

KATHLEEN T. HOWARD
Executive Director, BSCC

BOARD MEMBERS

LINDA M. PENNER
Chair, BSCC

KATHLEEN ALLISON
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Director
Adult Parole Operations, CDCR

DEAN GROWDON
Sheriff, Lassen County

VACANT
County Sheriff

CINDY CHAVEZ
County Supervisor
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KIRK HAYNES
Chief Probation Officer
Fresno County

KELLY M. VERNON
Chief Probation Officer
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JANET GAARD
Retired Judge
Yolo County

ANDREW MILLS
Chief of Police
City of Santa Cruz

SCOTT BUDNICK
Film Producer and Founder of
The Anti-Recidivism Coalition

DAVID STEINHART
Director, Commonweal
Juvenile Justice Program

NORMA CUMPIAN
Women's and Non-Binary Services
Associate Director
Anti-Recidivism Coalition (ARC)



MINUTES
BOARD OF STATE AND COMMUNITY CORRECTIONS MEETING
THURSDAY, SEPTEMBER 16, 2021 BOARD MEETING

Meeting Held Via Zoom & Teleconference

I. Call to Order

Chair Linda Penner called the meeting to order at 10:10 AM.

Chair Penner welcomed the Board Members and the public to the Zoom meeting.

Board Secretary Adam Lwin provided instructions to the Board members and the public for participating in the meeting.

Lwin called the roll and announced that there was a quorum.

The following members were in attendance on Zoom or Teleconference:

Chair Penner	Mr. Steinhart	Mr. Mills	Mr. Budnick
Mr. Growdon	Ms. Allison	Ms. Cumpian	Ms. Vernon
Mr. Viera Rosa	Mr. Haynes	Ms. Gaard	

ABSENT BOARD MEMBERS:

Ms. Chavez

Chair Penner announce that Hon. Janet Gaard (Ret.) has been appointed by the Judicial Council as a new Board Member. Fresno County Chief Probation Officer Kirk Haynes and Santa Clara County Supervisor Cindy Chavez were appointed by the Governor to the Board.

Chair Penner administered the Oath of office to Ms. Gaard and Mr. Haynes.

II. Special Order of Business

Determination of Suitability – Barry J. Nidorf Juvenile Hall, Los Angeles County Central Juvenile Hall, Los Angeles County Requesting Approval

This agenda item was presented by General Counsel Aaron Maguire and Deputy Director Allison Ganter and requested the Board make a determination of suitability within the meaning of Welfare and Institutions Code section 209, subdivision (d) for the following facilities:

- a. Barry J. Nidorf, Los Angeles County
- b. Central Juvenile Hall, Los Angeles County

Chair Penner began the discussion of the Special Order of Business.

Penner welcomed Los Angeles County Probation Chief Adolfo Gonzales and his team to the meeting.

Penner mentioned that in 2001 the United States Department of Justice launched an investigation and concluded that the conditions and practices at the juvenile facilities violated the constitutional and statutory rights of juvenile residents in the areas of: medical and mental health care, sanitation, use of chemical spray, among other things. This investigation resulted in a settlement in 2004.

In January of 2021, the California Department of Justice sued the County of Los Angeles over the conditions of the juvenile halls, which alleged multiple violations of the Board's Title 15 regulations and resulted in a stipulated settlement and ongoing monitoring.

With the 2018-2020 inspection of these facilities, the lack of compliance with the Board's regulations persisted. Per statute, the county was given 60 days to provide a corrective action plan to remedy these issues and come back in compliance.

Penner said that an enhanced inspection and more frequent inspections will be conducted moving forward.

Penner said that the Board is charged with determining the suitability of the Barry J. Nidorf and Central Juvenile Hall for the confinement of minors during this meeting.

Penner asked General Counsel Aaron Maguire to present on the issue.

General Counsel Aaron Maguire presented the following:

Maguire stated that Board Member Janet Gaard would not participate in this discussion as she is currently hearing cases as a retired judge.

Maguire gave a brief description of the BSCC's inspection process and development of regulations for juvenile halls and camps. A report was presented to Los Angeles County on February 11, 2021, with the county having 60 days to provide a corrective action plan, which the county did on April 12, 2021. However, the county did not act on all items and remained out of compliance. Another letter was sent on August 19, 2021 notifying the county that the Board would make a determination of suitability at the next scheduled board meeting. The BSCC worked with the county to get a resolution of the items of noncompliance. Some of these items were remedied.

