ANIMAL ABUSE

Animal Bites: Notification

When a person is bitten by a domesticated animal, existing law does not require the owner of the animal to provide any information regarding the animal's health status to the person who was bit. When two persons are involved in an automobile accident, they are required to share information and provide necessary assistance. Similarly, when a person is bitten by a domesticated animal, it is the victim's right to know the health status of the animal.

AB 670 (Spitzer), Chapter 136, requires a person who owns or has custody of an animal and that person knows, or has reason to know, that the animal bit another person, he or she shall, as soon as is practicable, but no later than 48 hours thereafter, provide the other person with specified information. Specifically, this new law provides a violation is an infraction, punishable by a fine of not more than $100; and requires the animal's owner or custodian to provide the following information:

- His or her name, address and telephone number.
- The name and license tag number of the animal.
- If the animal is required by law to be vaccinated against rabies, the person having custody or control of the animal shall, within 48 hours of the bite, provide the other person with information regarding the status of the animal's vaccinations.
- If the person having custody or control of the animal is a minor, he or she shall instead provide identification or contact information of an adult owner or responsible party.

For purposes of this law, it is necessary that the skin of the person be broken or punctured by the animal for the contact to be considered a bite.

BACKGROUND CHECKS

Child Abuse Reporting

In California, every year children are injured physically, emotionally or mentally. Court-appointed special advocates (CASA) are volunteers from the community who are specially trained and appointed by the juvenile/dependency court to build close relationships with, and serve as advocates for, children in foster care.

As a result of this court-appointed role, CASA program staff and volunteers have regular, unsupervised contact with abused or neglected children. Program staff also has court-ordered access to the children's confidential and highly sensitive case information. Thus, CASA volunteers and staff are screened by a thorough background investigation, which includes criminal history and Department of Motor Vehicle checks.

While CASA programs already access applicants' Federal Bureau of Investigation and DOJ records when screening prospective staff and volunteers, California law does not currently allow CASA programs to take the additional precaution of checking the Child Abuse Central Index (CACI) for allegations of abuse and neglect.

> **AB 369 (Solorio), Chapter 160**, requires the Department of Justice to make available to a CASA program conducting a background investigation of an applicant seeking employment or a volunteer position with the program information contained in the CACI regarding known or suspected child abuse.

Illegal Dumping Enforcement Officers

In California, illegal dumping enforcement officers do not have access to criminal history information and cannot check suspects and vehicles for warrants. An illegal dumping enforcement officer should be able to find out if he or she is apprehending a suspect wanted for a dangerous felony crime. Similar non-sworn investigators and inspectors employed by the state are granted this access for their criminal investigative duties.

> **AB 1048 (Richardson), Chapter 201**, authorizes the Attorney General to provide state summary criminal history and subsequent arrest notification upon a showing of compelling need to illegal dumping enforcement officers in the performance of their official duties enforcing specific provisions of law relating to unlawful dumping.

Summary Criminal History

Access to summary criminal history information is a necessary tool for investigators submitting reports to the courts for Lanterman-Petris-Short (LPS) conservatorships, probates conservatorships and guardianships. This information is vital to a court when making a decision on the recommended conservator.

SB 340 (Ackerman), Chapter 581, authorizes the Attorney General (AG) to furnish summary criminal history information to investigators conducting guardianship and specified conservatorship investigations at the request of a court. Specifically, this new law:

- Authorizes the AG to furnish summary criminal history information to an officer providing conservatorship investigations relating to a proposed conservatorship pursuant to the LPS Act.

- Authorizes the AG to furnish summary criminal history information to a court investigator providing investigations or reviews in conservatorship proceedings involving persons unable to provide for their personal needs for health, food, shelter, or clothing pursuant to the Probate Code.

- Authorizes the AG to furnish summary criminal history information to a probation officer, domestic relations officer, other agency designated to investigate potential dependency cases, or court investigator providing investigative services in guardianship proceedings relating to a minor child.

Criminal History

Under current law, a comprehensive scheme exists to withhold and disclose summary criminal history information by prosecutors and law enforcement agencies. Summary criminal history information includes basic blotter sheet information such as a person's name, physical description, date of arrests, arresting agencies, booking numbers, charges, dispositions and other data. A recent Attorney General opinion has cast doubt on the ability of prosecutors to continue the practice to inform the public they serve about prosecutorial activities and the criminal justice system.

SB 690 (Calderon), Chapter 560, permits public prosecutors to provide criminal history information to scholars and journalists. Specifically, new law:

- Requires a written request made pursuant to the Government Code.

- States that the information shall be provided from the local summary criminal history.

- Requires the person making the request to declare that the request is made for a scholarly or journalistic purpose and would enhance public safety, the interest of justice, or the public's understanding of the criminal justice system.

- States that if the declaration contains willfully misstates any material facts, the declarant shall be subject to a civil penalty not exceeding $10,000. The action to enforce this penalty may be brought by any public prosecutor and shall be enforced as a civil judgment.

- Requires that the request notify the petitioner of the fine for providing willfully false information.

- Requires the Attorney General to provide criminal history information to city attorneys pursuing civil gang injunctions or drug abatement actions as specified.

CHILD ABUSE

Child Abuse Reporting

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Child Abuse and Neglect Reporting Law

The Child Abuse and Neglect Reporting Act (CANRA) was established to identify potential child abuse or neglect to enable public authorities to protect victims, as well as obtain information to identify and prosecute child abusers. Under CANRA, specified persons have a duty to report known or suspected child abuse or neglect to law enforcement or child protection agencies for investigation.

> **AB 673 (Hayashi), Chapter 393**, adds death by other than accidental means to the definition of "child abuse and neglect in out-of-home care" contained in the CANRA, and clarifies that a mandated reporter not acting in his or her private capacity or in the course and scope of his or her employment may report instances of known or suspected child abuse.

CORRECTIONS

Corrections: Female Inmates

As of January 31, 2007, 11,687 in California women were incarcerated and approximately 12,000 women were on parole. With the exception of two programs for pregnant or parenting female offenders, the vast majority of programs in women's prisons are identical to the programs offered in the men's prisons. A July 2005 article by the National Institute of Justice, "Re-Entry Programs for Women Inmates", reported the following, "For years, practitioners in just about every field took research conducted primarily with male subjects and applied the findings to women. Recently, however, researchers have begun to question the applicability of those findings to women - and the answer has been mixed . . . . One area in which the applicability of gender-neutral data has come under scrutiny is corrections. A recent report of the National Institute of Corrections states that at the same time that the number of female inmates has been increasing significantly, the criminal justice system has too often - and with difficulty - tried to implement with women inmates 'policies and procedures that . . . [were] designed for male offenders.' This practice may be ineffective because studies show that female inmates must overcome unique social, emotional, and physical challenges that impede their ability to integrate smoothly back into society following a period of incarceration."

Improving conditions and services for women in prison can substantially reduce the economic, social, and healthcare burden for parolees, their families, and the state. More importantly, such services will vastly improve a woman's chance of successful re-entry and reintegration into their communities. The state's ability and responsibility to show inmates and parolees better ways to live their lives free from crime and dangerous addictions not only improves their lives, but improves California communities.

AB 76 (Lieber), Chapter 706, requires the California Department of Corrections and Rehabilitation (CDCR) to undertake the following tasks related to female offenders:

- Create a "Female Offender Reform Master Plan" and present this plan to the Legislature March 1, 2008.

- Establish polices and operational practices designed to ensure a safe and productive institutional environment for female offenders.

- Contract with nationally recognized gender-responsive experts in prison operational practices staffing, classification, substance abuse, trauma treatment services, mental health services, transitional services, and community corrections to:

    - Conduct a staffing analysis of all current job classifications assigned to each prison that houses only females. CDCR shall provide a plan to the Legislature by March 1, 2009 that incorporates those recommendations and details the changes needed to address any identified unmet needs of female inmates; and,

- Develop programs and training for CDCR staff.

- Form a gender-responsive staffing pattern for female institutions and community-based offender beds.

- Generate a needs-based, case-and-risk management tool designed specifically for female offenders that includes, but is not limited to, an assessment upon intake and annually thereafter that gauges an inmate's educational and vocational needs, including reading, writing, communication, and arithmetic skills, healthcare needs, mental health needs, substance abuse needs and trauma-treatment needs. This tool shall be used to determine appropriate programming and as a measure of progress in subsequent assessments of development.

- Design and implement evidence-based, gender-specific rehabilitative programs and housing strategies, including "wraparound" educational, healthcare, vocational, substance abuse and trauma treatment programs designed to reduce female offender recidivism, including, but limited to, educational programs that include academic preparation in the areas of verbal communication skills, reading, writing, arithmetic, and the acquisition of high school diplomas and GEDs; vocational preparation including counseling and training in marketable skills; and job placement information.

- Establish a family service coordinator at each prison that houses only females.

- Prohibits CDCR from altering the use of any of the following facilities without first obtaining legislative approval: Valley State Prison for Women in Chowchilla, the Central California Women's Facility in Chowchilla, and the California Institution for Women in Corona.

- Provides that in considering whether or not to approve a proposed conversion, the Legislature shall take into account the institution's proximity to urban areas and access to community involvement and volunteer services, among other relevant criteria.

- Declares legislative intent that this new law accomplish the following:

    - Reduce crime and recidivism.

    - Improve access to rehabilitation.

    - Break the intergenerational cycle of incarceration.

    - Create a therapeutic environment within existing women's institutions.

    - Dedicate adequate space for educational and vocational programming needs.

Fire Camps: Inmate Weight Training

California Department of Corrections and Rehabilitation (CDCR) inmates can be assigned to firefighting duties, but these same inmates are prohibited from using weight training equipment in order to gain the appropriate level of physical fitness required of firefighters. The prohibition against weight training applies to all inmates, including those who have a legitimate need to utilize weight training equipment because of their assignment to fire suppression efforts.

> **AB 932 (Jeffries), Chapter 737,** requires the CDCR Secretary to make weight training equipment available to inmates assigned to fire suppression efforts in accordance with the Penal Code section pertaining to exercise and weight training equipment and programs in correctional facilities. This new law will assist inmates and wards assigned to fire suppression duties in attaining the appropriate level of physical fitness required by allowing them access to weight training equipment that other firefighters use to maintain the required of physical fitness required of inmates assigned to a fire camp.

Sex Offenders: Placement

The High Risk Sex Offender Task Force was created by the Governor (Executive Order S-08-06) on May 15, 2006. The Task Force submitted 10 recommendations on August 15, 2006. The Task Force noted that Penal Code 3003 provides which victims have the right to insist that parolees not be placed within 35 miles of the actual residences of the victims. That provision applies to any victim of specified violent felonies. The crime of continuous sexual abuse of a child is not referenced in these provisions. Under existing law, a victim of lewd and lascivious acts on a child has the right to insist that the offender not be placed within 35 miles of that victim's home, but a victim of continuous sexual abuse of a child does not have that same right.

> **AB 1509 (Spitzer), Chapter 573,** includes continuous sexual abuse of a child in the list of specified violent felonies which prohibit a parolee from being returned to a location within 35 miles of the actual residence of a victim or witness if the victim or witness has requested additional distance in the placement.

Corrections: Compassionate Release

The care of terminally ill prisoners comprises a disproportionate portion of the California Department of Corrections and Rehabilitation's (CDCR) budget. Far too many terminally ill and medically incapacitated inmates have died in correctional institutions even though they were eligible for, but never received, recall and re-sentencing consideration. The release of even a few terminally ill and permanently medically incapacitated inmates who no longer pose a threat to the public safety would save state taxpayers hundreds of thousands of dollars.

Medical release under these circumstances is both humane and cost-effective. A current procedure in the California Penal Code would be an important step toward establishing a procedure for early medical release, ensuring the process is effective and resulting in significant fiscal savings in the state's General Fund without reducing public safety.

