

# CRIMINAL JUSTICE

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## DEPARTMENT OF CORRECTIONS AND REHABILITATION

The California Department of Corrections and Rehabilitation (CDCR) incarcerates people convicted of the most violent felonies, supervises those released to parole, and provides rehabilitation programs to help them reintegrate into the community. The Department strives to facilitate the successful reintegration of the individuals in its care back to their communities equipped with the tools to be drug-free, healthy, and employable members of society by providing education, treatment, and rehabilitative and restorative justice programs. The May Revision proposes total funding of \$13.6 billion (\$13.3 billion General Fund and \$347 million other funds) for CDCR in 2021-22.

The COVID-19 Pandemic has affected every aspect of prison operations and the state has taken swift action to mitigate the spread of the virus. These actions have significantly impacted current population projections. The Governor's Budget projected an overall incarcerated adult average daily population of 95,324 in 2021-22. Spring projections now estimate an incarcerated adult average daily population of 106,259, an increase of 10,935. This is primarily because CDCR has resumed intake of individuals sentenced to prison but who remain in county jails awaiting transfer to state prison.

The Governor's Budget projected an overall parolee average daily population of 45,924 in 2021-22. The average daily parolee population is now projected to be 48,269, an increase of 2,345, or approximately 5 percent.

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## COVID-19 UPDATE

The number of active COVID-19 cases across CDCR's prison system has declined dramatically statewide since the height of the COVID-19 Pandemic. In December 2020, CDCR reported as many as 10,600 active incarcerated adult COVID-19 cases and 3,250 active staff COVID-19 cases. As of May 6, 2021, CDCR was tracking 17 active incarcerated adult cases and 183 active staff cases. One of the primary drivers of CDCR's success in combatting the further spread of COVID-19 has been the roll-out of COVID-19 vaccines to incarcerated individuals and staff, consistent with Department of Public Health Guidelines. CDCR began distributing vaccines in December 2020. At the end of April 2021, approximately 26,000 staff (about 40 percent) and 62,000 incarcerated people (about 65 percent) had received complete courses of a COVID-19 vaccine.

As of April 2021, the Division of Juvenile Justice (DJJ) within CDCR was reporting no active COVID-19 cases among youth. A total of 204 cases have resolved since June 2020, with no reported serious symptoms or deaths. Vaccinations are currently being offered to DJJ youth 18 and older, and DJJ has been working to distribute approved vaccines to DJJ youth that are 16 years and older consistent with Food and Drug Administration guidance.

CDCR has also continued to take proactive measures and precautions to protect the incarcerated population and staff, which includes continuing regular testing, observing physical distancing protocols, utilizing masks and other personal protective equipment, and providing extra cleaning and sanitation services. CDCR has performed over 2.9 million COVID-19 tests since the beginning of the pandemic.

Given improvements in CDCR's containment of the virus, CDCR recently re-opened visitation at all of its institutions. Visitors are generally asked to provide vaccine documentation or recent COVID-19 test results, but CDCR is also offering visitors the opportunity to have COVID-19 tests performed on-site if available so they can enter the institutions.

CDCR has incurred costs of approximately \$840.4 million during 2019-20 and 2020-21 to support direct and indirect COVID-19-related response activities, including testing of staff and incarcerated individuals, cleaning, tents, and personal protective equipment purchases. By the end of 2020-21, CDCR expects to spend approximately \$326.3 million more to support response operations. The May Revision includes \$407.9 million one-time General Fund in 2021-22 to continue COVID-19 activities and fund related contracts and purchases.

Although the number of active cases has been reduced significantly since the height of the pandemic, CDCR remains vigilant regarding the potential risks and will continue current response operations for the foreseeable future with the goal of preventing any further spread of COVID-19.

### **INCREASED INTAKE TO STATE PRISONS**

In late March 2020 the state halted intake of incarcerated persons from county jails to reduce the risk of COVID-19 entering the state prison system. CDCR resumed intake on a limited basis in late August, although public health conditions subsequently necessitated halting intake again in late November. In January 2021, CDCR resumed intake with continued precautions including requiring testing and symptom screening prior to intake, and instituting a mandatory 14-day quarantine period in its reception centers. Since then, intake has remained open, and has increased over time, as public health conditions have allowed.

