair Penner directed staff to create a working group and develop a timeline to determine the changes to the adult regulations.

Ms. Allison Ganter of the BSCC stated that September 12, 2016 was the final day of the public comment period for the pending changes to the adult regulations. Staff will be requesting approval from the Board. If additional regulation revisions are to be made, staff will need to begin a separate process for public comment.

III. CONSENT ITEMS:

A. Minutes of the Board of State and Community Corrections June 9, 2016 Meeting Minutes: Requesting Approval.

Mr. Steinhart asked for items on the agenda to be provided more timely to the Board and public. Executive Director Howard apologized to the Board and the public for the late dissemination of Board materials. She said that the management team will ensure timelier postings for future meetings.

B. Proposed 2017 Board of State and Community Corrections Meeting Schedule: Requesting Approval.

Ms. Howard asked whether a survey should be sent to Board members to determine a date for a strategic planning session. Chair Penner agreed. San Diego is the proposed location.

Mr. Bejarano moved to approve items A and B. Mr. Budnick seconded. The motion carried. Mr. Steinhart abstained.

IV. DISCUSSION AGENDA ITEMS:

C: Assembly Bill 900 Phase II Financing for Adult Local Criminal Justice Facilities Siskiyou County Conditional Award Establishment Extension: Requesting Approval.

This agenda item requested that the Board approve an extension from September 2016 to May 2017 of the establishment schedule for Siskiyou County's AB 900 Phase II Financing of Adult Local Criminal Justice Facilities project.

Staff recommended that the request be granted to allow the county time to secure additional funds and to allow time for the project to get through the State Public Works Board process.

Ms. Brown moved for approval. Mr. Bejarano seconded. The motion carried.

There were no public comments.

D: Senate Bill 1022 Financing for Adult Local Criminal Justice Facilities Tulare County Scope Change: Requesting Approval.

This agenda item requested that the Board approve the Tulare County's request for a scope change of its Sequoia Field Program Facility to reflect a prior increase in funding for the county from a partial award to a full \$40 million award.

Staff recommended the Board approval.

Mr. Steinhert moved for approval. Mr. Budnick seconded. The motion carried.

There were no public comments.

E: Proposed Senate Bill 844 Financing for Local Criminal Justice Facilities Chair and Executive Steering Committee Membership: Requesting Approval.

This agenda item requested that the Board:

1. Authorize an Executive Steering Community to oversee the development of the SB 844 Financing of Adult Local Criminal Justice Facilities Request for Proposals and rating criteria;

2. Appoint Board Member Geoff Dean to serve as the Chair of the ESC;
3. Delegate authority to the Chair to work with staff to make final the draft list of ESC members and to add members as needed; and
4. Approve the activities and tentative timeline associated with the RFP.

The proposed list of ESC members was included in the report and presented to the Board and public. The ESC will include members of law enforcement and community-based offender services.

Public Comment was heard:

Erica Webster of the Center for Juvenile & Criminal Justice said the ESC roster should include more community service providers. She also asked that the BSCC make all relevant jail construction materials available in a timely fashion, including the draft RFP and applications for funds.

Mr. Dean moved to approve staff recommendations. Mr. Budnick seconded. The motion carried.

F. Proposed Law Enforcement Assisted Diversion (LEAD) Grant Chair and Executive Steering Committee Membership: Requesting Approval.

This agenda item requested that the Board:

1. Authorize an Executive Steering Committee to oversee the development and release of the LEAD Pilot Program Request for Proposals and grant recommendations;
2. Appoint Board Member David Bejarano to serve as Co-Chair of the ESC;
3. Delegate authority to the Chair to work with staff to make final the draft list of ESC members and to add members as needed; and
4. Approve the activities and tentative timeline associated with the RFP.

The Board also added Francine Tournour to serve as co-chair of the ESC.

Mr. Budnick moved for approval and Ms. Perez seconded. The motion carried.

There were no public comments.

G. Proposed California Gang Reduction, Intervention and Prevention Grant Chair and Executive Steering Committee Membership: Requesting Approval.

This agenda item requested that the Board:

1. Authorize an Executive Steering Committee to oversee the development and release of the California Gang Reduction, Intervention and Prevention (CalGRIP) Program Request for Proposals;
2. Appoint Board Member Michelle Scray Brown to serve as the Chair of the ESC;
3. Delegate authority to the Chair to work with staff to make final the draft list of ESC members and to add members as needed; and

4. Approve the activities and tentative timeline associated with the RFP.

Ms. Perez moved for approval. Mr. Dean seconded. The motion carried.

There were no public comments.