AB 1539 (Krekorian), Chapter 740, establishes a criteria and procedure for which a state prisoner may have his or her sentence recalled and be re-sentenced if he or she is diagnosed with a disease that would produce death within six months and whose release is deemed not to threaten public. Specifically, this new law:

- Allows the Secretary of the CDCR, the Board of Parole Hearings (BPH), or both CDCR and BPH to determine that a prisoner satisfies the necessary criteria and recommend to the court that the prisoner's sentence be recalled.

- Gives the court discretion to grant the recall and re-sentencing application upon finding a prisoner is medically incapacitated by a medical condition that renders him or her permanently unable to move without assistance; permanently unable to perform activities of daily living such as dressing, eating, ambulating; or maintaining personal hygiene without assistance or permanently ventilator-dependent.

- Requests physicians employed by CDCR who determine that a prisoner has six months or less to live to notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden.

- Requires within 48 hours of receiving notification of the prognosis, the warden or the warden's representative shall notify the prisoner of the recall and re-sentencing procedures; and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and re-sentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the necessary information.

- Mandates the warden or the warden's representative to provide the prisoner and his or her family member, agent, or emergency contact updated information throughout the recall and re-sentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and re-sentencing procedures.

- Allows the prisoner or his or her family member or designee to independently request consideration for recall and re-sentencing by contacting the chief medical officer at the prison or the Secretary. Upon receipt of this request, the chief medical officer and the warden or warden's representative shall follow the necessary procedures.

- Provides that if the court grants the recall and re-sentencing application, the prisoner shall be released by CDCR within 48 hours of receipt of the court's order unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession:

    - A discharge medical summary;

- Full medical records;
- State identification;
- Parole medications; and,
- All property belonging to the prisoner.

After discharge, any additional records shall be sent to the prisoner's forwarding address.

- Asks the CDCR Secretary to issue a directive to CDCR medical and correctional staff that details the guidelines and procedures for initiating the recall and re-sentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for recall and re-sentencing consideration, and that a recall and re-sentencing procedures shall be initiated upon that prognosis.

Corrections

In November 2003, the Little Hoover Commission released a report, "Back to the Community: Safe & Sound Parole Policies." The report indicates, "Unlike many other states, California has not developed a range of alternative sanctions for parole violators who do not require a return to prison. Moreover, California policy-makers have rejected many strategies that have been proven to work elsewhere and have been proposed by California's own parole authorities."

Revocation of parole and subsequent re-incarceration should be reserved for the state's most dangerous offenders. By increasing staff contact with parolees, providing more extensive services, and allowing greater flexibility in response to behavior, the state will have a system of supervision that is more capable of matching offenders with the proper formula for their individual success.

SB 391 (Ducheny), Chapter 645, authorizes the California Department of Corrections and Rehabilitation (CDCR) to create the Parole Violation Intermediate Sanctions Program (PVISP). Specifically, this new law:

- Authorizes CDCR to expand the use of parole programs or services to improve the rehabilitation of parolees, reduce recidivism, reduce prison overcrowding, and improve public safety through the use of intermediate sanctions for offenders who commit a violation of parole. The use of parole programs or services, in addition to supervision for any offender who is in need of services, is to reduce the parolee's likelihood to re-offend.

- Provides that the expansion of parole programs or services may include, but shall not be limited to, the following:

- Counseling;
- Electronic monitoring;
- Half-way house services;
- Home detention;
- Intensive supervision;
- Mandatory community service assignments;
- Increased drug testing;
- Participation in one or more components of the Preventing Parolee Crime Program pursuant to existing law;
- Rehabilitation programs, such as substance abuse treatment; and,
- Restitution.

- Allows CDCR or the Board of Parole Hearings (BPH) to assign the programs or services specified to offenders who meet the criteria, the existing discretion given to the parole authority regarding the reporting by CDCR of parole violations or conditions of parole are not altered.

- Gives CDCR or BPH the ability to determine an individual parolee's eligibility for the parole programs or services by considering the totality of the circumstances, including, but not limited to, the instant violation offense, the history of the parole adjustment, current commitment offense, risk needs assessment of the offender, and prior criminal history, with public safety and offender accountability as primary considerations.

- States that BPH, in the absence of a new conviction and commitment of the parolee to the state prison under other provisions of law, may assign a parolee who violates a condition of his or her parole to the parole programs or services in lieu of revocation of parole.

- Permits BPH, as an alternative to ordering a revoked parolee returned to custody, to suspend the period of revocation pending the parolee's successful completion of the parole programs or services assigned by BPH.

- Bars CDCR from establishing a special condition of parole or assigning a parolee to the parole programs or services in lieu of initiating revocation proceedings if CDCR

reasonably believes that the violation of the condition of parole involves commission of a serious or violent felony or involves the control, or use, of a firearm.

- Requires as a condition of parole that to participate in residential programs services shall not be established without a hearing by BPH in accordance with existing law and regulations of the parole authority; special conditions of parole providing an assignment to parole programs or services that does not consist of a residential component may be established without a hearing.

- Provides that expansion of parole programs or services by CDCR is subject to the appropriation of funding as provided in the Budget Act of 2007 and subsequent budget acts.

- Asks CDCR, in consultation with the Legislative Analyst's Office, contingent upon funding, to conduct an evaluation regarding the effect of the parole programs or services on public safety, parolee recidivism, and prison and parole costs and report the results to the Legislature three years after funding is provided.

- Requests CDCR to report annually to the Legislature beginning January 1, 2009, regarding the status of the expansion of parole programs or services and the number of offenders assigned and participating in parole programs or services the preceding fiscal year.

- Authorizes CDCR to create the PVISP program. The purpose of PVISP shall be to improve the rehabilitation of parolees, reduce recidivism, reduce prison overcrowding, and improve public safety through the use of intermediate sanctions for offenders who violate parole. The PVISP program will allow CDCR to provide parole agents an early opportunity to intervene with parolees who are not in compliance with the conditions of parole and facing return to prison. The program will include key components used by drug and collaborative courts under a highly structured model, including close supervision and monitoring by a hearing officer; dedicated calendars; non-adversarial proceedings; frequent appearances before the hearing officer; utilization of incentives and sanctions; frequent dug and alcohol testing; immediate entry into treatment and rehabilitation programs; and close collaboration between the program, parole, and treatment to improve offender outcomes. The program shall be local and community based.

- Refers a parolee who is deemed eligible by CDCR to participate in the PVISP program, and who would otherwise be referred to the parole authority to have his or her parole for a parole violation by his or her parole officer for participation in the program in lieu of parole revocation. If the alleged violation of parole involves the commission of a serious felony, or a violent felony as defined under existing law, or involves the control of, or use of, a weapon, the parolee shall not be eligible for referral to the PVISP program in lieu of revocation of parole.

- Authorizes CDCR to establish local PVISPs that may have, but shall not be limited to, the following characteristics:

    - An assigned hearing officer who is a retired superior court judge or commissioner and who is experienced in using the drug court model and collaborative court model.

    - The use of a dedicated calendar.

    - Close coordination between the hearing officer, CDCR, counsel, community treatment and rehabilitation programs participating in PVISP and adherence to a team approach in working with parolees.

    - Enhanced accountability through the use of frequent PVISP appearances by PVISP parolees, at least one per month, with more frequent appearances in the time period immediately following the initial referral to PVISP and thereafter in the discretion of the hearing officer.

    - Reviews of progress by the parolee as to his or her treatment and rehabilitation plan and abstinence from the use of drugs and alcohol through progress reports provided by the parole agent as well as all treatment and rehabilitation providers.

    - Mandatory frequent drug an alcohol testing.

    - Graduated in-custody sanctions may be imposed after a hearing in which it is found the parolee failed treatment and rehabilitation programs or continued in the use of drugs or alcohol while in PVISP.

    - A problem-solving focus and team approach to decision making.

    - Direct interaction between the parolee and the hearing officer.

    - Accessibility of the hearing officer to parole agents and parole employees as well as treatment and rehabilitation of providers.

    - Upon successful completion of PVISP, the parolee shall continue on parole or be granted other relief as shall be determined in the sole discretion of CDCR or as authorized by law.

- Authorizes CDCR to develop local PVISP programs. The BPH is directed to convene in each county where the PVISPs are selected to be established all local stakeholders, including, but not limited to, a retired superior court judge or commissioner, designated by the Administrative Office of the Courts, who shall be compensated by CDCR at the present rate of pay for retired judges and commissioners; local parole agents and other parole employees; the district attorney, the public defender, an attorney actively representing parolees in the county and a private defense attorney

designated by the public defenders association; the county director of alcohol and drug services, behavioral health, and mental health; and any other local stakeholders deemed appropriate. Specifically, persons directly involved in the areas of substance abuse treatment, cognitive skills development, education, life skills, vocational training and support, victim impact awareness, anger management, family reunification, counseling, residential care, placement in affordable housing, employment development and placement are encouraged to be included in the meeting.

- Requires CDCR, in consultation with local stakeholder, to develop a plan that is consistent with this new law. The plan shall address, at a minimum, the following components:

  - The method by which each parolee eligible for PVISP shall be referred to PVISP.

  - The method by which each parolee is to be individually assessed as to his or her treatment and rehabilitative needs and level of community and court monitoring required, participation of counsel, and the development of a treatment and rehabilitation plan for each parolee.

  - The specific treatment and rehabilitation programs that will be made available to the parolees and the process to ensure that they receive the appropriate level of treatment and rehabilitative services.

  - The criteria for continuing participation in, and successful completion of, PVISP, as well as the criteria for termination from the program and return to the parole revocation process.

  - The development of a PVISP team, as well as a plan for ongoing training in utilizing the drug court and collaborative court non-adversarial model.

- Gives the hearing officer in charge of the local PVISP to which the parolee is referred to determine whether the parolee will be admitted to PVISP:

  - A parolee may be excluded from admission to PVISP if the hearing officer determines that the parolee poses a risk to the community or would not benefit from PVISP. The hearing officer may consider the history of the offender, the nature of the committing offense, and the nature if the violation. The hearing officer shall state his or her findings, and the reasons for those findings, on the record.

  - If the hearing officer agrees to admit the parolee into PVISP, any pending parole revocation proceedings shall be suspended contingent upon successful completion of the PVISP as determined by PVISP hearing officer.

- Participation in PVISP will not be construed to in any way affect the parolee's term of parole.

- Provides that special conditions of parole imposed as a condition of admission into PVISP consisting of a residential program shall not be established without a hearing in front of the hearing officer and regulations of BPH. A special condition of parole providing an admission to PVISP that does not consist of a residential component may be established without a hearing.

- States that implementation of the PVISP is subject to the appropriation of funding in the Budget Act of 2008 and subsequent budget acts.

- Allows CDCR, in consultation with the Legislative Analyst's Office, to conduct an evaluation, contingent upon funding, of the PVISP.

- A final report shall be due to the Legislature three years after funding is provided. Until that date, the CDCR shall report annually to the Legislature, beginning January 1, 2009, regarding the status of implementation of the PVISP and the number of offenders assigned and participating in PVISP in the preceding fiscal year.

Inmates: Prohibited Items

Under current law, it is a felony to bring into a jail or prison certain types of contraband (alcohol and drugs, etc.). This provision was written before tobacco was banned from jails and prisons and prior to the advent of the cell phone.

According to the Los Angeles Sheriff's Department, "Alcohol, which is not illegal outside of custody, is illegal in a custodial environment. Tobacco should be considered in the same manner. Tobacco in the county jail is unauthorized but not illegal. However, in state prison, tobacco possession is illegal. We need to amalgamate these two different standards. Making tobacco illegal in all custodial environments is the answer.

"Any inmate who possesses a cellular phone or other wireless communication device in a custodial environment poses a tremendous security risk to that facility. The ability to communicate, unsupervised, and at any time with the outside world gives the inmate the ability to orchestrate an escape or conduct illicit business or activity.

"The security risks posed by wireless devices in a county jail are substantial. In addition to the risks created by unsupervised contact with the outside world, as stated above, if two or more inmates have the ability to communicate with such devices within the jail, they could monitor the movement of correctional officers or other inmates to coordinate assaults or other illegal activity within the institution."