Maguire said that the Board is obligated statutorily to make a determination of suitability once the county failed to address the item of non-compliance following 90 days from the notice from the BSCC.

Maguire said that "suitability" is set forth in the Welfare and Institutions Code and that a facility is considered unsuitable for confinement of minors when one or more of the minimum standards are not met.

Chair Penner called for questions from the Board.

Ms. Allison asked for an overall percentage of the items that were out of compliance and suggested that the regulations may have been too restrictive.

Maguire responded that the statute determines that if one or more of the regulations is out of compliance a determination of suitability must be reviewed by the Board.

Ms. Cumpian asked what will happen to the youth if the facilities are determined unsuitable.

Maguire responded that the county would have to develop a plan for the youth.

Mr. Mills asked what options are available for the county if the facilities are determined to be unsuitable.

Chair Penner responded that the county would have time to develop further options or achieve compliance.

Mr. Growdon asked if each regulation will be reviewed.

Chair Penner and Maguire agreed that each regulation will be reviewed for Board discussion.

Mr. Viera Rosa asked if there would be flexibility on the Board's decision making after hearing from staff and the county.

Maguire said that the Board may wish to consider delaying making the decision of compliance or noncompliance in which the county may ask for a continuance.

Mr. Steinhart summarized the proceedings and said that the law is clear and if a county is out of compliance with even one minimum standard, they would be determined unsuitable, and mitigation would follow. After the 60-day period and then the 90-day period and a resolution still have not been met and the county remains out of compliance, the Board must determine its suitability.

Mr. Haynes asked if Los Angeles County or any county that is out of compliance would have the opportunity to be reconsidered for the determination of suitability.

Chair Penner and Maguire said that the county will have the opportunity to become suitable again if they are able to remedy the issues. The Board will revisit the issues once again. The county will need to comport with the regulations and implement policy and procedures that may be lacking. Maguire said that it is not clear at this point as there are many steps involved in the aftermath of the determination.

Deputy Director Allison Ganter, and Field Representative Lisa Southwell presented the following:

Ganter provided a chronological order of communication and interaction with Los Angeles County Probation and Chief Adolfo Gonzales. The full detailed report may be found here: <https://www.bscc.ca.gov/wp-content/uploads/Special-Order-of-Business-WIC-209d-Suitability-Determination-FINAL.pdf>

As of the date of the August notification, the county's juvenile halls remained out of compliance with the following Title 15 regulations:

Barry J. Nidorf Juvenile Hall

§ 1313, County Inspection and Evaluation of Building and Grounds

§ 1352, Classification

§ 1353, Orientation

§ 1354.5, Room Confinement

§ 1355, Institutional Assessment and Plan

§ 1358.5, Use of Restraint Devices for Movement and Transportation within the Facility

§ 1371, Programs, Recreation, and Exercise

Central Juvenile Hall

§ 1313, County Inspection and Evaluation of Building and Grounds

§ 1321, Staffing

§ 1352, Classification

§ 1354.5, Room Confinement

§ 1355, Institutional Assessment and Plan

§ 1358.5, Use of Restraint Devices for Movement and Transportation within the Facility

§ 1371, Programs, Recreation, and Exercise

Ganter referred to the Supplemental Report compiled when Field Representative Lisa Southwell conducted a final visit on Monday, September 13, 2021 and discussed each item of noncompliance.

The full list of the findings for both Barry J. Nidorf and Central Juvenile Hall, Los Angeles County may be found here: <https://www.bscc.ca.gov/wp-content/uploads/Supplemental-Report-WIC-209d-Suitability-Determination-Supplemental-Report-Final-9-15-21.pdf>

Chair Penner called for comments from Chief Gonzales of Los Angeles County.

Chief Gonzales introduced himself and his team.

Chief Gonzales referenced items of noncompliance at the Barry J. Nidorf Juvenile Hall:

Gonzales stated the health inspector only reviewed 20 percent of samples in a four-hour time span. The inspector will return to review a larger sample, which says will clear the violation related to Section 1313. Gonzales stated that they will call on the public health officials to return in the next 30 days.