The suspension of intake has resulted in greater numbers of incarcerated persons being held in county jails. In circumstances where CDCR cannot accept the intake of an individual from a county jail, the state is required to reimburse counties for holding those individuals. As of March 15, 2021, the state has provided approximately \$121.1 million General Fund to county sheriffs for this purpose. This reflects payments for individuals held in county jails from March 2020 through December 2020, and reimbursements will continue until such time that all incarcerated individuals are transferred to state prison. Current projections suggest a total of \$98.3 million in additional reimbursements will be issued by June 30, 2021, and \$97.5 million will be issued in 2021-22 as the backlog is gradually reduced and then eliminated.

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### **PRISON CAPACITY AND CLOSURES**

The adult prison population has steadily declined over many years, presenting opportunities for CDCR to eliminate its reliance on contract prison capacity. CDCR terminated its final remaining contract to house incarcerated persons out of state in June 2019. In addition, CDCR terminated six of seven in-state contracts by October 2020, and the Governor's Budget reflected closing the final in-state contract correctional facility by May 2021. Consistent with the 2020 Budget Act, the Department plans to close Deuel Vocational Institution in Tracy by September 2021, achieving savings of \$119 million General Fund in 2021-22, and \$150.3 million General Fund annually beginning in 2022-23.

The Department also plans to close the California Correctional Center in Susanville, by June 30, 2022. The closure of this facility is estimated to save the state \$122 million General Fund in 2022-23 and ongoing.

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### **EXPANSION OF REHABILITATIVE OPPORTUNITIES**

The Administration is committed to increasing access to rehabilitative and reentry programs with the goal of improving post-release outcomes for incarcerated individuals and reducing recidivism. CDCR's academic, vocational, and rehabilitative programs are critical to preparing incarcerated individuals to successfully reenter their communities following their release from prison. A number of investments have been made in recent years that enhance these programs with the goal of improving public safety through rehabilitation. The Governor's Budget proposed \$23.2 million General Fund in 2021-22, and \$18.4 million ongoing, to further these efforts by enabling CDCR to purchase 37,000 laptops and support associated information technology infrastructure to provide incarcerated individuals with greater access to educational programs and opportunities both inside and outside of the classroom. The May Revision builds on recent investments in rehabilitative programming through the proposals described below.

### **REIMAGINING THE PRISON SYSTEM**

Norway is globally recognized for its model corrections system, demonstrated through its low rate of recidivism and successful post-release outcomes. Norway's model is distinguished by the level of access to educational and life and job skill training opportunities, the use of innovative and trauma-informed rehabilitative practices, and the community and campus-like look and feel of the prison environment. The May Revision includes \$13.7 million General Fund in 2021-22, and \$3 million ongoing, to expand programming and undertake facility improvements at Valley State Prison (VSP), guided by the Norway model, with the goal of achieving similar success in rehabilitating incarcerated individuals and preparing them for life outside of the institution. VSP will serve as a pilot for re-envisioning and transforming the state's correctional system.

Specifically, these resources will enable CDCR to:

- Install two new modular buildings to accommodate additional educational and rehabilitative activities for incarcerated individuals.

- Create two new baccalaureate degree programs—one general education program and one focused on Science, Technology, Engineering, and Mathematics (STEM).
- Add new vocational and career technical training opportunities, including multimedia (video, music, and podcasts) production and construction licensing and certification programs.
- Provide additional laptops, complementary to the Governor's Budget proposal, for the incarcerated population's use to support digital literacy development and access to educational offerings.

The Governor's Budget included \$2 million ongoing General Fund to establish a Youth Rehabilitative Offender Community at VSP to focus on providing enhanced rehabilitative services to youth. This proposal builds on this investment and will facilitate a further transformation at VSP.

To further promote these efforts system-wide, the May Revision includes \$34.8 million one-time General Fund to replace existing metal dayroom furniture with more comfortable furniture for positive programming and non-designated program facilities and female institutions. This change will create a more welcoming and community-like atmosphere for incarcerated persons, thereby transitioning from a typical institutional environment to a more rehabilitative setting.