SB 655 (Margett), Chapter 655, prohibits possession of tobacco products and wireless communication devices in a local correctional facility. Specifically, this new law:

- Provides that any person in a local correctional facility who possesses a wireless communication device including, but not limited to, a cellular telephone, page, or wireless Internet device, who is not authorized to possess that item is guilty of a misdemeanor punishable by a fine of not more than $1,000.

- States that any person housed in a local correctional facility who possesses any tobacco products in any form, including snuff products, smoking paraphernalia, any device intended to be used for ingesting or consuming tobacco, or any container or dispenser used for any of those products is guilty of an infraction, punishable by a fine not exceeding $250. The aforementioned shall only apply to persons in a local correctional facility in a county in which the board of supervisors has adopted an ordinance or passed a resolution banning tobacco in its correctional facilities.

- Disperses money collected into the inmate welfare fund.

County Jails: Inmate Welfare Fund

Allowing a county sheriff to utilize, at his or her discretion, monies from the inmate welfare fund to help inmates prior to release and up to 14 days after release could substantially aid inmates when reintegrating into society.

The funds could be used to assist inmates in obtaining proper documentation and placement in approved transitional assistance programs that include, but are not limited to, housing, counseling, job placement, and education programs.

SB 718 (Scott), Chapter 251, creates a pilot program in Alameda, Los Angeles, Orange, Sacramento, San Francisco, San Diego, Santa Barbara, and Stanislaus Counties that authorizes sheriffs in those counties to expend money from the inmate welfare fund for the purpose of assisting indigent inmates with the re-entry process, as specified, after release. Specifically, this new law:

- Allows sheriffs in Alameda, Los Angeles, Orange, San Francisco, San Diego, and Stanislaus Counties to expend money from the inmate welfare fund to provide indigent inmates, after release from county jails or any other adult detention facilities under the jurisdiction of sheriffs, with assistance with the re-entry process within 14 days after the inmates' release.

- Provides that re-entry assistance may include, but is not limited to, work placement, counseling, obtaining proper identification, education and housing.

- States that the pilot program shall only remain in effect until January 1, 2013.

Prison Re-Entry Facilities: Northern California Women's Facility

Under existing law, the California Department of Corrections and Rehabilitation (CDCR) was authorized only to house women in the Northern California San Joaquin correctional facility.

SB 943 (Machado), Chapter 228, authorizes CDCR to use the Northern California Women's Facility in Stockton as a re-entry facility to house inmates, parole violators, or parolees pending revocation of their parole who are either paroling to, or returning to prison from, San Joaquin, Calaveras or Amador Counties.

Corrections: Electronic Monitoring

Currently, there are 32 counties which have either court- or self-imposed population caps which result in the early release of inmates. Involuntary electric home monitoring will not only free up bed space for participating counties but also save counties money as the cost of home monitoring is substantially less than the cost of incarceration.

SB 959 (Romero), Chapter 252, establishes an involuntary home detention program where participants are electronically monitored. Specifically, this new law:

- Permits a county board of supervisors to authorize a county correctional administrator to require that county inmates committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, participate in involuntary home detention when the administrator has determined that conditions in a jail facility warrant the necessity of releasing sentenced misdemeanor inmates prior to them serving the full amount of a given sentence due to lack of jail space.

- Provides that the program of involuntary home detention shall include electronic monitoring during the inmate's sentence in lieu of confinement in the county jail or other county correctional facility or program under the auspices of the probation officer.

- Specifies that, under this program, one day of participation shall be in lieu of one day of incarceration and participants in the program shall receive any sentence reduction credits that they would have received had they served their sentences in a county correctional facility.

- Provides that the board of supervisors may prescribe reasonable rules and regulations under which an involuntary home detention program may operate. The inmate shall be informed in writing that he or she shall comply with the rules and regulations of the program, including, but not limited to, the following:

    - Requires the participant to remain within the interior premises of his or her residence during the hours designated by the correctional administrator.

    - Mandates that the participant admit any peace officer designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

- Specifies the use of electronic monitoring may include global positioning system devices or other supervising devices for the purpose of helping to verify his or her compliance with the rules and regulations of the home detention program.

- Requires that the devices shall not be used to eavesdrop or record any conversation except a conversation between the participant and the person supervising the participant which is to be used solely for the purposes of voice identification.

- Clarifies that the correctional administrator in charge of the county correctional facility from which the participant was released may, without further order of the court, immediately retake the person into custody to serve the balance of his or her sentence if the electronic monitoring or supervising device is unable, for any reason, to properly perform its function at the designated place of home detention if the person fails to remain within the place of home detention as stipulated in the agreement or if the person for any other reason no longer meets the established criteria under this section.

- Provides that whenever the peace officer supervising a participant has reasonable cause to believe that the participant is not complying with the rules or conditions of the program, or that the electronic monitoring device is unable to function properly in the designated place of confinement, the peace officer may, under general or specific authorization of the correctional administrator and without a warrant of arrest, retake the person into custody to complete the remainder of the original sentence.

- States that the correctional administrator is not required to allow a person to participate in this program if it appears from the record that the person has not satisfactorily complied with reasonable rules and regulations while in custody.

- Specifies that a person shall be eligible for participation in a home detention program only if the correctional administrator concludes that the person meets the criteria for release established under this new law and that the person's participation is consistent with any reasonable rules and regulations prescribed by the board of supervisors or the administrative policy of the correctional administrator.

- Requires that the rules and regulations and administrative policy of the program be written and reviewed on an annual basis by the county board of supervisors and the correctional administrator. The rules and regulations shall be given to, or made available to, any participant upon request.

- Specifies that the correctional administrator, or his or her designee, shall have the sole discretionary authority to permit program participation as an alternative to physical custody. All persons referred or recommended by the court to participate in the home detention program who are denied participation or all persons removed from program participation shall be notified in writing of the specific reasons for the denial or

removal. The notice of denial or removal shall include the participant's appeal rights as established by program administrative policy.

- States that the court may recommend or refer a person to the correctional administrator for consideration for placement in the home detention program. The recommendation or referral of the court shall be given great weight in the determination of acceptance or denial. At the time of sentencing or at any time that the court deems it necessary, the court may restrict or deny the defendant's participation in a home detention program.

- Provides that the correctional administrator may permit home detention program participants to seek and retain employment in the community, attend psychological counseling sessions or educational or vocational training classes, or seek medical and dental assistance. Willful failure of the program participant to return to the place of home detention not later than the expiration of any period of time during which he or she is authorized to be away from the place of home detention pursuant to this section and unauthorized departures from the place of home detention are punishable as provided in the escape statute of the Penal Code.

- Defines "correctional administrator" for purposes of this section as the sheriff, probation officer, or director of the county department of corrections.

- Provides that, upon request, the correctional administrator shall provide to the law enforcement agency where an office is located to which persons on involuntary home detention report information concerning those persons. The correctional administrator shall provide the same information to the Correction Standards Authority. This information shall consist of the following:

    - The participant's name, address, and date of birth.

    - The offense committed by the participant.

    - The period of time the participant will be placed on home detention.

    - Whether the participant successfully completed the prescribed period of home detention or was returned to a county correctional facility, and if the person was returned to a county correctional facility, the reason for that return.

    - The gender and ethnicity of the participant.

- Clarifies that any information received by a police department pursuant to this new law shall be used only for the purpose of monitoring the impact of home detention programs on the community.

- States legislative intent that home detention programs established under this new law maintain the highest public confidence, credibility, and public safety.

- Provides in the furtherance of these standards, the correctional administrator, with the approval of the board of supervisors, may administer a home detention program pursuant to written contracts with appropriate public or private agencies, as specified.

COURT HEARINGS

Vehicles: Abstracts

Under existing law, the clerk of a court in which a person was convicted of a specified code shall prepare, within 10 days after conviction and immediately forward to the Department of Motor Vehicles (DMV) at its office at Sacramento, an abstract of the record of the court covering the case in which the person was so convicted.

> **AB 421 (Benoit), Chapter 746**, reduces the time for the clerk of a court to forward abstracts of court records of convictions for Vehicle Code violations, as specified, to the DMV from ten days to five days.

Criminal Procedure: Expungement of Arrest Records

Existing law allows a person who is arrested but never tried or convicted to petition the arresting agency to have his or her criminal record expunged. The law enforcement agency can either find the person factually innocent; in which case, his or her record may be expunged or the agency can find that the law enforcement officer had probable cause to make the arrest and therefore deny the petition. In this instance, the district attorney is notified before the petition is heard in court but the arresting law enforcement agency is not similarly notified. Failure to notify both the district attorney and the arresting law enforcement agency denies law enforcement to present potentially relevant information as to why the petition should be denied; in some cases, such information is solely in the possession of law enforcement and the district attorney may not know of its existence.

> **AB 475 (Emmerson), Chapter 390,** requires the arresting law enforcement agency to be notified when an individual petitions the court to have his or her arrest record expunged. This new law adds an extra measure of protection to the expungement process in assuring that the court hearing the petition has access to all available information regarding the petition when deciding whether expungement is the appropriate remedy. Specifically, this new law:
>
> - Requires a person seeking to have his or her record expunged to serve a copy of the petition on the law enforcement agency having jurisdiction over the offense.
>
> - Allows the law enforcement agency to present evidence at the hearing at the motion of the district attorney.

Vehicles: Registration

Currently, courts are unable to dispose of a significant portion of traffic cases resulting from the vehicle owner's failure to appear in response to an unsigned owner-responsibility "Notice to Appear" citation because, under current law, certain Vehicle Code violations can be the responsibility of a vehicle owner rather than (or in addition to) the vehicle's driver. Because this

type of citation is issued in the owner's absence, the violator does not sign a "Promise to Appear" as is the case with most traffic citations. Typical examples occur at a truck scale, where a citation is issued because the vehicle is not properly equipped or is out of compliance with other regulatory provisions. These requirements are the responsibility of the owner, not the driver, and the law enforcement officer should issue the citation and mail a copy of the Notice to Appear to the owner.

> **AB 1464 (Benoit), Chapter 452,** permits a court, when an owner or other person given a notice to appear does not appear in court or pay the applicable fine and penalties if an appearance is not required to notify the owner or other person by mail that registration may be precluded by that failure, as specified.

Sentencing

Under existing law, when a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term unless there are circumstances in aggravation or mitigation of the crime. In January 2007, the United States Supreme Court ruled in Cunningham vs. California that the statutory presumption for the middle term violated the defendant's right to a jury trial.

> **SB 40 (Romero), Chapter 3**, amends California's Determinate Sentencing Law (DSL) to state that where a court may impose a lower, middle or upper term in sentencing a criminal defendant, the choice of the appropriate term shall be left to the discretion of the court to sentence in the best interest of justice. Specifically, this new law:
>
> - Deletes existing language from California's DSL which directs the court to impose the middle term in the absence of factors in aggravation or mitigation.
>
> - States legislative intent that the enactment of this law is to respond to the United States Supreme Court ruling in Cunningham vs. California, 2007 U.S. LEXIS 1324, and maintain stability in the criminal justice system while California's sentencing structure is being reviewed.
>
> - Contains a sunset date of January 1, 2009.

Summary Criminal History

Access to summary criminal history information is a necessary tool for investigators submitting reports to the courts for Lanterman-Petris-Short (LPS) conservatorships, probates conservatorships and guardianships. This information is vital to a court when making a decision on the recommended conservator.

> **SB 340 (Ackerman), Chapter 581,** authorizes the Attorney General (AG) to furnish summary criminal history information to investigators conducting guardianship and

specified conservatorship investigations at the request of a court. Specifically, this new law:

- Authorizes the AG to furnish summary criminal history information to an officer providing conservatorship investigations relating to a proposed conservatorship pursuant to the LPS Act.