Gonzales stated that they were new to the COVID-19 situation and medical staff were not entering quarantined facilities. The county provided laptops and Wi-Fi to health care workers and are developing access points and connectivity testing that they anticipate completing by October 15. He then added that when youth were discharged from the facility, their medical records that were not updated, which led records to look as if the youth were still in custody. Regarding medication administration, Gonzales stated that the reports were not updated and now the nurses will be responsible for completing the report at the end of their shifts to ensure that any medication that was not dispensed is notated. Gonzales stated that he and his team will ensure that the youth and the medical professional staff are supported in their respective roles.

Regarding mental health treatment, psychotropic medications and services, Gonzales said that the county is contracting out those services and developing a real-time tracking system for the administration of psychotropic medications. The county will develop an automated system but currently they will have to do it manually.

Ms. Allison asked what agency the county's health care provider is.

Mr. Gonzales responded that they were overseen by another county department agency.

Mr. Steinhart asked why progress took a long time to remedy.

Ms. Dalila Alacantara of Los Angeles County Probation responded that the county has been in conversation with the contractors previously but due to COVID, the contractors were not entering the facilities which delayed the progress. The county officials said that they had found these items of noncompliance before the inspection.

Chief Gonzales referenced items of noncompliance at the Central Juvenile Hall:

Gonzales said that officers were not documenting youth behavior during room confinement. He added that there will be ongoing training for report writing, which would include more descriptive reports for both the officers and supervisors. Daily audits would be conducted by subject-matter experts for accuracy. The training was to start Tuesday, October 21 to adhere to Title 15.

Mr. Haynes asked for an explanation of the Hope Center at the Central Juvenile Hall.

Mr. Gonzales said that the facility is an area for youth to deescalate with open space, clinicians, and assistance.

Mr. Mills asked if body-worn cameras or cameras are available on the campus.

Mr. Gonzales said that there are no body worn cameras but does have security cameras.

Mr. Mills asked if there was lack of documentation or inappropriate confinement or weak documentation.

Ms. Southwell said that there was a lack of documentation and the documentation should have been recorded before restraints were used, however the county completed the documentation after. An assessment should have been completed prior to transport.

Several Board members asked what will happen to the youth if the county does not come into compliance in 60 days and what would happen after the 60 days if a determination is made.

Chair Penner and Mr. Maguire responded that the if Los Angeles County is able to accomplish and remedy the issues of noncompliance the Board will revisit the determination of suitability at the November Board meeting and the status of the youth will be determined at a later date. At this juncture the county will need to come into compliance. The notice will be sent within the next 10 days and the 60-day clock will start.

BSCC staff will provide technical assistance and support throughout the process. At the November Board meeting an updated status will be provided.

Public Comment was heard for this agenda item:

Sue Burrell: Said that the Board find Los Angeles County juvenile halls be unsuitable and said that the facilities should be the first for inspections.

Aditi Sherikar: Said that the Board find the Los Angeles County juvenile halls unsuitable and cited various infractions against the county which included an incident where youth were given empty milk cartons to urinate in because probation officers would not allow them to use restrooms overnight.

Edin Madrid: Described his experience at Barry J. Nidorf juvenile hall and said that the Board should find the facility unsuitable to house youth.

Ezekiel Nishiyama: Formerly incarcerated at the Barry J. Nidorf facility and described the lack of necessities in the facility and urged the Board to find both Central juvenile hall and Barry J. Nidorf facility unsuitable to house youth.

Rudy Mata: Asked the Board to find that the facilities should not be a place to house youth because of the poor conditions at the facilities.

Sophia Cristo: Described her years inside of the juvenile halls and the concerning conditions and said that the facilities are not suitable to house youth.

Varden Phan: Asked the Board to find the facilities unsuitable for youth.

Renee Menart: Stated the conditions in the facilities were poor and not suitable for youth. Said that the BSCC should have a full inspection that addresses all of the issues found at these facilities, including those involved in the Attorney General settlement agreement.

Alexia Cina: Asked that the Board find the juvenile halls unsuitable today. Los Angeles has had enough time to comply with the law.

Miguel Garcia: Urged the BSCC to find the halls unsuitable until Los Angeles County addresses the issues identified by the Attorney General. Stated that restrooms were not available to youth overnight and that youth are collecting empty milk cartons to use in their cells.