### **INCREASED VISITATION OPPORTUNITIES**

Another challenge faced by many incarcerated persons upon release is the loss of family and community connections during their time of incarceration. Visitation provides incarcerated persons with the opportunity to establish and maintain a continuum of social support, including parent-child relationships, which are critical for successful reentry. In-person visiting is linked to lower recidivism rates and fewer parole violations. The 2020-21 Governor's Budget proposed to expand visitation before the outbreak of COVID-19 necessitated reconsideration.

The Administration remains committed to facilitating strong ties between incarcerated individuals and their families and social support networks. Unfortunately, the pandemic necessitated the temporary suspension of in-person visiting. To mitigate the negative effects of this suspension, CDCR provided incarcerated persons with the ability to correspond with loved ones through free telephone and video visitation opportunities. In December 2020, the Department implemented weekend video visiting at all

institutions to allow incarcerated individuals to engage in virtual contact with their friends and family.

In April 2021, CDCR resumed in-person visiting, which will continue in conjunction with video visiting. To support increased in-person visiting, the May Revision includes \$20.3 million ongoing General Fund to add a third day of in-person visitation on Fridays at all institutions (visiting is currently limited to Saturdays and Sundays). In addition, this funding will provide visitors with free transportation on select days throughout the year to all prisons via chartered busses.

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### **STATEWIDE IMPLEMENTATION OF FIXED VIDEO SURVEILLANCE SYSTEMS**

Audio visual surveillance is integral to CDCR's ability to monitor activity within its institutions and maintain a safe environment for the incarcerated population and staff. Effective surveillance systems have the capacity to facilitate contraband interdiction and support inquiries and investigations into allegations of staff and incarcerated individual misconduct. These systems generally serve as a deterrent for improper or illicit activities, thereby improving safety and enhancing operations within the institutions. CDCR initiated the process of replacing its older analog camera systems with modern fixed security camera systems at High Desert State Prison and Central California Women's Facility, and portions of San Quentin State Prison and California State Prison, Sacramento.

The May Revision includes a total of \$212.3 million General Fund over three years, and \$11 million ongoing, to install modern fixed security cameras at 24 additional institutions. This proposal, along with existing efforts underway, will effectuate a roll-out of new audio visual surveillance systems at all institutions statewide. These resources and complementary funding included in the *Armstrong* court compliance proposal described below will enable CDCR to install fixed security cameras at nine to ten institutions per year over the next three years. The deployment of this technology will transform surveillance across the prison system and greatly increase CDCR's capacity to operate safe and effective prisons.

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### **ALLEGATIONS OF STAFF MISCONDUCT AND DISCRIMINATION COMPLAINT PROCESSES**

The May Revision invests the resources identified below to further enhance CDCR's programs and processes dedicated to proactively addressing staff misconduct and discrimination when it occurs. These investments will enable CDCR to make

institution-specific and system-wide reforms and improvements with the goal of continuing to increase accountability and transparency. As identified below, the May Revision includes \$3.7 million General Fund in 2020-21, \$89.3 million in 2021-22, and \$36.8 million ongoing to support these efforts.

### **ARMSTRONG COURT COMPLIANCE CONTINUATION AND ALLEGATION INQUIRY MANAGEMENT SECTION IMPROVEMENTS**

In March 2021, the US District Court for the Northern District of California ordered CDCR to develop a plan to implement remedial measures at five institutions—including Kern Valley State Prison; California Institution for Women; California State Prison, Corcoran; Substance Abuse Treatment Facility and State Prison, Corcoran; and California State Prison, Los Angeles. The measures include: (1) deploying body-worn cameras by the end of July 2021; (2) installing fixed security cameras throughout the five prisons on staggered timelines through December 2021; (3) modifying staff complaint and disciplinary processes; and (4) increasing supervisory staff and training. The May Revision includes \$3.7 million General Fund in 2020-21, \$80.5 million in 2021-22, and \$28 million ongoing, to enable CDCR to undertake these changes and achieve compliance with the recent court order.

The *Armstrong* court issued a similar order in September 2020 requiring CDCR to complete the same reforms outlined above at Richard J. Donovan Correctional Facility. The Governor's Budget proposed \$13.5 million General Fund in 2020-21, \$10.1 million in 2021-22, and \$6.9 million ongoing to implement these measures.