- Authorizes the AG to furnish summary criminal history information to a court investigator providing investigations or reviews in conservatorship proceedings involving persons unable to provide for their personal needs for health, food, shelter, or clothing pursuant to the Probate Code.

- Authorizes the AG to furnish summary criminal history information to a probation officer, domestic relations officer, other agency designated to investigate potential dependency cases, or court investigator providing investigative services in guardianship proceedings relating to a minor child.

Grand Juries

In some California counties, it is not uncommon for two grand juries, one civil and one criminal, to be impaneled at the same time. Under current law, the presiding judge of the superior court is charged with presiding over both grand juries. Los Angeles County makes frequent use of the grand jury system in criminal matters and has only one criminal grand jury, which has caused the existing grand jury to be over-burdened and unable to properly function.

SB 796 (Runner), Chapter 82, authorizes the presiding judge of the Los Angeles County Superior Court to order and direct the impanelment of an additional grand jury to hear criminal matters. Specifically, this new law:

- Allows, in Los Angeles County only, the presiding judge, or the judge appointed by the presiding judge to supervise the grand jury, to order and direct the impanelment of an additional grand jury upon the request of the Attorney General, the district attorney, or on his or her own motion.

- Provides that all persons selected for this additional criminal grand jury shall be selected at random from a source or sources reasonably representative of the population eligible for jury service in the county.

- This second criminal grand jury in Los Angeles County will allow the District Attorney's Office to present to the grand jury cases involving sexual assault of children, gang murders, and public corruption cases, as well as to conduct additional grand jury investigations.

CRIME PREVENTION

Extension of California's Wiretap Law

California's wiretap law is one of the most restrictive in the nation. Currently, California permits law enforcement's wiretapping of phones and other communication devices only by order of the Superior Court and only when used for violent felonies, gang crime and drug trafficking offenses involving large amounts of controlled substances.

Several provisions governing the process of electronic surveillance requests will expire on January 1, 2008.

> **AB 569 (Portantino), Chapter 391**, extends the sunset date regulating government interception of electronic communications from January 1, 2008 until January 1, 2012.

Gangs: Office of Statewide Violence and Gang Prevention

Despite the relative decline in crime, many cities and regions have "hot spots" that exhibit extraordinary levels of gang-related violence. Communities across the state with gang and youth violence problems are trying to deal with these issues in various ways. Experts agree that the gangs in Los Angeles are not the same as gangs in Oakland, Fresno, or Sacramento. Prevention and intervention strategies need to reflect the diverse needs of communities and the populations they target as different communities are better at identifying their individual needs better than a single statewide entity.

> **AB 1381 (Nunez), Chapter 459,** establishes the Office of Statewide Violence and Gang Prevention (OSVGP). The OSVGP shall be responsible for coordinating and assisting schools, parents, community groups and organizations, and law enforcement agencies, and other state and local entities with information and innovative strategies to help prevent violence and gang involvement, including the administration of state and federal grants relative to juvenile justice and street gang crime prevention.

Firearms: Microstamping

In approximately 45% of all homicides in California, no arrest is made due to a lack of evidence. Of the approximately 2,400 homicides in California per year, over 60% are committed with handguns. Approximately 70% of new handguns sold in California are semiautomatics. Microstamping technology would provide law enforcement with an additional tool when investigating a crime, providing more leads in the first crucial hours after a homicide and, therefore, potentially leading to more convictions.

> **AB 1471 (Feuer), Chapter 572,** creates the Crime Gun Identification Act of 2007 and commencing January I, 2010 expands the definition of "unsafe handgun", as specified, to include semiautomatic pistols not designed and equipped with a microscopic array of characters that identify the make, model, and serial number of the pistol etched in two or

more places, as specified, on each cartridge case when the firearm is fired. Specifically, this new law:

- Requires the Department of Justice (DOJ) to certify that the technology used to create the imprint is available to more than one manufacturer unencumbered by any patent restrictions.

- Authorizes the Attorney General to approve another method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm as long as DOJ certifies that this method is also unencumbered by any patent restrictions.

- Requires DOJ to include notice that the method chosen is unencumbered by any patent restriction in any regulations adopted by the DOJ in implementing the provisions of this new law.

- States the microscopic array of characters required by the provisions of this new law shall not be considered the name of the maker, model, manufacturer's number, or other mark of identification including any distinguishing number or mark assigned by the DOJ within the meaning of existing law.

CRIMINAL JUSTICE PROGRAMS

Incarcerated Juveniles: High School Equivalency Certificates

Under existing law, incarcerated students with little or no chance to achieve a high school diploma are unable to work toward passage of the General Educational Development (GED) test within their regular course of study. Academic preparatory programs are only administered during evening or other after-school hours. Scheduling conflicts occurred with the security or care requirements of institutions, and no GED preparation was offered.

> **AB 622 (Mullin), Chapter 269,** authorizes the Superintendent of Public Instruction to grant a waiver to county offices of education to provide up to one hour of GED test preparation as part of the regular course of instruction during the regular school day to confined or incarcerated students who are at least 17 years of age and have insufficient units of high school credit to graduate by 18 years of age. This new law also requires the Superintendent to award a California high school equivalency certificate to a pupil who passes the GED test, is confined or incarcerated, and is 17 years old with fewer than 100 units of high school credit.

Fire Camps: Inmate Weight Training

California Department of Corrections and Rehabilitation (CDCR) inmates can be assigned to firefighting duties; however, these same inmates are prohibited from using weight training equipment in order to gain the appropriate level of physical fitness required of firefighters. The prohibition against weight training applies to all inmates, including those who have a legitimate need to utilize weight training equipment because of their assignment to fire suppression efforts.

> **AB 932 (Jeffries), Chapter 737,** requires the CDCR Secretary to make weight training equipment available to inmates assigned to fire suppression efforts in accordance with the Penal Code section pertaining to exercise and weight training equipment and programs in correctional facilities. This new law will assist inmates and wards assigned to fire suppression duties in attaining the appropriate level of physical fitness required by allowing them access to weight training equipment that other firefighters use to maintain the required of physical fitness required of inmates assigned to a fire camp.

Crime Laboratories: Effective Delivery of Services

Existing law requires the Department of Justice (DOJ) to perform duties in the investigation, detection, detection, apprehension and prosecution or suppression of crimes. DOJ's Criminalistics Institute, Bureau of Forensic Services was established under existing law for specified purposes, including facilitating a comprehensive and coordinated approach to meet the high technology forensic science needs of crime laboratories operated the DOJ and local law enforcement agencies, providing a statewide upgrading of advanced laboratory services incorporating new and developing technologies, providing training and methodology development for all law enforcement agencies, and handling advanced casework laboratory

referral services. The Institute is intended for use by state and local forensic scientists and law enforcement personnel.

There are currently significant questions regarding the structure, staffing, funding and workload priorities of California's forensic analysis delivery system. There are also concerns that existing law enforcement needs are not being met and that this situation will worsen if not addressed quickly. Forensic science is an increasingly vital element in the field of law enforcement. This highly specialized work includes at least 10 different specialties and is becoming more sophisticated as scientific knowledge increases.

There are no universal standards for certification of criminalists in California nor is there a mandatory requirement that all criminal laboratories meet minimum standards. Currently, California has 11 DOJ crime laboratories providing services to approximately 40 percent of California's law enforcement agencies. The remaining law enforcement agencies are served by at least 19 local criminal laboratories that fall under the command of a district attorney, sheriff, or police chief. The creation and growth of crime laboratories in California has evolved over decades without any statewide planning, review or coordination to maximize the capabilities and effectiveness of these critical assets.

AB 1079 (Richardson), Chapter 405, requires the DOJ to establish "The Crime Laboratory Review Task Force." Specifically, this new law:

- Provides that the Task Force shall be comprised of a representative of each of the following entities:
    - The DOJ.
    - The California Association of Crime Laboratory Directors.
    - The California Association of Criminalists.
    - The International Association for Identification.
    - The American Society of Crime Laboratory Directors.
    - The Department of the California Highway Patrol.
    - The California State Sheriffs' Association (from a department with a crime laboratory).
    - The California District Attorneys Association (from an office with a crime laboratory).
    - The California Police Chiefs Association (from a department with a crime laboratory).

- The California Peace Officers Association.
- The California Public Defenders Association.
- A private criminal defense attorneys association.
- The Office of the Speaker of the Assembly.
- The Office of the President Pro Tempore of the Senate.
- Two representatives to be appointed by the Governor.

- Requires the Task Force to review and make recommendations as to how to best configure, fund, and improve the delivery of state and local crime laboratory services in the future. This new law specifies some of the issues that shall be addressed by the Task Force, including, but not limited to:
  - Whether the laboratories should be further consolidated; and, if so, who should have oversight of the crime laboratories.
  - Whether all laboratories should provide similar services.
  - How other states have addressed similar issues.
  - How to address the recruiting and retention problems relative to laboratory staff.
  - The future educational role, if any, for the University of California or California State University systems.
  - Whether workload demands are being prioritized properly and whether there are important workload issues that are not being addressed.
  - If statewide standards should be developed for the accreditation of forensic laboratories, including minimum staffing levels; and, if so, a determination regarding which entity should serve as the sanctioning body.
- Requires that the first meeting of the Task Force shall occur no later than 60 days after the effective date of this new law and requires the Task Force submit a final report of its findings, on or before July 1, 2009, to the Department of Finance and the Budget and Public Safety Committees of the Assembly and Senate.

Firearms: Ballistics Registration

Under existing law, each sheriff or police chief executive must submit descriptions of serialized property, or non-serialized property uniquely inscribed, reported stolen, lost, found, recovered or

under observation directly into the appropriate Department of Justice (DOJ) automated property system for firearms, stolen bicycles, stolen vehicles, or other property as the case may be.

SB 248 (Padilla), Chapter 639, authorizes local law enforcement agencies to have specified information related to firearms entered into the United States DOJ's National Integrated Ballistics Information Network to ensure that representative samples of fired bullets and cartridge cases, from test-fires recovered at crimes scenes and other firearm information needed to investigate crime are recorded, as specified.

Juveniles: Youth Bill of Rights

Existing law authorizes a peace officer to take a minor that the officer has reasonable causes to believe is within the jurisdiction of the juvenile court into temporary custody without a warrant, as specified. Minors may be declared a dependent child or ward of the court, and held in the custody of the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Facilities. However, the rights of such detained minors are not specified in one, easily accessible law or regulation, creating the potential for abuse and harassment.

SB 518 (Migden), Chapter 649, establishes a Youth Bill of Rights, and provides that it is the policy of the State of California that all children confined in CDCR's juvenile facilities shall have certain, specified rights. Specifically, this new law includes, but is not limited to, the following rights:

- To live in a safe, healthy and clean environment
- To be free from physical, sexual, emotional or other abuse, or corporal punishment
- To receive adequate and healthy food and water, sufficient personal hygiene items and clothing that is adequate and clean.
- To receive appropriate medical, dental, vision and mental health services.
- To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of live or the prevention of serious bodily harm.
- To be free from searches for the purpose of harassment or humiliation or as a form of discipline or punishment.
- To maintain frequent and continuing contact with parents, guardians, siblings, children and extended family members, though visits, telephone calls and mail.
- To make and receive confidential telephone calls; send and receive confidential mail; and have confidential visits with attorneys and their representatives, ombudspersons and other advocates.

- To have fair and equal access to all available services, placement, care, treatment, and benefits; and not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

- To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.

- To participate in religious services and activities of the minor's choice.

- To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.

- To attend all court hearings pertaining to the minor.

- To have counsel and a prompt probable cause hearing when detained on probation or parole violations.

This new law requires the Division of Juvenile Facilities to post a listing of the Youth Bill of Rights in a conspicuous location in each of its facilities.

Witness Protection

The Witness Protection Program (WPP) provides funding to relocate witnesses who face imminent threats to their lives for testifying in serious criminal cases. Local prosecutors are charged with protecting witnesses' safety and are reimbursed by the state, through the Department of Justice, for authorized expenses related to witness protection. WPP is critical to a prosecutor's ability to investigate and convict serious and violent criminals, particularly gang-related violence.

