

MINUTES
BOARD OF STATE AND COMMUNITY CORRECTIONS MEETING
Thursday, February 16, 2017

Meeting held at: Handlery Hotel ~ Presidio Ball Room ~ 950 Hotel Circle North
San Diego, California, 92108
Telephonic location held at: BSCC Board Room ~ 2590 Venture Oaks Way Suite 100
Sacramento, CA 95833

I. Call to Order:

Chair Linda Penner called the meeting to order at: 9:07 AM.

Ms. 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	Ms. Scray Brown	Ms. Tournour
Mr. Kernan	Mr. Bejarano	Mr. Growdon
Mr. Dean	Judge Garrett (By telephone)	
Mr. Green	Mr. Steinhart	

ABSENT BOARD MEMBERS

Mr. Ertola, Ms. Perez, and Mr. Budnick were not present.

II. INFORMATION ITEMS:

1. Chair's Report.

- Chair Penner introduced the Board and said that Judge Garrett is at a public meeting location in Sacramento and is participating by phone.
- She introduced acting Division of Adult Parole Operations Director Jeff Green.

2. Executive Director's Report.

Executive Director (ED) Kathleen Howard provided updates on the following:

- The Board's strategic planning workshop was held on February 15, 2017.
- The Senate Committee on Public Safety and the Senate and Assembly Budget Committees will hold a joint informational hearing on visitation in local detention facilities on Tuesday February 21, 2017. ED Howard will testify about the BSCC regulations revision and the actions of the Board.

- Corrections Planning and Programs Division has made a name change to Corrections Planning Grants and Programs Division (CPGP) because its primary responsibility is to administer grants.
- Budget Update: funding for CalGRIP has been eliminated amid concerns about the State Penalty Fund.
- US Department of Justice will perform a fiscal and programmatic monitoring of the federal grants the BSCC administers on February 27-28, 2017.
- State Controller's Office will begin its Prop 47 audit later this year.
- OJJDP has changed deadlines for the 2016 Title II Formula Grants Program Solicitation. OJJDP is releasing its Title II solicitation with due dates of February 28, 2017, which includes data reporting. The amount received was \$4.3 million in 2016. The BSCC will submit its year three plan in February. We will ask the State Advisory Committee on Juvenile Justice Delinquency and Prevention to approve a Disproportionate Minority Contact (DMC) with Racial and Ethnic Disparity (RED) data.
- Prop 47: The BSCC received 51 notices of intent to apply for funding: 22 were from behavioral, health services and mental health agencies, which is reflective of issues covered by Prop 47. Seventeen were from law enforcement agencies.
- Law Enforcement Assisted Diversion: The RFP was approved last year. The BSCC received two proposals, one from the Los Angeles County Board of Supervisors and the other from San Francisco Mayor's Office. The ESC will provide recommendations to the Board at the April meeting.
- SB 1004: The Transitional Age Youth Pilot Project includes Alameda, Butte, Nevada, Napa, Santa Clara Counties. Two applications have been reviewed and are moving forward.
- The Juvenile Title 15 and 24 regulation revision process is on track with appointed co-chairs Chief Brown and Mr. Steinhart. The first meeting will be on March 9, 2017 in Sacramento.
- The next Board Meeting is April 20, 2017 and will be held in Sacramento.

Public comments were heard:

Dominique Nong (Children’s Defense Fund): Commended the BSCC staff on completing the work on regulations revision so far and including stakeholder feedback.

2. Legislative Update Report (presented by Executive Director Howard):

- 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:

Counsel Aaron Maguire provided information on the following:

- Update on Workgroup on Sexual Assault:
At the direction of the Board, the BSCC convened a working group on sexual assault. On January 18 and 19, 2017 the group met to evaluate whether provisions of the Prison Rape Elimination Act (PREA) would be appropriate for inclusion in Title 15 and Title 24 regulations. The goal of the group was to determine whether, and if so, how PREA should be included in Titles 15 and 24 to protect inmate and staff while balancing cost and duplication of efforts. CDCR and several Police Departments, Sheriffs, as well as ACLU Representatives participated. Staff will put together a draft document that will be presented to the Board. A requirement for zero tolerance policy at each facility will be incorporated into this draft.

III. CONSENT ITEMS:

- A. Minutes from the November 22, 2016 Board Meeting: Requesting Approval.**
- B. SB 81 Round II Riverside County Scope Change – Additional Award, Adding 16-Bed Secure Treatment Housing Unit: Requesting Approval.**

This agenda item requested that the Board approve Riverside County’s request for a change in project scope for its local youthful offender rehabilitative facility (LYORF) project due to a recent award of additional funding.

- C. AB900 Phase II LA County Scope Change – Space Reduction and New Warehouse and Entry Buildings: Requesting Approval.**

This agenda item requested that the BSCC approve Los Angeles County’s request for a change in project scope of its Adult Local Criminal Justice Facility.