Additionally, CDCR is in the process of implementing a number of improvements to its Allegation Inquiry Management Section (AIMS) process. The 2019 Budget Act included \$9.8 million ongoing General Fund and 47 positions to establish the AIMS Program within the Office of Internal Affairs to conduct inquiries into certain specified allegations of staff misconduct that previously would have been reviewed at the institution level. The AIMS process was specifically designed to facilitate a fair, transparent, and unbiased process with a centralized staffing model dedicated to performing staff allegation inquiry functions.

CDCR has continuously evaluated the AIMS Program over the past year to identify areas of improvement and ways to further enhance the review process. Accordingly, the May Revision includes \$8 million ongoing General Fund and 40 positions to expand the AIMS process to cover all use of force allegations against staff as well as allegations of staff misconduct that fall under the federal Prison Rape Elimination Act. Additionally, CDCR will establish a centralized screening process by redirecting existing staff to triage

all allegations of staff misconduct to determine the appropriate routing based on the type of allegation and related circumstances, as opposed to each institution independently performing this function, which will help to create greater consistency in the handling of staff complaints.

CDCR is also reviewing the existing regulations governing the AIMS process to determine areas for potential improvement and refinement for this relatively new program. CDCR expects to pursue regulatory updates in the coming months consistent with its commitment to realizing the best possible staff allegation inquiry process.

### **DISCRIMINATION COMPLAINT TRACKING**

The May Revision proposes \$815,000 General Fund in 2021-22 and \$804,000 ongoing and 6 positions to expand CDCR's Civil Rights Operations/Equal Employment Opportunity program, which centrally handles discrimination complaints. This proposal will assist CDCR in complying with directives and guidelines from the California Department of Human Resources to implement the statewide Discrimination Complaint Tracking System. This proposal was included in the 2020-21 Governor's Budget, but was partially withdrawn in the 2020-21 May Revision due to the pandemic-induced recession.

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### **MENTAL HEALTH CARE IMPROVEMENTS**

In 2017-18, the responsibility for operating three Psychiatric Inpatient Program (PIP) facilities, which primarily served CDCR patients, was shifted from the Department of State Hospitals to CDCR with the goal of improving patient care, reducing wait times, and creating additional efficiencies. Consistent with the transfer of this oversight, the 2017-18 Budget realigned \$250.4 million and 1,977.6 positions from the Department of State Hospitals to CDCR.

To further enhance PIP operations and better address CDCR's unique operational needs, the May Revision includes \$37.7 million General Fund in 2021-22, and \$35.9 million ongoing, and 264.1 positions to standardize staffing models across the five CDCR-operated PIPs and support targeted staffing increases to perform operationally critical functions. This includes resources to add clinicians, nurses, custody staff, and administrative staff to provide the comprehensive suite of services necessary to best serve PIP patients.

Additionally, the May Revision includes \$3.7 million ongoing General Fund to add supervisory capacity within the Statewide Telepsychiatry Program. This program has

grown considerably in recent years and become an important component of the delivery of mental health care services. Currently, telepsychiatrists within the program are managed by on-site supervisors, which requires the redirection of these supervisory positions from their existing duties and responsibilities and support of on-site psychiatry staff. Additionally, this structure does not recognize the unique operational functions of the telepsychiatry program. Accordingly, this proposal will add dedicated telepsychiatry supervisors to enhance program operations and provide for improved on-site and telepsychiatry service delivery.

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## **INVESTMENTS IN THE PAROLE HEARING PROCESS**

### **ADDITIONAL BOARD OF PAROLE HEARINGS WORKLOAD**

The May Revision includes \$3.1 million ongoing General Fund to increase the number of Board of Parole Hearings commissioners from 17 to 21 to alleviate a significant backlog of hearings and maintain a consistent level of service as the number of required hearings continues to rise.

The increase in the number of hearings and a growing backlog are related to several factors. For example, recent legislation has expanded youthful offender parole hearings for individuals sentenced up to the age of 25 and expanded the Elderly Parole Program to reduce eligibility from age 60 to age 50. In addition, recent court decisions and the high number of postponements in 2020—2,648, or more than double the number in 2019—have increased the number of upcoming required hearings. Without additional Commissioners and resources, the Board projects a backlog of nearly 4,000 hearings by June 30, 2023.