SB 594 (Romero), Chapter 455, renames the WPP the "Witness Relocation and Assistance Program", and expands local reimbursable costs to include support, advocacy, and other services to provide for a witness' safe transition into a new environment.

Corrections: Electronic Monitoring

Currently, there are 32 counties which have either court- or self-imposed population caps which result in the early release of inmates. Involuntary electric home monitoring will not only free up bed space for participating counties but also save counties money as the cost of home monitoring is substantially less than the cost of incarceration.

SB 959 (Romero), Chapter 252, establishes an involuntary home detention program where participants are electronically monitored. Specifically, this new law:

- Permits a county board of supervisors to authorize a county correctional administrator to require that county inmates committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, participate in involuntary home detention when the administrator has determined that conditions in a jail facility warrant the necessity of releasing sentenced misdemeanor inmates prior to them serving the full amount of a given sentence due to lack of jail space.

- Provides that the program of involuntary home detention shall include electronic monitoring during the inmate's sentence in lieu of confinement in the county jail or other county correctional facility or program under the auspices of the probation officer.

- Specifies that, under this program, one day of participation shall be in lieu of one day of incarceration and participants in the program shall receive any sentence reduction credits that they would have received had they served their sentences in a county correctional facility.

- Provides that the board of supervisors may prescribe reasonable rules and regulations under which an involuntary home detention program may operate. The inmate shall be informed in writing that he or she shall comply with the rules and regulations of the program, including, but not limited to, the following:

    - Requires the participant to remain within the interior premises of his or her residence during the hours designated by the correctional administrator.

    - Mandates that the participant admit any peace officer designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

    - Specifies the use of electronic monitoring may include global positioning system devices or other supervising devices for the purpose of helping to verify his or her compliance with the rules and regulations of the home detention program.

    - Requires that the devices shall not be used to eavesdrop or record any conversation except a conversation between the participant and the person supervising the participant which is to be used solely for the purposes of voice identification.

    - Clarifies that the correctional administrator in charge of the county correctional facility from which the participant was released may, without further order of the court, immediately retake the person into custody to serve the balance of his or her sentence if the electronic monitoring or supervising device is unable, for any reason, to properly perform its function at the designated place of home detention if the person fails to remain within the place of home detention as stipulated in the

agreement or if the person for any other reason no longer meets the established criteria under this section.

- Provides that whenever the peace officer supervising a participant has reasonable cause to believe that the participant is not complying with the rules or conditions of the program, or that the electronic monitoring device is unable to function properly in the designated place of confinement, the peace officer may, under general or specific authorization of the correctional administrator and without a warrant of arrest, retake the person into custody to complete the remainder of the original sentence.

- States that the correctional administrator is not required to allow a person to participate in this program if it appears from the record that the person has not satisfactorily complied with reasonable rules and regulations while in custody.

- Specifies that a person shall be eligible for participation in a home detention program only if the correctional administrator concludes that the person meets the criteria for release established under this new law and that the person's participation is consistent with any reasonable rules and regulations prescribed by the board of supervisors or the administrative policy of the correctional administrator.

- Requires that the rules and regulations and administrative policy of the program be written and reviewed on an annual basis by the county board of supervisors and the correctional administrator. The rules and regulations shall be given to, or made available to, any participant upon request.

- Specifies that the correctional administrator, or his or her designee, shall have the sole discretionary authority to permit program participation as an alternative to physical custody. All persons referred or recommended by the court to participate in the home detention program who are denied participation or all persons removed from program participation shall be notified in writing of the specific reasons for the denial or removal. The notice of denial or removal shall include the participant's appeal rights as established by program administrative policy.

- States that the court may recommend or refer a person to the correctional administrator for consideration for placement in the home detention program. The recommendation or referral of the court shall be given great weight in the determination of acceptance or denial. At the time of sentencing or at any time that the court deems it necessary, the court may restrict or deny the defendant's participation in a home detention program.

- Provides that the correctional administrator may permit home detention program participants to seek and retain employment in the community, attend psychological counseling sessions or educational or vocational training classes, or seek medical and dental assistance. Willful failure of the program participant to return to the place of home detention not later than the expiration of any period of time during which he or she is authorized to be away from the place of home detention pursuant to this section

and unauthorized departures from the place of home detention are punishable as provided in the escape statute of the Penal Code.

- Defines "correctional administrator" for purposes of this section as the sheriff, probation officer, or director of the county department of corrections.

- Provides that, upon request, the correctional administrator shall provide to the law enforcement agency where an office is located to which persons on involuntary home detention report information concerning those persons. The correctional administrator shall provide the same information to the Correction Standards Authority. This information shall consist of the following:

  - The participant's name, address, and date of birth.

  - The offense committed by the participant.

  - The period of time the participant will be placed on home detention.

  - Whether the participant successfully completed the prescribed period of home detention or was returned to a county correctional facility, and if the person was returned to a county correctional facility, the reason for that return.

  - The gender and ethnicity of the participant.

- Clarifies that any information received by a police department pursuant to this new law shall be used only for the purpose of monitoring the impact of home detention programs on the community.

- States legislative intent that home detention programs established under this new law maintain the highest public confidence, credibility, and public safety.

- Provides in the furtherance of these standards, the correctional administrator, with the approval of the board of supervisors, may administer a home detention program pursuant to written contracts with appropriate public or private agencies, as specified.

CRIMINAL OFFENSES

Crimes: Military Decorations

At present, there is no state law prohibiting a person from falsely representing himself or herself, verbally or in writing, as having been awarded any decoration or medal from the Armed Forces of the United States (U.S.), the California National Guard, State Military Reserve, or Navel Militia. Under current federal law, the Stolen Valor Act of 2005 imposes a term of six months of imprisonment and a maximum $5,000 fine for any false verbal, written or physical claim to an award or decoration authorized for armed service members but there is no corresponding state law.

AB 282 (Cook), Chapter 360, creates an infraction for a person to falsely represent himself or herself, verbally or in writing, to have been awarded any decoration or medal from the Armed Forces of the U.S., the California National Guard, State Military Reserve, or Navel Militia; any service medals or badges awarded to the members of such forces; the ribbon, button, or rosette of any such badge, decoration or medal; or any colorable imitation of such item with the intent to defraud.

Animal Bites: Notification

When a person is bitten by a domesticated animal, existing law does not require the owner of the animal to provide any information regarding the animal's health status to the person who was bit. When two persons are involved in an automobile accident, they are required to share information and provide necessary assistance. Similarly, when a person is bitten by a domesticated animal, it is the victim's right to know the health status of the animal.

AB 670 (Spitzer), Chapter 136, requires a person who owns or has custody of an animal and that person knows, or has reason to know, that the animal bit another person, he or she shall, as soon as is practicable, but no later than 48 hours thereafter, provide the other person with specified information. Specifically, this new law provides a violation is an infraction, punishable by a fine of not more than $100; and requires the animal's owner or custodian to provide the following information:

- His or her name, address and telephone number.
- The name and license tag number of the animal.
- If the animal is required by law to be vaccinated against rabies, the person having custody or control of the animal shall, within 48 hours of the bite, provide the other person with information regarding the status of the animal's vaccinations.

- If the person having custody or control of the animal is a minor, he or she shall instead provide identification or contact information of an adult owner or responsible party.

For purposes of this law, it is necessary that the skin of the person be broken or punctured by the animal for the contact to be considered a bite.

Vehicular Manslaughter

AB 2559 (Benoit), Chapter 91, Statutes of 2006, made non-substantive, grammatical, and organizational changes to sections of the Penal Code relating to vehicular manslaughter. Those changes were made for the purpose of clarity and consistency and were accomplished by renumbering and rearranging various portions of the Penal Code. However, AB 2559 did not make conforming changes to other Vehicle and Penal Code sections that referenced any of the vehicular manslaughter sections.

AB 678 (Gaines), Chapter 747, makes a series of technical conforming amendments to numerous code sections related to penalty enhancements, victim compensation, license suspension, license revocation, insurance rates, waiver of personal appearance through counsel, chemical test refusal, commercial licensing, prior offense enhancements, and vehicle impoundment. This new law makes technical corrections to conform 2006 legislative amendments to provisions relating to vehicular manslaughter.

Criminal Investigations: Unauthorized Disclosure

In the age of instant information, the pressure to "break a story" has raised concerns that news Web site employees will attempt to gain inside information by paying a peace officer, employee of a law enforcement agency, attorney employed by a governmental agency, or trial court employee to obtain the information prior to its proper legal, and timely release. Peace officers, employees of law enforcement agencies, attorneys employed by a governmental agencies and trial court employees must, therefore, avoid any conduct that might compromise their integrity and thus undercut the public's confidence in California's criminal justice system.

AB 920 (Brownley), Chapter 401, makes it a misdemeanor, punishable by a fine not to exceed $1,000, for any peace officer, employee of a law enforcement agency, attorney employed by a governmental agency, or trial court employee to disclose for financial gain, or solicit for financial gain, any information obtained in the course of a criminal investigation.

Driving under the Influence of Alcohol

Operating a motor vehicle while under the influence of alcohol or drugs, or both; when the driver has a specified percent, by weight, of alcohol in his or her blood; or if the driver is addicted to the use of any drug is unlawful. Current law provides a rebuttable presumption that a person had a blood alcohol concentration (BAC) of 0.08 percent or more at the time of driving of the vehicle

if the person had a BAC of 0.08 percent or more at the time of the performance of a chemical test within three hours after the driving. A separate provision makes it unlawful to engage in this conduct and to drive in an unlawful manner if that conduct causes bodily injury to a person other than the driver.

Many driving under the influence (DUI) offenders are placed on informal court probation pursuant to the Vehicle Code. The terms and conditions of such probation include, but are not limited to, probation of not less than three nor more than five years, and a requirement that the person shall not drive a motor vehicle with any measurable amount of alcohol in his or her blood.

AB 1165 (Maze), Chapter 749, creates a new Vehicle Code section that prohibits a convicted DUI offender from operating a motor vehicle with a BAC of 0.01 percent or higher as measured by a preliminary alcohol screening during the term or his or her probation. Specifically, this new law:

- Requires the Department of Motor Vehicles to immediately suspend the privilege of a person to operate a motor vehicle if the person was driving with a BAC of 0.01 percent or greater, as measured by a preliminary alcohol screening or other chemical test, while on probation for a DUI prior offense or DUI causing bodily injury.

- Makes it unlawful for a person who is on probation for specified DUI offenses to operate a motor vehicle with a BAC of 0.01 percent or greater as measured by a preliminary alcohol screening or other chemical test.

- Provides that if a person refuses to submit to, or fails to complete, a preliminary alcohol screening test, the Department of Motor Vehicles shall either suspend the person's privilege to drive for a period of one year or revoke the person's privilege to drive a motor vehicle if the refusal occurred within 10 years of a conviction for specified DUI-related offenses.

- Provides that this new law shall become operative on January 1, 2009.

Sentencing Enhancement: White-Collar Crime

Under existing law, when a person is charged with willfully filing a false tax return and failing to file a tax return, a prosecutor cannot apply the white-collar crime enhancement to "seize and freeze" the defendant's assets. As a result, by the time such a defendant is convicted, he or she has the opportunity to dissipate, hide or transfer all assets out of the jurisdiction of the court. Thus, such persons are being sentenced to serve state prison sentences without losing the proceeds of their crimes. At present, this type of criminal is able to retain money owed to the state and can enjoy a lavish lifestyle after release from custody at the expense of the taxpayers.

AB 1199 (Richardson), Chapter 408, allows the application of the white-collar crime enhancement against any person who commits two or more related felonies, a material element of which is fraud or embezzlement and involves a pattern of related felony conduct which results in the loss by another person or entity of more than $100,000.