D. AB900 Phase II Siskiyou County Requesting Extension – Project Establishment Extension to October 31, 2017: Requesting Approval.

This agenda item requested that the BSCC approve staff's recommendation to extend Siskiyou County's AB 900 Phase II jail construction project establishment schedule from May 2017 to October 2017 while the county seeks additional funding.

E. Senate Bill 1022 Adult Local Criminal Justice Facilities Construction Program: Shasta County Relinquishment and Recommended Conditional Awards: Requesting Approval.

Shasta County has formally relinquished its \$20,000,000 Senate Bill 1022 Adult Local Criminal Justice Facilities Construction Financing Program funding award. This agenda item requested that the Board of State and Community Corrections acknowledge and accept this relinquishment and approve the reallocation of funding to the next-ranked projects on the list. This means that Madera County would receive \$3,414,000 to augment its partial award to a full \$19,000,000, and Humboldt County, which was not funded and had requested \$17,855,500, would be offered the remaining \$16,586,000.

F. Capstone Project Request for Proposals and Training: Requesting Approval

This item requested Board approval for release of the Board of State and Community Correction's Capstone Project Request for Proposals (RFP) once it has been finalized to conform to state procurement requirements (Attachment F-1). This RFP is seeking a subject matter expert who can systematically inventory BSCC's state-level decision-making processes, workflows, policies and procedures and identify possible issues related to racial and ethnic disparities. This item also seeks approval for staff to secure a contract for the provision of follow up training on reducing racial and ethnic disparities to BSCC staff.

Chair Penner asked for a motion to approve consent items A through F. Mr. Bejarano made a motion to approve consent items A through F. Mr. Dean seconded the motion. Items A through F were approved for adoption.

IV. DISCUSSION AGENDA ITEMS:

G. Title 15 and Title 24: Visiting. Promulgation of Regulations: Requesting Approval.

Executive Director Howard Presented this item.

This item requested the Board approve a revision to the Board's Titles 15 and 24 Regulations related to visitation. This agenda item requested approval of the draft regulations and authority for staff to begin the rulemaking process with the Office of Administrative Law. The proposed regulations would prospectively prohibit additional adult local detention facilities from moving to a video-only approach for visitation. The proposed regulations will also require that all new adult local detention facilities be

required to provide in-person visitation and any future adult local detention facilities be constructed with sufficient space to provide in-person visitation. Because of the significant costs of retrofitting facilities or changing construction plans, the regulation will be prospective only. Finally, the proposed regulations would require that the first hour of video visitation be provided free of charge.

ED Howard summarized:

- In October 2016, the Governor vetoed a bill that would have prohibited jails from offering only video visitation, saying in his veto message that the bill “does not provide adequate flexibility and creates a strict mandate.” He directed the BSCC to work with stakeholders to explore ways to address these issues.
- In November and December 2016 the Chair and ED Howard of the BSCC met with stakeholders as well as advocates, bill sponsors and the State Sheriffs regarding visitation.
- Staff conducted surveys of the local facilities.
- Tuolumne County indicated they are planning to have video-only visitation in the new facility.
- Monterey has indicated that they will only have video-only visitation.
- The Board does not typically promulgate regulations that direct operational issues, but the Governor has asked us to look into this matter and identify options.
- This regulation will provide a grandfather approach to those facilities currently providing video-only visitation and will require all new facilities to have in-person visitation. There are significant cost issues involved in retrofitting.
- There is broad agreement among advocates and sheriffs that in-person visitation should be provided.

Mr. Steinhart expressed his disagreement with the proposed regulation changes. He stated that the policy which allows facilities to have video-only visitation violates every best practice principle for inmate rehabilitation. It goes against his own principles and the BSCC strategic plan. It downgrades the whole concept of family participation in inmate rehabilitation. Mr. Steinhart added that the Governor acknowledges the importance of family connection with persons who are incarcerated. Mr. Steinhart said the Board should not be pressured to make a decision now.

Chair Penner explained that the Board cannot mandate counties to create visitation space where none currently exists. The grandfather solution is what we landed on. We want in-person available to those incarcerated and to move forward to require future building to include in-person visitation. Chair Penner explained that the earlier regulations were silent regarding visitation and that the Board needs to move forward rather than wait.

Judge Garrett asked if it is possible to have a multi-step process or should a decision be made now.

Counsel Maguire stated that SB 844, the 2016 legislation that provided funding for jail construction, mandates in-person visitation. Counsel Maguire mentioned that Tulare

County, by policy, moved to in-person visitation. Unless changes are made to Title 15 now, other counties might move to video-only visitation.

ED Howard stated the goal is to have a regulation that will allow our inspectors to ask if there is in-person visitation. Those who are not grandfathered will need to have space for in-person visitation.