The proposal also includes statutory changes to permit the Board of Parole Hearings to conduct video conference hearings currently authorized through an Emergency Executive Order, which allows for more hearings by reducing travel time for commissioners, as well as associated costs. Remote hearings have also allowed easier access for participation by victims and next of kin. For example, in February 2020, 127 victims or next of kin participated in the parole hearing process. In February 2021, 343 victims or next of kin participated.

### **VICTIM SUPPORT**

Corresponding with the anticipated increase in the number of parole hearings, the May Revision also includes \$1.3 million ongoing General Fund to deliver services for victims

during the parole hearing process. The staff and resources will also enable CDCR to expand existing initiatives such as the Victim Offender Dialogue program.

The parole hearing process is often confusing, stressful, and traumatic for victims. Victims who attend parole hearings are often confronted with details of the most painful and traumatic experience of their lives and many face significant fear for their personal safety if the incarcerated person is released. Explaining the parole process to victims in a sensitive and informative manner in advance of a parole hearing increases victims' understanding of the process. It can also increase their overall satisfaction and trust in the criminal justice system.

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### **FACILITY AND INFRASTRUCTURE IMPROVEMENTS**

Maintaining facility infrastructure is essential to the health, safety, and rehabilitative goals for those who live and work in state prisons.

The Governor's Budget included \$33.6 million General Fund over two years for roof replacement projects at California State Prison, Los Angeles County as part of a multi-year plan to replace aging and deteriorating roofs across the state prison system.

The May Revision includes an additional investment of \$50 million one-time General Fund in 2021-22 to address CDCR's significant backlog of deferred maintenance projects. Taken with the Governor's Budget proposal, this will provide \$100 million in total funding for CDCR deferred maintenance projects.

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### **DIVISION OF JUVENILE JUSTICE**

Consistent with Chapter 337, Statutes of 2020 (SB 823), the Division of Juvenile Justice (DJJ) will stop the intake of wards on June 30, 2021, with limited exceptions. The May Revision reflects an estimated average daily population of 732 wards in 2020-21 and 613 wards in 2021-22, which represents a decrease of 68 and 116 wards in 2020-21 and 2021-22, respectively, as compared to the Governor's Budget estimates. Taken with the Governor's Budget estimates, this will result in estimated savings of \$10.1 million General Fund in 2021-22.

To facilitate the realignment of youth offenders from the state to counties, the Board of State and Community Corrections is in the process of distributing \$9.6 million in one-time funds in 2020-21 for the Regional Youth Programs and Facilities Grant Program as authorized by SB 823. In addition, SB 823 established the Juvenile Justice Realignment

Block Grant Program, which will result in annual appropriations to be allocated to counties to serve realigned youth, including \$45.7 million in 2021-22 growing to \$211.9 million in 2024-25 and annually thereafter.

Recent pending legislation, Senate Bill 92, makes critical changes to support SB 823 implementation and enable counties to provide appropriate rehabilitative and supervision services to realigned youth starting July 1, 2021. This includes establishing a framework for county secure youth treatment facilities, consistent with intent language included in SB 823. SB 92 also specifies a closure date for DJJ of June 30, 2023, and requires DJJ to develop a plan by January 1, 2022 for the transfer of remaining DJJ youth.

### **PINE GROVE YOUTH CONSERVATION CAMP STATE AND LOCAL PARTNERSHIPS**

The May Revision proposes statutory changes to create opportunities for state and local partnerships to maintain firefighting operations at the Pine Grove Youth Conservation Camp in Amador County. This will enable juvenile courts to assign local youth to Pine Grove without committing them to DJJ and authorize counties to contract with the state to place youth offenders at Pine Grove. This action is consistent with the intent expressed in SB 823 to continue operations at Pine Grove given the camp provides critical reentry and job training to justice-involved youth.

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## **LOCAL PUBLIC SAFETY**

The May Revision includes the following significant adjustments:

**California Violence Intervention and Prevention (CalVIP) Grant Program**—The Governor’s Budget included baseline funding of \$9 million ongoing General Fund for the CalVIP program, which provides competitive grants to cities and community-based organizations to support services such as community education, diversion programs, outreach to at-risk transitional age youth, and violence reduction models. The May Revision includes an additional \$100 million one-time General Fund across the next three fiscal years for the Board of State and Community Corrections to expand this program. These funds will help to make California a national leader by supporting violence prevention efforts within communities that focus on those at the highest risk of violence.