Peace Officers: Impersonation Uniforms

At present, a vendor of law enforcement uniforms is not required to verify that a person purchasing a uniform is an employee of the law enforcement agency identified on the uniform. This creates an opportunity for a person who is not a uniformed employee of a law enforcement agency to purchase a uniform and pose as police officer in order to commit crimes. The impetus for this law was a situation in Sacramento County where a man stated to a Sacramento police officer that he was a Sacramento deputy sheriff. An investigation revealed that the man was not employed as a deputy sheriff and yet he possessed a complete deputy sheriff's uniform. Prior to this investigation, for several months, there were instances where women were being stopped in Sacramento County by a man in a sheriff's deputy uniform. In some cases, the women were assaulted.

> **AB 1448 (Niello), Chapter 241,** requires a law enforcement uniform vendor to verify that a person buying a uniform is an employee of the law enforcement agency identified on the uniform, and makes it a misdemeanor punishable by a fine to fail to verify identity.

Assault: Parking Control Officers

Over the past several years, there have been an increased number of assaults on parking control officers by motorists who become angry and attack officers who are simply doing their jobs.

In San Francisco alone, there were 28 reported assaults on parking control officers, representing a more than 64-percent increase in the number of assaults reported in 2005. An individual who attacks a parking control officer should be punished in the same manner as an individual who attacks a traffic control officer.

> **AB 1686 (Leno), Chapter 243,** increases the fine from $1,000 to $2,000 when an assault is committed against a parking control officer in the performance of his or her duty.

Excessive Taking Sentence Enhancement

Penal Code Section 12022.6, enacted approximately 30 years ago on July 1, 1977, is one of California's original determinate sentencing enhancements. The excessive takings enhancements are extremely important in the prosecution of "white-collar" crime in California. Without the enhancements, the penalties for the theft or destruction of property worth $2.5 million are the same as the theft of property worth $400.

By enacting the economic crime enhancements in Penal Code Section 12022.6 in 1977 and adding several amendments thereafter, the Legislature has expressed support for this statute. Undeniably, enhanced penalties are justified for a crime that involves the intentional taking, damage, or destruction of property valued over $50,000 during the commission or attempted commission of a felony. This statute is extremely useful to law enforcement for the purpose that

it was intended: to punish and deter criminals from causing significant economic damage during the commission or attempted commission of a felony.

AB 1705 (Niello), Chapter 420, extends until January 1, 2018 the sunset date on provisions of law that provide for additional terms of imprisonment, depending on the extent of the loss, for the taking or damaging of property in the commission or attempted commission of a felony, and raises the monetary threshold of the enhancements.

Inmates: Prohibited Items

Under current law, it is a felony to bring into a jail or prison certain types of contraband (alcohol and drugs, etc.). This provision was written before tobacco was banned from jails and prisons and prior to the advent of the cell phone.

According to the Los Angeles Sheriff's Department, "Alcohol, which is not illegal outside of custody, is illegal in a custodial environment. Tobacco should be considered in the same manner. Tobacco in the county jail is unauthorized but not illegal. However, in state prison, tobacco possession is illegal. We need to amalgamate these two different standards. Making tobacco illegal in all custodial environments is the answer.

"Any inmate who possesses a cellular phone or other wireless communication device in a custodial environment poses a tremendous security risk to that facility. The ability to communicate, unsupervised, and at any time with the outside world gives the inmate the ability to orchestrate an escape or conduct illicit business or activity.

"The security risks posed by wireless devices in a county jail are substantial. In addition to the risks created by unsupervised contact with the outside world, as stated above, if two or more inmates have the ability to communicate with such devices within the jail, they could monitor the movement of correctional officers or other inmates to coordinate assaults or other illegal activity within the institution."

SB 655 (Margett), Chapter 655, prohibits possession of tobacco products and wireless communication devices in a local correctional facility. Specifically, this new law:

- Provides that any person in a local correctional facility who possesses a wireless communication device including, but not limited to, a cellular telephone, page, or wireless Internet device, who is not authorized to possess that item is guilty of a misdemeanor punishable by a fine of not more than $1,000.

- States that any person housed in a local correctional facility who possesses any tobacco products in any form, including snuff products, smoking paraphernalia, any device intended to be used for ingesting or consuming tobacco, or any container or dispenser used for any of those products is guilty of an infraction, punishable by a fine not exceeding $250. The aforementioned shall only apply to persons in a local

correctional facility in a county in which the board of supervisors has adopted an ordinance or passed a resolution banning tobacco in its correctional facilities.

- Disperses money collected into the inmate welfare fund.

DNA

Crime Laboratories: Effective Delivery of Services

Existing law requires the Department of Justice (DOJ) to perform duties in the investigation, detection, detection, apprehension and prosecution or suppression of crimes. DOJ's Criminalistics Institute, Bureau of Forensic Services was established under existing law for specified purposes, including facilitating a comprehensive and coordinated approach to meet the high technology forensic science needs of crime laboratories operated the DOJ and local law enforcement agencies, providing a statewide upgrading of advanced laboratory services incorporating new and developing technologies, providing training and methodology development for all law enforcement agencies, and handling advanced casework laboratory referral services. The Institute is intended for use by state and local forensic scientists and law enforcement personnel.

There are currently significant questions regarding the structure, staffing, funding and workload priorities of California's forensic analysis delivery system. There are also concerns that existing law enforcement needs are not being met and that this situation will worsen if not addressed quickly. Forensic science is an increasingly vital element in the field of law enforcement. This highly specialized work includes at least 10 different specialties and is becoming more sophisticated as scientific knowledge increases.

There are no universal standards for certification of criminalists in California nor is there a mandatory requirement that all criminal laboratories meet minimum standards. Currently, California has 11 DOJ crime laboratories providing services to approximately 40 percent of California's law enforcement agencies. The remaining law enforcement agencies are served by at least 19 local criminal laboratories that fall under the command of a district attorney, sheriff, or police chief. The creation and growth of crime laboratories in California has evolved over decades without any statewide planning, review or coordination to maximize the capabilities and effectiveness of these critical assets.

AB 1079 (Richardson), Chapter 405, requires the DOJ to establish "The Crime Laboratory Review Task Force." Specifically, this new law:

- Provides that the Task Force shall be comprised of a representative of each of the following entities:
    - The DOJ.
    - The California Association of Crime Laboratory Directors.
    - The California Association of Criminalists.
    - The International Association for Identification.

- The American Society of Crime Laboratory Directors.
- The Department of the California Highway Patrol.
- The California State Sheriffs' Association (from a department with a crime laboratory).
- The California District Attorneys Association (from an office with a crime laboratory).
- The California Police Chiefs Association (from a department with a crime laboratory).
- The California Peace Officers Association.
- The California Public Defenders Association.
- A private criminal defense attorneys association.
- The Office of the Speaker of the Assembly.
- The Office of the President Pro Tempore of the Senate.
- Two representatives to be appointed by the Governor.

- Requires the Task Force to review and make recommendations as to how to best configure, fund, and improve the delivery of state and local crime laboratory services in the future. This new law specifies some of the issues that shall be addressed by the Task Force, including, but not limited to:
  - Whether the laboratories should be further consolidated; and, if so, who should have oversight of the crime laboratories.
  - Whether all laboratories should provide similar services.
  - How other states have addressed similar issues.
  - How to address the recruiting and retention problems relative to laboratory staff.
  - The future educational role, if any, for the University of California or California State University systems.
  - Whether workload demands are being prioritized properly and whether there are important workload issues that are not being addressed.

- If statewide standards should be developed for the accreditation of forensic laboratories, including minimum staffing levels; and, if so, a determination regarding which entity should serve as the sanctioning body.

- Requires that the first meeting of the Task Force shall occur no later than 60 days after the effective date of this new law and requires the Task Force submit a final report of its findings, on or before July 1, 2009, to the Department of Finance and the Budget and Public Safety Committees of the Assembly and Senate.

Sexually Violent Predators: DNA Testing

Under existing law, a sexually violent predator (SVP) has the ability to request post-conviction DNA testing without any notice to prosecutors. A SVP should have to follow the same procedures in current law that apply to all other incarcerated persons in order to have access to post-conviction DNA testing.

SB 542 (Romero), Chapter 208, requires that any right to DNA testing that may exist for a person subject to SVP provisions be in conformity with those provisions relating to incarcerated persons. Specifically, this new law:

- Provides that any right to DNA testing that may exist for a person subject to SVP provisions shall be in conformity with those provisions relating to incarcerated persons, and states that this right does not limit any other legal or equitable right to DNA testing.

- States it is not legislative intent to create any new right to DNA testing on prior cases, and it is legislative intent to provide for a procedure for DNA testing in the event existing provisions relating to SVPs are construed to provide a right to DNA testing on prior cases.

DOMESTIC VIOLENCE

Protective Orders

Under current law, the court having jurisdiction over a criminal proceeding may issue a protective order if there is a belief that harm to, or intimidation of, a witness or victim may occur because of his or her participation in the criminal proceeding. The length of the protective order depends on the criminal action for which it is issued or on the probation conditions of the defendant. Once the defendant has been sentenced, the protective order is no longer in effect and witnesses and victims may again be subject to harassment by the defendant.

Penal Code Section 1203.097 gives conditions of probation for a person convicted of domestic violence, which include a minimum of 36 months on probation, a criminal protective order protecting the victim, notice to the victim of the disposition of the case, and booking within one week if not already booked. However, if probation is interrupted for any reason (i.e., if the person convicted of domestic violence goes to jail for violating probation), these four conditions are rescinded, including the protective order. This results in the victim having to appear again in court to seek another protective order even when the same grounds for issuing the order still exist. Hence, there is a need for protective orders to remain in force even if probation is revoked, thereby protecting the victim from the defendant and avoiding additional court appearances in order to obtain a second protective order.

> **AB 289 (Spitzer), Chapter 582,** allows the court, upon a misdemeanor or felony conviction of willful infliction of corporal injury or stalking, to consider issuing an order restraining the defendant from any contact with the victim that may be valid for up to 10 years whether the defendant is sentenced to state prison, county jail, or if imposition of sentence is suspended and the defendant is placed on probation.

Inmate Release

Notification to victims, law enforcement and the receiving community of the pending release of sexually violent predators (SVPs) or high-risk sex offenders (HRSOs) into the community is a potentially significant public safety issue. The California High Risk Sex Offender and Sexually Violent Predator Task Force has recommended increased notification requirements prior to release of SVP or HRSO parolees.

> **AB 1172 (Runner), Chapter 571,** increases specified notification requirements related to parolees and SVPs. Specifically, this new law:
>
> - Increases the notification requirement to the immediate family of the parolee and county child welfare services upon the release of a parolee convicted of willful harm or injury to a child, assault of a child resulting in death, felony corporal punishment on a child, any sex offense committed upon a minor, or an act of domestic violence to 60 days prior to scheduled release.

- Increases the notification requirement to local law enforcement agencies upon the release of a parolee convicted of willful harm or injury to a child, assault of a child resulting in death, felony corporal punishment on a child, or any sex offense committed upon a minor to 60 days prior to scheduled release.

- Increases the existing period after receiving notification of a court's finding a SVP suitable for conditional release for the conditional release program director to make necessary placement arrangements to 30 days.

- Specifies that any written comment provided to the court by law enforcement for consideration at the hearing on conditional release of a SVP shall be filed with the court at the time the comment is provided to the Department of Mental Health (DMH) and shall identify any differences between the comments provided to the court and those provided to DMH.

- Specifies that any suggested alternate placement of a SVP location shall be filed with the court at the time that the suggested placement location is provided to DMH.

Domestic Violence

Under the California Constitution, there is a requirement that any statute that would exclude relevant evidence in any criminal proceeding be enacted by a two-thirds vote. Existing California law also provides to domestic violence victims a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a domestic violence counselor, as defined. Any expansion of the privilege would result in the exclusion of evidence in criminal proceedings and, therefore, requires a two-thirds vote.

