

MINUTES
BOARD OF STATE AND COMMUNITY CORRECTIONS MEETING
Thursday, February 8, 2017

Meeting Held At: BSCC Headquarters
BSCC Board Room
2590 Venture Oaks Way Suite 101
Sacramento, CA 95833

I. Call to Order:

Chair Linda Penner called the meeting to order at: 10:00AM.

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

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

The following members were in attendance:

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

ABSENT BOARD MEMBERS

Ms. Perez and Judge Garrett

II. INFORMATION ITEMS:

1. Chair's Report

Chair Penner congratulated Mr. Steinhart on his reappointment to the Board. Chair Penner pointed out the technological upgrades made to the Board room and let the audience know that the meeting is being livestreamed.

2. Executive Director's Report

Executive Director Kathleen Howard provided updates on the following:

The Governor's proposed budget for FY 18/19 keeps BSCC's funding levels the same. As was the case last year, the Governor's budget did not include \$9.215 million for the CalVIP grant. STC funding for local corrections agencies was reduced by \$1.3 million. The budget also included a Proposition 47 estimate of \$41.6 million.

The Assembly Public Safety Budget Committee has asked the BSCC for an update on Proposition 47 at the upcoming April budget hearing.

The BSCC issued the CalVIP RFP on November 13, 2017.

- \$1 million was earmarked for the City of Los Angeles
- \$8.215 million will be distributed via a competitive grant program to cities and CBOs
- Proposals were due January 22, 2018
- Received 121 proposals requesting just under \$54 million, almost \$45 million more than what is available
- 91 proposals from CBOs requested \$40 million
- 30 proposals from cities asked just over \$14 million
- The ESC has begun the rating process. Because of the large number of proposals, ESC members are broken into rating panels
- The funding recommendations will be presented to the Board at the April meeting

Ms. Brown thanked the staff who have been working on the CalVIP grant.

Howard continued to update the Board on the BSCC's 2017 Federal Monitoring visit by the Federal Office of the Chief Financial Officer (OFCO). On January 16, 2018, the BSCC received a final response from the OFCO regarding its June 2017 monitoring visit saying that the BSCC has adequately addressed the recommendations, which were technical and clarifying, and that they have closed the site visit.

The State Controller's Office also completed its Proposition 47 audit during the week of January 8, 2018. The preliminary report will be made available by March 2018.

The first consolidated Juvenile Justice Crime Prevention Act/ Youthful Offender Block Grant annual Legislative report is currently under BSCC's management review and is anticipated to be released March 2018.

The annual State Advisory Committee on Juvenile Justice and Delinquency Prevention (SACJJDP) Legislative report, which summarizes annual core compliance information to Office of Juvenile Justice and Delinquency Prevention, as a condition of Title II funding, is in development and is anticipated to be released March 2018.

Chair Penner reported on her visit to San Luis Obispo County Jail, where the Probation Chief is setting up a new program facility for young female juveniles. Diane Cummins from the Department of Finance and Ventura County Sheriff, Geoff Dean accompanied her on the visit.

Chair Penner also reported on her visit to Tuolumne County's Groundbreaking ceremony at its new facility, which is funded by AB 900 and SB 1022.

In the upcoming week, Chair Penner will participate in a dedication ceremony for a SB 1022 funded facility in Stanislaus County.

3. Legislative Update Report:

Executive Director Howard presented the Legislative Board Report updated through February 7, 2018.

4. Legal update:

General Counsel Aaron Maguire said that there are two RFPs on the agenda and that if any of the Board members are interested, they should recuse themselves.

Maguire said that there will not be closed session and instead briefed the Board on the Byrne JAG litigation.

Maguire said that there has been oral argument in the Seventh Circuit Court of Appeals that is over the Chicago litigation.

Maguire reported that oral argument in the State of California's litigation over Byrne JAG grant conditions was held on December 2017 at the US District Court, Northern District in San Francisco. The case is being heard by Judge Orrick, the decision is pending.

On January 24, 2018 the BSCC received a letter from the U.S. Department of Justice, Office of Justice Programs, requesting supporting documentation regarding the BSCC's compliance with 8 USC 1373. The letter requests all documents guiding law enforcement employee's interactions with federal officers. The BSCC will respond to the letter.

Mr. Steinhart asked whether there are other federal funds that the federal government is targeting.

Maguire responded that Judge Orrick filed an injunction blocking the federal government from withholding other federal funding with the open question as to whether that law enforcement funding may be withheld by the federal government, which includes the Byrne JAG and COPS funding.