Dominique Nong: Asked the Board to find Los Angeles County juvenile halls unsuitable for youth and give no additional time.

Kent Mendoza: Described his experience in the juvenile halls and suggested the Board find the facilities unsuitable for youth.

Laura Ridolfi: Urged that both facilities be found unsuitable for youth.

Ronnie Martinez: Described his experience at the Barry J. Nidorf juvenile hall and the poor conditions he experienced. Urged the Board to find the facility unsuitable for youth.

Dolores Canales: Urged the Board to find the facilities unsuitable for youth. Said that the Hope Center is not a beneficial place for youth.

Kenzo Sohoue: Described his experienced in the juvenile halls and its poor conditions and urged the Board to find the facilities unsuitable.

Oscar Canales: Described his four-year experience in the juvenile halls and stated that his agency will assist in relocating the youth. Urged the Board to find the facilities unsuitable.

End of Public Comment

Mr. Adolfo Gonzales thanked the Board and the BSCC for their support and decision.

Vote for Special Hearing:

Ms. Ganter read the following recommendations:

BARRY J. NIDORF JUVENILE HALL

Item 1:

Find the Los Angeles County Department of Probation Barry J. Nidorf facility compliant with the following regulations:

- Item # 2. § 1352, Classification
- Item # 3. § 1353, Orientation
- Item # 5. § 1355, Institutional Assessment and Plan
- Item #7. § 1358.5, Use of Restraint Devices for Movement and Transportation within the Facility
- Item #8. § 1371, Programs, Recreation, and Exercise

Mr. Steinhart moved approval. Mr. Growdon seconded. Ms. Gaard did not vote for this item. Mr. Budnick was not present for the vote. The motion was approved by all other Board members.

Item 2:

Hold open the following regulations at the Los Angeles County Department of Probation Barry J. Nidorf facility:

- Item # 4. § 1354.5, Room Confinement
- Item #6. § 1358, Use of Physical Restraints

Ms. Allison moved approval. Mr. Steinhart seconded. Ms. Gaard did not vote for this item. Mr. Budnick was not present for the vote. Mr. Viera Rosa voted “no.” The motion was approved by all other Board members.

Item 3:

Find the Los Angeles County Department of Probation Barry J. Nidorf facility noncompliant with the following regulations:

- Item 1.A.§1402. Scope of Health Care
- Item 1.B.§1432. Health Assessment
- Item 1.C.§1434. Consent and Refusal for Health Care
- Item 1.D.§1438. Pharmaceutical Management
- Item 1.E. §1439. Psychotropic Medications

Mr. Steinhart moved approval. Ms. Cumpian seconded. Ms. Gaard did not vote on this item. Mr. Budnick was not present for the vote. The motion was approved by all other Board members.

CENTRAL JUVENILE HALL

Item 4:

Find the Los Angeles County Department of Probation Central Juvenile Hall compliant with the following regulations:

- Item # 2. § 1321, Staffing
- Item # 3. § 1352, Classification
- Item # 5. § 1355, Institutional Assessment and Plan
- Item #7. § 1371, Programs, Recreation, and Exercise

Item 5:

Find the Los Angeles County Department of Probation Central Juvenile Hall noncompliant with the following regulations:

- Item # 1.A.§1402. Scope of Health Care
- Item # 1.B.§1432. Health Assessment
- Item # 1.C.§1434. Consent and Refusal for Health Care
- Item # 1.D.§1438. Pharmaceutical Management
- Item # 1.E. §1439. Psychotropic Medications
- Item # 4. § 1354.5, Room Confinement
- Item #6. § 1358.5, Use of Restraint Devices for Movement and Transportation within the Facility

Ms. Allison moved approval. Ms. Growdon seconded. Ms. Gaard did not vote on this item. Mr. Budnick was not present for the vote. The motion was approved by all other Board members.

Item 6:

Make a determination of suitability within the meaning of Welfare and Institutions Code section 209, subdivision (d), for the following facilities:

- Barry J. Nidorf, Los Angeles County
- Central Juvenile Hall, Los Angeles County

Mr. Steinhart moved the following motion for the determination of suitability:

Based on the inspection and re-inspection records documenting continuing noncompliance with multiple minimum standards, the Board finds that the Los Angeles County Department of Probation Barry J. Nidorf and Central Juvenile Halls are presently unsuitable for the confinement of minors.