Although California was one of the first states to enact a victim-counselor privilege, since its enactment in 1986 this privilege has never been significantly amended to keep pace with the growth and expansion of domestic violence programs that provide counseling and assistance to victims. These outdated definitions have caused confusion in the field of domestic violence counseling regarding which persons are subject to the privilege and regarding the type of information deemed privileged.

SB 407 (Romero), Chapter 206, revises the definition of "domestic violence counselor" and declares legislative intent to clarify and strengthen the applicable statutory definitions associated with the domestic violence victim-counselor privilege. Legislative findings acknowledge that since its enactment the domestic violence victim-counselor privilege provisions have not been amended to reflect the growth in the types of comprehensive domestic violence programs, causing confusion within the domestic violence community.

This new law makes conforming changes to various Evidence Code provisions, such as specifying that the privilege applies to written and oral communications. This new law also makes conforming changes Penal Code provisions regarding the presence of domestic violence advocates or support persons at any interview of the victim by law enforcement.

EVIDENCE

Extension of California's Wiretap Law

California's wiretap law is one of the most restrictive in the nation. Currently, California permits law enforcement's wiretapping of phones and other communication devices only by order of the Superior Court and only when used for violent felonies, gang crime and drug trafficking offenses involving large amounts of controlled substances.

Several provisions governing the process of electronic surveillance requests will expire on January 1, 2008.

> **AB 569 (Portantino), Chapter 391**, extends the sunset date regulating government interception of electronic communications from January 1, 2008 until January 1, 2012.

Crime Laboratories: Effective Delivery of Services

Existing law requires the Department of Justice (DOJ) to perform duties in the investigation, detection, detection, apprehension and prosecution or suppression of crimes. DOJ's Criminalistics Institute, Bureau of Forensic Services was established under existing law for specified purposes, including facilitating a comprehensive and coordinated approach to meet the high technology forensic science needs of crime laboratories operated the DOJ and local law enforcement agencies, providing a statewide upgrading of advanced laboratory services incorporating new and developing technologies, providing training and methodology development for all law enforcement agencies, and handling advanced casework laboratory referral services. The Institute is intended for use by state and local forensic scientists and law enforcement personnel.

There are currently significant questions regarding the structure, staffing, funding and workload priorities of California's forensic analysis delivery system. There are also concerns that existing law enforcement needs are not being met and that this situation will worsen if not addressed quickly. Forensic science is an increasingly vital element in the field of law enforcement. This highly specialized work includes at least 10 different specialties and is becoming more sophisticated as scientific knowledge increases.

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    - The Department of the California Highway Patrol.
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- Requires the Task Force to review and make recommendations as to how to best configure, fund, and improve the delivery of state and local crime laboratory services in the future. This new law specifies some of the issues that shall be addressed by the Task Force, including, but not limited to:

- Whether the laboratories should be further consolidated; and, if so, who should have oversight of the crime laboratories.

- Whether all laboratories should provide similar services.

- How other states have addressed similar issues.

- How to address the recruiting and retention problems relative to laboratory staff.

- The future educational role, if any, for the University of California or California State University systems.

- Whether workload demands are being prioritized properly and whether there are important workload issues that are not being addressed.

- If statewide standards should be developed for the accreditation of forensic laboratories, including minimum staffing levels; and, if so, a determination regarding which entity should serve as the sanctioning body.

- Requires that the first meeting of the Task Force shall occur no later than 60 days after the effective date of this new law and requires the Task Force submit a final report of its findings, on or before July 1, 2009, to the Department of Finance and the Budget and Public Safety Committees of the Assembly and Senate.

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FIREARMS

Firearms: Ballistics Registration

Under existing law, each sheriff or police chief executive must submit descriptions of serialized property, or non-serialized property uniquely inscribed, reported stolen, lost, found, recovered or under observation directly into the appropriate Department of Justice (DOJ) automated property system for firearms, stolen bicycles, stolen vehicles, or other property as the case may be.

SB 248 (Padilla), Chapter 639, authorizes local law enforcement agencies to have specified information related to firearms entered into the United States DOJ's National Integrated Ballistics Information Network to ensure that representative samples of fired bullets and cartridge cases, from test-fires recovered at crimes scenes and other firearm information needed to investigate crime are recorded, as specified.

GANG PROGRAMS

City Attorneys: Gang Injunctions

Under existing law, Penal Code Sections 11105 and 13300 provide detailed procedures for the lawful dissemination of state and local criminal history information. Listed among the persons entitled to receive such criminal history information are "prosecuting city attorneys", yet that term is not defined.

AB 104 (Solorio), Chapter 104, clarifies prosecuting city attorneys seeking civil gang injunctions and drug abatement orders, as specified, may have access the Department of Justice's state and local summary criminal history information.

Juvenile Justice: Gangs: Parenting Classes

Frequently, minors who engage in gang activities lack parental accountability for their actions. Parents allow their children to roam on streets for hours unsupervised, sometimes late at night. Many parents lack the guidance, communication, and mentoring skills needed to keep their children out of gangs.

AB 1291 (Mendoza), Chapter 457, provides that if a minor is found to be a delinquent ward of the court by reason of the commission of a gang-related offense and the court finds that the minor is a first-time offender and orders that a parent or guardian retain custody of that minor, the court may order the parent or guardian to attend anti-gang-violence parenting classes, as specified. Specifically, this new law:

- Requires that when a minor is found to be in violation of a first-time, juvenile gang-related offense and the parent or guardian retains custody, the court may order the parent or guardian to attend anti-gang violence parenting classes.

- Specifies that the Department of Justice (DOJ) shall establish a curriculum for the anti-gang violence classes, including, but not limited to, the following: (1) how to identify gang and drug activity in children; (2) how to communicate effectively with adolescents; (3) an overview of pertinent support agencies and organizations for intervention, education, job training, and positive recreational activities, including telephone numbers, locations, and contact names of those agencies and organizations; (4) notice of potential fines and periods of incarceration for the commission of additional gang-related offenses; (5) notice of potential penalties that may be imposed upon parents aiding and abetting crimes committed by their children; (6) meeting with families of innocent victims of gang violence; and, (7) meeting with the surviving parents of deceased gang members to share their experiences.

- Defines a "gang-related" offense as when the subject actively participates in a criminal street gang or commits crimes for the benefit of, at the direction of, or in association with a criminal street gang.

- Requires the parents or guardians pay for the classes. Parents may pay by monthly installments if the court finds that payment would cause undue financial hardship unless the parent has no ability to pay. This new law creates specified criteria for evaluating ability to pay.

Gangs: Office of Statewide Violence and Gang Prevention

Despite the relative decline in crime, many cities and regions have "hot spots" that exhibit extraordinary levels of gang-related violence. Communities across the state with gang and youth violence problems are trying to deal with these issues in various ways. Experts agree that the gangs in Los Angeles are not the same as gangs in Oakland, Fresno, or Sacramento. Prevention and intervention strategies need to reflect the diverse needs of communities and the populations they target as different communities are better at identifying their individual needs better than a single statewide entity.

AB 1381 (Nunez), Chapter 459, establishes the Office of Statewide Violence and Gang Prevention (OSVGP). The OSVGP shall be responsible for coordinating and assisting schools, parents, community groups and organizations, and law enforcement agencies, and other state and local entities with information and innovative strategies to help prevent violence and gang involvement, including the administration of state and federal grants relative to juvenile justice and street gang crime prevention.

City Attorneys: Monetary Damages

Under existing law, whenever an injunction is issued pursuant to existing law to abate gang activity constituting a nuisance, the Attorney General may maintain an action for money damages on behalf of the community or neighborhood injured by that nuisance.

SB 271 (Padilla), Chapter 34, authorizes any prosecuting city attorney regardless of the population size of the city to maintain an action for monetary damages in cases where gang activity has been found to constitute a nuisance, as specified.

HATE CRIMES

Juveniles: Youth Bill of Rights

Existing law authorizes a peace officer to take a minor that the officer has reasonable causes to believe is within the jurisdiction of the juvenile court into temporary custody without a warrant, as specified. Minors may be declared a dependent child or ward of the court, and held in the custody of the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Facilities. However, the rights of such detained minors are not specified in one, easily accessible law or regulation, creating the potential for abuse and harassment.

SB 518 (Migden), Chapter 649, establishes a Youth Bill of Rights, and provides that it is the policy of the State of California that all children confined in CDCR's juvenile facilities shall have certain, specified rights. Specifically, this new law includes, but is not limited to, the following rights:

- To live in a safe, healthy and clean environment
- To be free from physical, sexual, emotional or other abuse, or corporal punishment
- To receive adequate and healthy food and water, sufficient personal hygiene items and clothing that is adequate and clean.
- To receive appropriate medical, dental, vision and mental health services.
- To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of live or the prevention of serious bodily harm.
- To be free from searches for the purpose of harassment or humiliation or as a form of discipline or punishment.
- To maintain frequent and continuing contact with parents, guardians, siblings, children and extended family members, though visits, telephone calls and mail.
- To make and receive confidential telephone calls; send and receive confidential mail; and have confidential visits with attorneys and their representatives, ombudspersons and other advocates.
- To have fair and equal access to all available services, placement, care, treatment, and benefits; and not be subjected to discrimination or harassment on the basis of actual

or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

- To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.

- To participate in religious services and activities of the minor's choice.

- To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.

- To attend all court hearings pertaining to the minor.

- To have counsel and a prompt probable cause hearing when detained on probation or parole violations.

This new law requires the Division of Juvenile Facilities to post a listing of the Youth Bill of Rights in a conspicuous location in each of its facilities.

JUDGES, JURORS, AND WITNESSES

Witness Protection

The Witness Protection Program (WPP) provides funding to relocate witnesses who face imminent threats to their lives for testifying in serious criminal cases. Local prosecutors are charged with protecting witnesses' safety and are reimbursed by the state, through the Department of Justice, for authorized expenses related to witness protection. WPP is critical to a prosecutor's ability to investigate and convict serious and violent criminals, particularly gang-related violence.

SB 594 (Romero), Chapter 455, renames the WPP the "Witness Relocation and Assistance Program", and expands local reimbursable costs to include support, advocacy, and other services to provide for a witness' safe transition into a new environment.

Grand Juries

In some California counties, it is not uncommon for two grand juries, one civil and one criminal, to be impaneled at the same time. Under current law, the presiding judge of the superior court is charged with presiding over both grand juries. Los Angeles County makes frequent use of the grand jury system in criminal matters and has only one criminal grand jury, which has caused the existing grand jury to be over-burdened and unable to properly function.

SB 796 (Runner), Chapter 82, authorizes the presiding judge of the Los Angeles County Superior Court to order and direct the impanelment of an additional grand jury to hear criminal matters. Specifically, this new law:

- Allows, in Los Angeles County only, the presiding judge, or the judge appointed by the presiding judge to supervise the grand jury, to order and direct the impanelment of an additional grand jury upon the request of the Attorney General, the district attorney, or on his or her own motion.

- Provides that all persons selected for this additional criminal grand jury shall be selected at random from a source or sources reasonably representative of the population eligible for jury service in the county.

- This second criminal grand jury in Los Angeles County will allow the District Attorney's Office to present to the grand jury cases involving sexual assault of children, gang murders, and public corruption cases, as well as to conduct additional grand jury investigations.

JUVENILES

Child Abuse Reporting

In California, every year children are injured physically, emotionally or mentally. Court-appointed special advocates (CASA) are volunteers from the community who are specially trained and appointed by the juvenile/dependency court to build close relationships with, and serve as advocates for, children in foster care.

As a result of this court-appointed role, CASA program staff and volunteers have regular, unsupervised contact with abused or neglected children. Program staff also has court-ordered access to the children's confidential and highly sensitive case information. Thus, CASA volunteers and staff are screened by a thorough background investigation, which includes criminal history and Department of Motor Vehicle checks.

While CASA programs already access applicants' Federal Bureau of Investigation and DOJ records when screening prospective staff and volunteers, California law does not currently allow CASA programs to take the additional precaution of checking the Child Abuse Central Index (CACI) for allegations of abuse and neglect.