End of Legal Update

5. Update on Juvenile Committees

Chair Penner asked Mr. Steinhart for juvenile justice updates:

Mr. Steinhart gave a background on the Juvenile Justice Standing Committee (JJSC) and SACJJDP. Reminded the Board that SACJJDP members are appointed by the Governor and that committee is tasked with developing the state plan to guide the juvenile justice funds. The JJSC is chosen by the BSCC and is focused on state mandates. Though different, the two committees overlap. The committees will have a combined meeting in

March 2018 to discuss issues of mutual interests.

The JJSC has produced the AB 1998 report and updated the juvenile detention profile survey. The SACJJDP is working on the state plan for Title II federal funds.

Mr. Steinhart noted that the juvenile justice system is continuing to transform. Older youth are being allowed to remain in the juvenile system longer which will allow them to take advantage of beneficial programs.

III. CONSENT ITEMS:

A. Minutes from the September 14, 2017 Board Meeting: **Requesting Approval**

B. Strategic Plan Update: Dissolution of inactive BSCC Committees: **Requesting Approval**

This agenda item sought approval to formally dissolve the inactive Standing Committee on Gang Issues and the inactive Data and Research Standing Committee as part of the implementation of the Board's Strategic Plan.

C. Assembly Bill (AB) 1998, Disaggregation of Juvenile Justice Data by Race and Ethnicity: Juvenile Justice Standing Committee Recommendations. **Requesting Approval.**

Assembly Bill 1998 directed the BSCC to develop recommendations for best practices and standardization for counties on how to disaggregate juvenile justice caseload and performance and outcome data by race and ethnicity. The bill sought a more accurate accounting of the ethnicity and race of juveniles in contact with the justice system. At its November 2016 meeting, the Board delegated responsibility for developing these recommendations to the JJSC. This agenda item requested the Board approve the JJSC's recommendations.

Mr. Kernan moved approval. Mr. Growdon seconded. The motion carried.

IV. DISCUSSION ITEMS:

D. Residential Substance Abuse Treatment (RSAT) Program Request for Proposals: **Requesting Approval.**

This item was presented by Field Representative Colleen Stoner: This agenda item requested Board's approval to release the Request for Proposals for the RSAT program as recommended by its Executive Steering Committee. RSAT prepares inmates for their reintegration into the community. A total of \$942,139 in federal funding is available for

the first year and will be available on July 1, 2018. A 25% local match of the funds awarded to the recipient is required.

The RFP will be released to the field on February 9, 2018 and proposals will be due back to the BSCC by April 6, 2018.

Mr. Growdon thanked Ms. Stoner and staff for their work.

Mr. Dean recused himself from the vote and left the room during the discussion pursuant to Government Code Section 1091. Mr. Budnick moved approval. Mr. Growdon seconded. The motion carried.

E. Proud Parenting Grant Program Request for Proposals: Requesting Approval

This agenda item was presented by Field Representative Helene Zentner: This agenda item requested Board's approval to release the Request for Proposals for the Proud Parenting Grant Program, as recommended by its Executive Steering Committee. The grant period is for three years beginning July 1, 2018. This grant is subject to monies appropriated in the 2018-2019 State Budget Act. Eligible applicants for the grant award are County Probation Departments, County Offices of Education, and non-profit community-based organizations. A maximum of \$104,375 may be requested by eligible applicants for a single year of funding.

Chief Ertola thanked Ms. Zentner and staff for their work.

Mr. Budnick recused himself from the vote and left the room pursuant to Government Code Section 1091. Mr. Kernan moved approval. Mr. Growdon seconded. The motion carried.

Chair Penner informed the audience that there will be two parts to Agenda Item F and public comments will be heard for each individual part for two minutes.

F. Juvenile Title 15 and Title 24 Regulations Revision: Final Proposed Revisions: Requesting Approval

This agenda item was presented by Deputy Director Allison Ganter: Pursuant to Welfare and Institutions Code sections 210 and 885, the BSCC is required to adopt minimum standards for the operation, design and construction of juvenile detention facilities. The Board directed staff to begin a review and revision of the Minimum Standards for Juvenile Facilities at its November 2016 meeting. The regulations address the follow broad topic areas:

1. Administration
2. Classification, Segregation and Discipline
3. Programs
4. Education
5. Medical and Mental Health

6. Nutritional Health
7. Environmental Health
8. Physical Plant (Title 24)

Part 1:

BSCC staff requested approval of the Executive Steering Committee's recommendations for regulation revisions, and approval to proceed with the 45-day public comment period in accordance with the Administrative Procedures Act for regulation revision and adoption.