Mr. Growdon seconded. Ms. Gaard did not vote for this item. Mr. Budnick was not present for the vote. The motion was approved by all other Board members.

Chair Penner read aloud a note from Board member Mr. Budnick in his absence. Mr. Budnick thanked Chief Gonzales and looks forward to the reforms in the Los Angeles juvenile halls. Thanked the system-impacted young adults who provided public comments. Mr. Budnick agreed that the facilities should be found unsuitable and encouraged the executive members of Los Angeles County Probation Department to remedy the issues within the facilities.

Chair Penner requested to have BSCC staff stationed at the Los Angeles County Probation facilities full time with the primary focus to remedy the issues, provide extensive support and technical assistance.

Mr. Maguire and the Board Members discussed the timing of the notice, the next Board meeting and timing for the county to come in compliance and find an alternative for the youth in the facilities.

The procedural motion for the Board's decision was moved by Mr. Steinhart as follows:

This determination of unsuitability made at this meeting is made with the understanding that Los Angeles County shall, upon receiving written notice of unsuitability, have an additional 60-day period to come into compliance before the halls can no longer be used for the confinement of minors. The notice of unsuitability to the county shall be officially transmitted to the county by October 1, 2021, in order to provide sufficient time for the county to remedy matters of noncompliance within the 60-day period. The BSCC Staff is instructed to make every reasonable effort to support and facilitate the efforts of

Los Angeles County to come into full compliance including reinspection within the 60-day period.

Ms. Allison seconded. Ms. Gaard did not vote for this item. Mr. Budnick was not present for the vote. The motion was approved by all other Board members.

The Board recessed at 1:41 PM

The Board returned at 1:51 PM

III. Information Items

1. Chair's Report
2. Executive Director's Report
 - a. COVID-19 Update

Executive Director Kathleen Howard provided the following COVID-19 updates:

- There has been a slight decrease in the recent COVID trends in jails. Adult facility populations have been steady.
- COVID testing have increased due to the Delta Variant
- Total Number of Detained People Tested have risen to peaks during BSCC's COVID-19 data collection. Tests have increased in recent weeks across majority of facilities and jurisdictions, from the week ending on 8/28/21 to the week ending on 9/4/21. In addition, several facilities had large increases in testing data from week to week.
- The total number of detained people confirmed positive decreased from December 19, 2020 to July 24, 2021. Since July 24, 2021 there has been a gradual increase and are now at counts of positive cases close to January 2021 trends.
- Hospitalizations peaked in January 2021 and have declined since. From 3/7/21 to 7/31/21, there were three <11 hospitalizations reported. Recently, hospitalizations have increased along with the increase of confirmed positive cases.
- Deaths: Thirteen deaths were reported between 7/19/20-5/29/21: 1 death in Fresno, 6 deaths in Los Angeles, 1 death in Mendocino, 2 deaths in Orange, 1 death in Santa Barbara, and 2 deaths in San Diego. The last death reported is from reporting period ending on 3/20/21.
- Since COVID-19, there has been a significant drop-off in ADP.
- In the weeks following the last board meeting update to late June 2021, the Juveniles Confirmed Positive remained relatively low. However, since July, Juveniles Confirmed Positive cases have gradually increased, reaching late January 2021 levels.

- Testing has also increased for Juvenile Facilities, and the increases seen in the graph are driven by a couple of medium/large counties.

Additional Updates:

- At the April Board meeting the Board approved staff's recommendation to develop a survey of counties and affected people and families about fees and costs imposed by facilities in connection with juvenile detention.
- Mr. Steinhart has been central in crafting a survey with Kasey Warmuth, Research Chief. The survey is expected to be released to the field by the end of September. The survey will be open for three weeks
- The BSCC is recruiting individuals to serve on executive steering committees for California Violence Intervention and Prevention Grant (CalVIP) as well as for the Adult Reentry Grant and the Proposition 47 Grant. More information may be found on the BSCC's website.

3. Legal Update: None to report.

4. Legislative Update

- The Legislative report reflects the last Legislative actions and the 30-day signing period is now in progress. The Governor will sign or veto bill at the end of session.