**Proposition 47 Savings**—Voters passed Proposition 47 in November 2014, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits incarcerated persons previously sentenced for these reclassified crimes to

petition for resentencing. The Department of Finance currently estimates net General Fund savings of \$116.2 million, an increase of \$1.4 million over the estimated savings at the Governor's Budget. These funds will be allocated according to the formula outlined in the initiative, which requires 65 percent be allocated for grants to public agencies to support various recidivism reduction programs (such as mental health and substance use services), 25 percent for grants to support truancy and dropout prevention programs, and 10 percent for grants for victims' services.

**Post Release Community Supervision**—The May Revision includes \$23.6 million one-time General Fund for county probation departments to supervise the temporary increase in the average daily population of offenders on Post Release Community Supervision (PRCS) as a result of the implementation of Proposition 57. This is an increase of \$4.1 million from the amount estimated in the Governor's Budget and is largely attributable to recently promulgated regulations that expanded good conduct credit earning opportunities.

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## DEPARTMENT OF JUSTICE

As chief law officer of the state, the Attorney General has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice (DOJ). The Department provides legal services on behalf of the people of California; serves as legal counsel to state agencies; provides oversight, enforcement, education, and regulation of California's firearms laws; provides evaluation and analysis of physical evidence; and supports data needs of California's criminal justice community. The May Revision includes total funding of approximately \$1.1 billion, including \$365.9 million General Fund, to support the DOJ.

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## POLICE USE OF FORCE INVESTIGATIONS

Chapter 326, Statutes of 2020 (AB 1506) requires a state prosecutor to investigate incidents of officer-involved shootings that result in the death of an unarmed civilian, and makes the Attorney General the state prosecutor unless otherwise specified or named. The Governor's Budget included \$13 million General Fund in 2021-22, increasing to \$13.5 million ongoing, to establish three teams, one in each of the northern, central, and southern regions of California, to conduct these investigations across the state. The May Revision includes an additional \$2.3 million General Fund in 2021-22 and \$2.1 million ongoing beginning in 2022-23 to provide supportive services to survivors of those killed in

officer-involved shootings investigated by DOJ pursuant to AB 1506, and add one additional investigative team in the southern region, bringing the total to four.

The Administration is committed to working with DOJ on the successful implementation of AB 1506 and has proposed statutory changes that will allow the Director of Finance to augment the overall appropriation in 2021-22 if workload exceeds the level of resources provided to conduct investigations of officer-involved shootings.

The May Revision also includes the following significant adjustment:

- **Chapter 289, Statutes of 2020 (AB 2699)**—\$982,000 General Fund in 2021-22, \$912,000 in 2022-23, \$2.9 million in 2023-24, \$3 million in 2024-25, and \$1.9 million in 2025-26 to gather information about unsafe firearms transactions involving peace officers, develop information technology infrastructure to maintain a database of such transactions, and conduct investigations to verify that transactions are being appropriately recorded.

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## OFFICE OF EMERGENCY SERVICES SECURITY AND DOMESTIC VIOLENCE GRANTS

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### NONPROFIT SECURITY GRANT PROGRAM

The May Revision proposes \$50 million one-time General Fund for the California State Nonprofit Security Grant Program, to assist nonprofit organizations that have historically been targets of hate-motivated violence. This program, administered by the Office of Emergency Services (Cal OES), provides support for target hardening and other physical security enhancements to nonprofit organizations that are at high risk of violence and hate crimes based on ideology and beliefs.

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### VICTIMS OF CRIME ACT SUPPLEMENTAL FUNDING

The May Revision proposes \$100 million one-time General Fund for Cal OES to supplement federal funding supporting a variety of services for domestic violence victims. Domestic violence and sexual abuse have increased during the pandemic. Police data across US cities indicated a 10- to 27- percent increase in domestic violence during the pandemic. At the same time, the amount of funding that California is receiving in Victims of Crime Act federal funding—which supports a variety of programs including rape crisis programs, domestic violence housing, victim witness

programs, and child advocacy centers—has declined in recent years. This one-time augmentation will allow existing programs to continue, while building capacity to handle the increased need.