Public Comments for Part 1: Juvenile Regulation Revisions

Virginia Corrigan (Youth Law Center): Wanted to see more improvement in higher education. Suggested that youth should have access to technology for education and communication. Spoke in opposition of chemical agents in facilities.

Rosie McCool (Chief Probation Officers of California): Spoke in favor of allowing local agencies to use discretion to choose whether to deploy chemical agents in juvenile facilities.

Sue Burrell (Pacific Juvenile Defender Center): Recommended the Board adopt the revised regulations.

Israel Villa (Motivating Individual Leadership for Public Advancement): Spoke in opposition to the use of chemical agents in juvenile facilities.

Dominique Nong (Children's Defense Fund of California): Spoke in opposition to the use of chemical agents in juvenile facilities.

Dario Soto (Motivating Individual Leadership for Public Advancement): Spoke in opposition to the use of chemical agents in juvenile facilities.

Brian Goldstein (Center on Juvenile and Criminal Justice): Spoke in opposition to the use of chemical agents in juvenile facilities.

End of Public Comment for Part 1: Juvenile Regulation Revisions

Mr. Steinhart said that public comments received were impressive. Mentioned that the use of chemical agents in a facility was debated and new standards have been created. Any next steps will require legislation. Currently, AB 2010 is with the legislature and seeks to further limit the use of chemical agents. Mr. Steinhart asked that the Board adopt the revised regulations.

Ms. Brown thanked the staff for the work on the regulation revisions.

Mr. Budnick thanked the BSCC for the inclusive selection of the ESC. Asked for further clarification on best practices in facilities and the use of chemical agents.

Mr. Ertola asked about research and data on chemical agents and its impact on youth and staff in the facilities.

Ms. Tournor said she opposed the use of chemical agents and that there should be an outside entity for investigations and accountability.

Mr. Powers said that when chemical agents were introduced in the facilities there was a significant decrease in injuries to youth and staff. He said locals should make the decision to use the tool or not and the Board should not mandate the use of chemical agents.

Mr. Bejarano said that using chemical agents protects youth and staff and echoed that these are minimum standards and agreed to support the current revisions.

Mr. Ertola said oversight and documentation is necessary and support the adoption of the current revisions.

Chair Penner said chemical agents reduced the number of injuries in facilities. She urged the Board to move forward with adoption of the minimum standards.

Ms. Tournor asked for evaluation regarding abuse in using chemical agents and asked for stronger standards.

Ms. Ganter clarified that documentation procedures regarding each incident of use of force are included in the proposed revisions.

Mr. Budnick asked about moving away from the use of chemical agents. He asked for a study on the impact of the use and whether the regulations can be changed after the study. Mr. Budnick also asked about the grievance process and the need for an independent agency to review the grievance process.

Mr. Steinhart said that the grievance process has been updated in the revisions to address Mr. Budnick's question.

Chair Penner said that if a study is needed the Board can direct staff to investigate further. She asked that the Board rely on the information the workgroups have brought forward.

Ms. Brown moved approval for Part 1 of Agenda Item F. Mr. Growdon seconded. The motion carried to adopt the proposed regulation revisions. Mr. Budnick voted "no."

Part 2:

The ESC did not make a recommendation on staffing ratios, and requested that the Board be fully informed about their discussion of a range of options. Those options were:

- Leaving the ratio as it exists in current regulations;
- Recommending a 1:8 ratio (which would mirror federal PREA standards)
- Allowing local agencies time to meet the 1:8 ratio by applying for a waiver
- Allowing other staff such as teachers and program administrators to count toward the 1:8 ratio (which would not meet PREA standards)
- Adjusting the ratio depending upon day of the week and time of day
- Allowing agencies to seek alternative means of compliance

Three options were presented:

Option 1: Maintained current staffing ratios: Awake hours, 1:10 in juvenile halls, 1:15 in camps. Sleeping hours, 1:30 in juvenile calls and camps.

Option 2: Modified staffing ratios for both juvenile halls and camps to 1:8 during awake hours and 1:16 during sleeping hours.

Option 3: Would have the same ratios as Option 2, but facility administrators would be able to apply to the BSCC Board for two-year waiver for staffing ratios with a detailed statement of the circumstances that prevent compliance.

Ms. Brown said she was in favor of option one.

Mr. Steinhart said he was in favor of option three.

Mr. Ertola said that he was in favor of option one.

Public Comments for Part 2: Staffing Ratios

Chief Probation Officer John Keene (San Mateo County): Requested that the current ratios be kept.

Sue Burrell (Pacific Juvenile Defender Center): Requested that the Board adopt option three.

Chief Probation Officer Mary Butler (Napa County): Requested that the current ratios be kept.