IV. Action: Consent Items:

A. Minutes from June 10, 2021 and July 15, 2021 Board Meeting: Requesting Approval

[June 10, 2021 Minutes](#)
[July 15, 2021 Minutes](#)

B. [Proposed 2022 Board of State and Community Corrections Meeting Schedule: Requesting Approval](#)

Thursday	February 10, 2022	10:00 a.m.
Thursday	April 7, 2022	10:00 a.m.
Thursday	June 9, 2022	10:00 a.m.
Thursday	July 14, 2022	10:00 a.m.
Thursday	September 8, 2022	10:00 a.m.
Thursday	November 17, 2022	10:00 a.m.

C. [Updated Grant Proposal Evaluation Process: Requesting Approval](#)

Public Comment was heard for Agenda Item A-C:

Brian Goldstein: Referred to the [letter submitted by CJCJ](#). Requested the Board adopt recommendations on addressing misinformation on vaccination, data collection, and make vaccines readily available.

End of Public Comment

Mr. Growdon moved approval of the consent items. Mr. Steinhart seconded. Ms. Gaard and Mr. Haynes recused. The motion was approved by all other Board members to approve consent items A-C.

V. Action: Discussion Items:

D. [Enhanced Local Detention Facility Inspection Update: Requesting Approval](#)

This agenda item was presented by Deputy Director Allison Ganter. This report was a regular update on the local detention facility inspections that have been completed in the 2020/2022 Biennial Inspection Cycle, a summary of current outstanding items of noncompliance for biennial inspections, and a summary of current outstanding items of noncompliance for targeted inspections.

Staff requested that the Board approve recommendations outlined in the attachment titled "[Outstanding Items of Noncompliance and Status – 20/22 Biennial Inspections.](#)"

Public Comment was heard for Agenda Item D:

Brian Goldstein: Referenced an article in the Mercury News in Santa Clara County jails and requested BSCC to address the conditions of the facilities.

End of Public Comment

Mr. Mills moved approval of item D. Mr. Haynes seconded. Mr. Growdon recused. The motion was approved by all other Board members.

E. [Proposition 47 Appointment of Chair and Establishment of an Executive Steering Committee: Requesting Approval](#)

This agenda item was presented by Field Representative Dameion Renault and requested approval to establish an Executive Steering Committee to oversee the development of a Request for Proposals for the third cohort of the Proposition 47 Grant Program. Staff also requested that the Board designate a Chair to oversee the grant development process, authorize staff to work with the ESC Chair to establish a diverse ESC with relevant subject-matter expertise, and delegate authority to the Chair to modify ESC membership if needed.

Chair Penner recommended Board Member Janet Gaard to Chair the committee.

Mr. Steinhart moved approval. Ms. Vernon seconded. Ms. Cumpian, Mr. Mills, Mr. Growdon, recused. The motion was approved by all other Board members.

VI. Public Comment

There were no public comments.

VII. Adjourn

The meeting adjourned at: 2:32 PM

Next Meeting:

❖ BSCC Board Meeting

November 18, 2021

ATTENDANCE ROSTER

BSCC BOARD MEMBERS:

1. Chair Penner, Chair, Board of State and Community Corrections
2. Ms. Allison, Secretary, California Department of Corrections & Rehabilitations (CDCR)
3. Mr. Viera Rosa, Director Division of Adult Parole CDCR
4. Mr. Growdon, Sheriff, Lassen County
5. Mr. Mills, Chief of Police, Santa Cruz
6. Ms. Gaard, Retired Judge, Yolo County
7. Mr. Haynes, Chief Probation Officer, Fresno County
8. Ms. Vernon, Chief Probation Officer, Kings County
9. Mr. Steinhart, Director, Commonweal Juvenile Justice Program
10. Ms. Cumpian, Women's and Non-Binary Services Manager Anti-Recidivism Coalition
11. Mr. Budnick, Founder, Anti-Recidivism Coalition

BSCC STAFF:

Kathleen T. Howard, Executive Director
Aaron Maguire, General Counsel
Tracie Cone, Communications Director
Allison Ganter, Deputy Director, Facility Standards and Operations
Adam Lwin, Board Secretary
Dameion Renault, Field Representative, Corrections Planning and Grants Program