Public comments were heard:

Erica Webster (Center on Juvenile & Criminal Justice): In support of in-person visitation. Stated that in-person visitation is essential for those incarcerated and family interaction. Not providing this service is inhumane and unacceptable. She asked that the Board review the recommendations a letter she submitted on behalf of several organizations and maintain the deadline of today.

Patricia Ramirez (American Civil Liberties Union ACLU): In-person visitation improves the outcome of those incarcerated. It reduces behavioral infractions, and will reduce recidivism. In-person visitation is the best practice and should be available in all correctional settings. Appreciate the BSCC acknowledgment of the issues involved with in-person visitation.

Carole Urie (Returning Home Foundation): Addressed Section 1062. Rehabilitation includes visitation and she reminded the Board that in-person visitation is important. Asked the Board to differentiate the terms “in construction” versus “in planning” and to consider not exempting those facilities who are considered “in planning” to include in-person visitation.

Rob Gordon (Telmate): In support of video visitation. Video visitation can be best practice. Defined examples of benefits in jails and prisons and suggested to keep video visitation. If this rule is adopted the providers of this service would be hurt.

Dominique Nong (Children’s Defense Fund): Suggested the following edits Title 15, Section 1062: (d) Remove: “*if in-person visitation is requested by an inmate*” as this is a tedious process for an inmate. (e) Ask that credit card should not be used. (f) BSCC should work with the eight counties to develop space for in-person visitation.

Cory Salzillo (California State Sheriff’s Association): Thanked the Board for working with the issue on visitation. Thanked the Governor for recognizing the difficulties involved in retrofitting facilities.

John Mineau (Monterey County Sheriff’s Office): Stated that this is a complicated issue and said that there are success stories for video visitation. Video visitation is beneficial for families living in remote locations. A benefit of video visitation is keeping children visiting loved ones from becoming conditioned to jails.

Jamie Clayton (Imperial County Sheriff’s Office): We use visitation as an incentive for our inmates’ good behavior and to help with with rehabilitation efforts. By changing regulations we are not able to use a reward-base approach with our inmates.

Sgt. Don Dixon (Alameda Sheriff’s Office): We have a video visitation system being installed. We will also have face-to-face and Skype calls. The changes in regulations may affect business and support from our vendors.

Jerry Gutierrez (Assistant Sheriff Riverside County): The Board should maintain the subsection of regulations for those who have already built facilities. Remove last sentence of E *“If remote or off-site video visitation is available, the first hour must be provided free of charge.”* Remove free of charge. These are contractual obligations that counties have entered into, and he finds it unnecessary to regulate in-person visitation.

Felicia Gomez (California Immigrant Policy Center): In support of in-person visitation. 1062 D. Inmates should not have to request in person visitation but should be a norm. The BSCC should work with facilities that do not have in-person visitation.

 A robust discussion amongst the Board members on video and in-person visitation occurred. The discussion included cost, time, and availability. Edits to the new proposed regulations were discussed.

The Board deleted the provision requiring the first hour of remote visitation to be provided free of charge:

Title 15, Section 1062, (e) Facilities shall not charge for visitation when visitors are onsite and participating in either in-person or video visitation. ~~If remote or off-site video visitation is available, the first hour must be provided free of charge.~~

Mr. Dean motioned to approve recommended changes; Mr. Kernan seconded the motion.

Roll call vote:

Aye	No	Abstention
Ms. Penner	Ms. Tournour	Judge Garrett
Mr. Kernan	Mr. Steinhart	
Mr. Green		
Mr. Dean		
Ms. Scray Brown		
Mr. Bejarano		
Mr. Growdon		

Chair Penner requested a recess. *Mr. Kernan left the meeting at 10:35 AM.*

V. Public Comment

Comments at the end of the meeting referred to video visitation regulations.

Dominique Nong (Children’s Defense Fund): Suggested that 1062 Section D should be changed on requiring inmates to put in a request. The Board should consider restructuring meetings on regulations.

Erica Webster (Center on Juvenile & Criminal Justice): referenced Item D, and requested a change that inmates should not have to request for in-person visitation. Requested a change to charging for video visitation should be clear.

General Counsel stated that this decision is not final and will be sent to the Office of Administrative Law for final approval and prior to that a public comment session will be held.

The meeting was adjourned at: 11:04 AM

Next meeting:

❖ BSCC Board Meeting: Thursday, April 20, 2017

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. Green, Director (A), CDCR Division of Adult Parole Operations
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
Ms. Garrett, Retired Judge, Solano County (Telephonic Location)
Mr. Bejarano, Retired Chief of Police, City of Chula Vista Police Department
Mr. Steinhart, Director, Commonwealth 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, Grants and Programs (CPGP)
John Prince, Deputy Director (A), County Facilities Construction (CFC)
Allison Ganter, Deputy Director, Facilities Standards and Operations (FSO)
Evonne Gardner, Deputy Director, Standards and Training for Corrections (STC)
Maria Rodriguez-Rieger, Executive Assistant