Chief Probation Officer Bill Damiano (Humboldt County): Requested that the current ratios be kept.

Darby Kernan (California State Association of Counties): Requested that the current ratios be kept.

Luis Dominguez (Los Angeles County Probation Department): Read a statement from Teri McDonald, Los Angeles County Chief Probation Officer who requested that the current ratios be kept.

Chief Probation Officer Mark Hake (Riverside County): Requested that the current ratios be kept.

Virginia Corrigan (Youth Law Center): Requested the Board to adopt option two or three.

Brian Goldstein (Center on Juvenile and Criminal Justice): Requested the Board to adopt option three.

Dominique Nong (Children’s Defense Fund of California): Requested the Board to adopt option three.

Dario Soto (Motivating Individual Leadership for Public Advancement): Requested the Board to adopt option three.

Israel Villa (Motivating Individual Leadership for Public Advancement): Requested the Board to consider Option two or three.

Rosie McCool (Chief Probation Officers of California): Requested that the current ratios be kept.

-End of Public Comment for Part 2: Staffing Ratios-

Mr. Powers stated that dropping staffing ratios is a fiscal issue which will increase the staffing requirements in facilities and increase spending for personnel in the facilities.

Mr. Budnick stated that more staff will increase communication and positively affect both youth and staff. Understaffing has canceled programs for youth and increased abuse in the facilities. Stated that he would prefer option three.

Mr. Growdon stated that small rural counties would be adversely impacted if the current ratios are changed.

Mr. Bejarano supported option one.

Chair Penner stated that she will support option one.

Mr. Budnick asked for more studies on staffing. He asked whether the vote can be held until a state budget negotiation can be completed.

Chair Penner said that the regulations are a minimum standard and if the Legislature would like to change it, then it will happen in a different venue.

Mr. Steinhart said that the juvenile justice committees will look at more options for waivers.

Mr. Dean moved approval. Mr. Ertola and Mr. Bejarano seconded. The motion carried. Mr. Budnick, Ms. Tounor, Mr. Steinhart voted “no.”

G. Senate Bill 863 (Adult Local Criminal Justice Facilities Construction Financing Program) Santa Clara County Scope Change: **Requesting Approval**

Field Representative Oscar Villegas presented this item. This agenda item requested that the BSCC approve Santa Clara County's request for a scope change of its Senate Bill 863 Adult Local Criminal Justice Facilities Construction Financing Program facility. The new plan would decrease the number of beds and increase program, visitation and other spaces in the new facility.

Mr. Budnick moved approval. Mr. Growdon seconded. The motion carried.

V. Public Comment

There were no further public comments.

VI. Closed Session - (Gov. Code, § 11126, subd. (e)(2)(B) & (C).)

- State of California v. Sessions, Case No. 17-cv-4701 (Byrne/JAG Litigation)

The Board did not meet in closed session. The Board took no action on this item.

At the request of Board Member Budnick, the Board adjourn in memory of Jesus "Yayo" Angulo who was victim of a violent crime on February 3, 2018. He was a firefighter in CDCR and wanted to be a wildland firefighter. Jesus attended Los Angeles Trade Technical College and was hoping to start the CDCR Parole Fire Academy in September. Jesus was a motivator and a mentor to his peers.

The meeting adjourned at: 1:01 PM

Next meeting:

- ❖ BSCC Board Meeting: Thursday, April 19, 2018 (Ontario)

ROSTER OF PERSONS IN ATTENDANCE

BSCC Board Members

Chair Penner, Chair, Board of State and Community Corrections
Mr. Kernan, Secretary California Department of Corrections
Mr. Powers, Director Adult Parole Operations CDCR
Ms. Scray Brown, Chief Probation Officer, San Bernardino County
Mr. Growdon, Sheriff, Lassen County Sheriff's Department
Mr. Ertola, Chief Probation Officer, Nevada County Probation
Mr. Bejarano, Retired Chief of Police, City of Chula Vista Police Department
Mr. Dean, Sheriff, Ventura County Sheriff's Department
Mr. Budnick, Film Producer and 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
Mary Jolls, Deputy Director, Corrections Planning and Grant Programs
John W. Prince, Deputy Director, County Facilities Construction
Allison Ganter, Deputy Director, Facilities Standards and Operations
Evonne Garner, Deputy Director, Standards and Training for Corrections
Colleen Stoner, Field Representative, Corrections, Planning, Grants and Programs
Helene Zentner, Field Representative, Corrections, Planning, Grants and Programs
Oscar Villegas, Field Representative, County Facilities Construction
Adam Lwin, Special Assistant to the Chair and Executive Director
Maria Rodriguez-Rieger, Executive Assistant