H. Proposed Chair for the Edward Byrne Memorial Justice Assistance Grant (JAG) Executive Steering Committee: Requesting Approval

This agenda item requested approval for establishment of an Executive Steering Committee to oversee the development of a Request for Proposals for the Edward Byrne Memorial Justice Assistance Grant (JAG) grant program for the cycle starting in January 2018. Staff also requested that the Board approve the appointment of Board Chair Linda Penner as Chair of the ESC to oversee the grant development process, and that the Board permit staff to work with the ESC Chair to develop ESC membership for the Board's approval at its November 17, 2016 meeting.

Chair Penner moved for approval. The motion carried.

There were no public comments.

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

At its June 9, 2016 Board meeting, the Board approved \$500,000 in federal non-competitive, pass-through funding for San Bernardino County through the Edward Byrne Memorial Justice Assistance Grant. On September 1, 2016, the Bureau of Justice Assistance advised the Executive Director of the Board of State and Community Corrections that a second \$500,000 non-competitive grant would be made available to the county. The funding is to partially reimburse the county for costs incurred in response to the shooter incident on December 2, 2015 that was believed to be terror-related. The reimbursement is for local law enforcement costs related to the incident and the investigation.

Staff recommended that upon receipt of the funds, the Board direct staff to disburse the funds to San Bernardino County.

Ms. Brown, who is the San Bernardino County Chief of Probation, was not present for this item.

Mr. Dean moved for approval. Ms. Perez seconded. The motion carried.

There were no public comments.

J. Office of Juvenile Justice Delinquency Prevention – Proposed Rulemaking: Information Only.

This item provided information on the federal Office of Justice Programs proposed rulemaking. The OJP proposes to update the implementing regulation for the Formula Grant Program authorized by Title II, Part B, of the Juvenile Justice and Delinquency Prevention Act of 1974 (“the Act” or “JJDPA”). The purpose of the Formula Grant Program is to provide formula grant awards to states to support juvenile delinquency prevention programs and to improve juvenile justice systems. The proposed rule would supersede the existing Formula Grant Program regulations to reflect changes in the 2002 JJDPA reauthorization as well as policy changes to the Formula Grant Program. Comments must be received by no later than 11:59 p.m., E.T., October 7, 2016.

The Board administers Title II funding, based on recommendations from the State Advisory Committee on Juvenile Justice Delinquency Prevention.

Mr. Steinhart requested more information on this issue. Ms. Brown requested that information be shared with CPOC.

This was an information item only.

V. PUBLIC COMMENTS

Erica Webster (Center on Juvenile & Criminal Justice): requested that the BSCC established an ESC to create a more transparent process in the drafting of a new Strategic Plan. She said the BSCC should host regional community meetings for the process and that the BSCC goals should be in line with community goals.

Israel Diaz (Motivating Individual Leadership for Public Advancement (MILPA) (Salinas): said that BSCC Strategic planning should include formerly incarcerated and/or system-impacted individuals. Community based organizations have been successful in reducing recidivism.

Dominique Nong (Children’s Defense Fund): said that people who have been impacted by the process should be involved in strategic planning. Input from stakeholders should occur throughout the plan development. He suggested that the BSCC develop a calendar for stakeholder input.

Jagada Chambers (Boys & Men of Color Movement Builder Fathers & Families San Joaquin): said that community organizations should be involved on an ESC to write a strategic plan.

Raymond Aguilar: As a formerly incarcerated juvenile who moved to the adult system, he shared his story of his rehabilitation in CDCR and the care he has received from community-based organizations since his recent release.

Lt. Walker (Placer County Sheriff's Department) Thanked the BSCC rating panel for selecting his agency for \$9.5 million a partial conditional award from SB 863. He asked the BSCC to consider allowing the county to apply for full funding under SB 844 without further documentation.

John Pineda (MILPA Cofounder) (CalGRIP ESC member): Requested community engagement and transparency throughout the strategic plan process.

The meeting was adjourned at 11:57 a.m.

Next meeting: November 17, 2016

Respectfully submitted,

Original signed by

TRACIE CONE
Communications Director
Board of State and Community Corrections

ROSTER OF PERSONS IN ATTENDANCE

BSCC Board Members

Ms. Penner, Chair, Board of State and Community Corrections
Mr. Kernan, Secretary, California Department of Corrections and Rehabilitation
Mr. Dean, Sheriff, Ventura County Sheriff's Department
Ms. Perez, County Supervisor, Kern County
Ms. Scray Brown, Chief Probation Officer, San Bernardino County Probation Department
Mr. Ertola, Chief Probation Officer, Nevada County
Mr. Bejarano, Chief of Police, City of Chula Vista Police Department
Mr. Budnick, Founder of the Anti-Recidivism Coalition
Mr. Steinhart, Director, Commonweal Juvenile Justice Program
Ms. Tournour, Director, City of Sacramento, Office of Public Safety Accountability

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)
Ricardo Goodridge, Field Representative, CPP
Daryle McDaniel, Field Representative, CPP
Colleen Stoner, Field Representative, CPP