> **AB 369 (Solorio), Chapter 160**, requires the Department of Justice to make available to a CASA program conducting a background investigation of an applicant seeking employment or a volunteer position with the program information contained in the CACI regarding known or suspected child abuse.

Incarcerated Juveniles: High School Equivalency Certificates

Under existing law, incarcerated students with little or no chance to achieve a high school diploma are unable to work toward passage of the General Educational Development (GED) test within their regular course of study. Academic preparatory programs are only administered during evening or other after-school hours. Scheduling conflicts occurred with the security or care requirements of institutions, and no GED preparation was offered.

> **AB 622 (Mullin), Chapter 269,** authorizes the Superintendent of Public Instruction to grant a waiver to county offices of education to provide up to one hour of GED test preparation as part of the regular course of instruction during the regular school day to confined or incarcerated students who are at least 17 years of age and have insufficient units of high school credit to graduate by 18 years of age. This new law also requires the Superintendent to award a California high school equivalency certificate to a pupil who passes the GED test, is confined or incarcerated, and is 17 years old with fewer than 100 units of high school credit.

Minors: Fitness Hearings

As amended by Proposition 21 (March 8, 2000), Welfare and Institutions Code Section 707 contains a number of technical errors that should be corrected so that the section conforms to existing law and the intent of the voters.

AB 686 (Gaines), Chapter 137, deletes the language "16 years of age or older" in a statute related to circumstances in which a respondent is presumed not to be fit for juvenile adjudication and makes other technical, conforming corrections to provisions of Proposition 21.

Juvenile Justice: Gangs: Parenting Classes

Frequently, minors who engage in gang activities lack parental accountability for their actions. Parents allow their children to roam on streets for hours unsupervised, sometimes late at night. Many parents lack the guidance, communication, and mentoring skills needed to keep their children out of gangs.

AB 1291 (Mendoza), Chapter 457, provides that if a minor is found to be a delinquent ward of the court by reason of the commission of a gang-related offense and the court finds that the minor is a first-time offender and orders that a parent or guardian retain custody of that minor, the court may order the parent or guardian to attend anti-gang-violence parenting classes, as specified. Specifically, this new law:

- Requires that when a minor is found to be in violation of a first-time, juvenile gang-related offense and the parent or guardian retains custody, the court may order the parent or guardian to attend anti-gang violence parenting classes.

- Specifies that the Department of Justice (DOJ) shall establish a curriculum for the anti-gang violence classes, including, but not limited to, the following: (1) how to identify gang and drug activity in children; (2) how to communicate effectively with adolescents; (3) an overview of pertinent support agencies and organizations for intervention, education, job training, and positive recreational activities, including telephone numbers, locations, and contact names of those agencies and organizations; (4) notice of potential fines and periods of incarceration for the commission of additional gang-related offenses; (5) notice of potential penalties that may be imposed upon parents aiding and abetting crimes committed by their children; (6) meeting with families of innocent victims of gang violence; and, (7) meeting with the surviving parents of deceased gang members to share their experiences.

- Defines a "gang-related" offense as when the subject actively participates in a criminal street gang or commits crimes for the benefit of, at the direction of, or in association with a criminal street gang.

- Requires the parents or guardians pay for the classes. Parents may pay by monthly installments if the court finds that payment would cause undue financial hardship

unless the parent has no ability to pay. This new law creates specified criteria for evaluating ability to pay.

Juvenile Justice: Family Connection

Consistent family contact during incarceration has been shown to correlate with lower recidivism rates.

Studies show that the most frequently cited barriers to family contact were phone call cost and prison distance. Experts recommend that prisons implement the following policies: (1) house youth as close to their families and communities as possible; (2) remove barriers to contact during incarceration; (3) encourage communication in person, over the phone, and in writing; (4) establish programs that reinforce positive family relationships; and, (5) reduce the cost of phone calls.

AB 1300 (Price), Chaptered 458, makes specified revisions to the law pertaining to the Division of Juvenile Facilities (DJF) with respect to the following: (1) encourage ward communication with family members and others, and participation in rehabilitative programming, as specified; (2) require that a ward's proximity to family be considered in any transfers; (3) require that certain standards and requirements apply to ward telephone calls, as specified; and (4) make specified revisions concerning education and promoting family ties to existing codified legislative intent. Specifically, this new law:

- Adds "education" to the current list of programs offered by the Department of Juvenile Programs. Other programs currently codified in this section include training, treatment, and rehabilitative services. Also requires wards confined at the DJF to participate in programs which facilitate education, rehabilitation, and accountability to victims.

- States an additional purpose of the programs is to promote "family ties." This new law states that all facilities which require wards to provide lists of permitted visitors, calls, or correspondents to make the lists transferable to any other facility to which the wards are transferable. The purpose of this section is to promote continuity in family and community communication.

- Mandates DJF encourage wards to communicate with family members, clergy and others.

- States that a ward shall be permitted a minimum of four telephone calls to his or her family per month and prohibits restrictions on telephone calls as a disciplinary measure.

- Mandates maintenance of a toll-fee telephone number for families and other visitors to call for visiting times and updated on visiting availability. This new law also

requires notification of one or more persons permitted to visit a ward upon suspension of visitation rights if any of the persons call to ask.

Gangs: Office of Statewide Violence and Gang Prevention

Despite the relative decline in crime, many cities and regions have "hot spots" that exhibit extraordinary levels of gang-related violence. Communities across the state with gang and youth violence problems are trying to deal with these issues in various ways. Experts agree that the gangs in Los Angeles are not the same as gangs in Oakland, Fresno, or Sacramento. Prevention and intervention strategies need to reflect the diverse needs of communities and the populations they target as different communities are better at identifying their individual needs better than a single statewide entity.

AB 1381 (Nunez), Chapter 459, establishes the Office of Statewide Violence and Gang Prevention (OSVGP). The OSVGP shall be responsible for coordinating and assisting schools, parents, community groups and organizations, and law enforcement agencies, and other state and local entities with information and innovative strategies to help prevent violence and gang involvement, including the administration of state and federal grants relative to juvenile justice and street gang crime prevention.

Juveniles: Youth Bill of Rights

Existing law authorizes a peace officer to take a minor that the officer has reasonable causes to believe is within the jurisdiction of the juvenile court into temporary custody without a warrant, as specified. Minors may be declared a dependent child or ward of the court, and held in the custody of the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Facilities. However, the rights of such detained minors are not specified in one, easily accessible law or regulation, creating the potential for abuse and harassment.

SB 518 (Migden), Chapter 649, establishes a Youth Bill of Rights, and provides that it is the policy of the State of California that all children confined in CDCR's juvenile facilities shall have certain, specified rights. Specifically, this new law includes, but is not limited to, the following rights:

- To live in a safe, healthy and clean environment
- To be free from physical, sexual, emotional or other abuse, or corporal punishment
- To receive adequate and healthy food and water, sufficient personal hygiene items and clothing that is adequate and clean.
- To receive appropriate medical, dental, vision and mental health services.

- To refuse the administration of psychotropic and other medications consistent with applicable law or unless immediately necessary for the preservation of live or the prevention of serious bodily harm.

- To be free from searches for the purpose of harassment or humiliation or as a form of discipline or punishment.

- To maintain frequent and continuing contact with parents, guardians, siblings, children and extended family members, though visits, telephone calls and mail.

- To make and receive confidential telephone calls; send and receive confidential mail; and have confidential visits with attorneys and their representatives, ombudspersons and other advocates.

- To have fair and equal access to all available services, placement, care, treatment, and benefits; and not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

- To have regular opportunity for age-appropriate physical exercise and recreation, including time spent outdoors.

- To participate in religious services and activities of the minor's choice.

- To receive a quality education that complies with state law, to attend age-appropriate school classes and vocational training, and to continue to receive educational services while on disciplinary or medical status.

- To attend all court hearings pertaining to the minor.

- To have counsel and a prompt probable cause hearing when detained on probation or parole violations.

This new law requires the Division of Juvenile Facilities to post a listing of the Youth Bill of Rights in a conspicuous location in each of its facilities.

PEACE OFFICERS

Peace Officers: County Custodial Officers

Existing law specifies that any deputy sheriff in Los Angeles, Kern, Humboldt, Imperial, Mendocino, Butte, Plumas, Riverside, San Diego, Santa Barbara, Shasta, Siskiyou, Solano, Sonoma, Sutter, and Tehama Counties who is employed to perform duties exclusively or initially relating to custodial assignments is a peace officer whose authority extends to any place in California while engaged in the performance of his or her employment. Sheriff deputies in the aforementioned counties who are directed by his or her employing agency to perform law enforcement duties during a local state of emergency are also designated as peace officers. Designating peace officer status in these situations enhances the ability to preserve the public peace, health, and/or safety by creating the necessary flexibility in operating and staffing custodial facilities.

> **AB 151 (Berryhill), Chapter 84,** adds Glenn, Lassen, and Stanislaus Counties to the list of specified counties where deputy sheriffs assigned to perform duties exclusively or initially relating to custodial assignments or directed by his or her employing agency to perform law enforcement duties during a local state of emergency are defined as "peace officers whose authority extends to any place in California while engaged in the performance of his or her employment".

California Highway Patrol: Main Office

Existing law requires the physical location of the California Highway Patrol's (CHP) headquarters to be within the city limits of Sacramento. CHP activities and functions have grown to accommodate population growth, increased traffic, transportation of hazardous materials, and security for state property. In addition, the CHP has accommodated technical changes, computer facilities, and information retrieval systems, which have required more personnel. This has resulted in a decentralization of facilities due to space constraints, available lease space and budget limitations. At present, the CHP has five separate administrative offices in Sacramento and West Sacramento which is neither cost effective nor beneficial to all aspects of the CHP's operational functions.

> **AB 443 (Wolk), Chapter 9,** allows the CHP to maintain its main office within 20 miles of Sacramento.

License to Carry Concealed Firearm

Existing law generally prohibits the carrying of a concealed firearm, but contains specified exemptions from these prohibitions, including exemptions for active and honorably discharged peace officers. The content of a certificate issued to a retired peace officer verifying the officer's license is set forth in the Penal Code, and previously included the home address of the retired peace officer licensed to carry a concealed firearm.

AB 805 (Galgiani), Chapter 139, deletes the requirement that the peace officer's home address appear on the certificate. In view of the increase in high-tech and identify theft crimes, a retired officer's identification should be protected from potential retaliation. Further, since the card itself is issued by the agency from which the officer retired, that agency would have the most recent contact information for the officer. This new law requires specified revisions:

- A certificate for an officer retiring after January 1, 1981 shall be on a two- by three-inch card, bear the name and photograph of the retiree, date of birth, date of retirement, and the address of the agency from which the person retired.

- The certificate shall have the endorsement "CCW Approved" stamped on the certificate and the date the endorsement is to be renewed.

- The certificate shall not be valid as identification for the sale, purchase, or transfer of a firearm.

- A certificate for an officer retiring before January 1, 1981, as specified, is not required to contain an endorsement from the agency from which the officer retired.

- An officer who retired before January 1, 1981 is required to petition the issuing agency for the renewal of his or her privilege to carry a concealed weapon every five years. If the agency denies the officer's petition for renewal, the agency from which the officer retired shall stamp on the officer's identification certificate "No CCW Privilege."

Illegal Dumping Enforcement Officers

In California, illegal dumping enforcement officers do not have access to criminal history information and cannot check suspects and vehicles for warrants. An illegal dumping enforcement officer should be able to find out if he or she is apprehending a suspect wanted for a dangerous felony crime. Similar non-sworn investigators and inspectors employed by the state are granted this access for their criminal investigative duties.

AB 1048 (Richardson), Chapter 201, authorizes the Attorney General to provide state summary criminal history and subsequent arrest notification upon a showing of compelling need to illegal dumping enforcement officers in the performance of their official duties enforcing specific provisions of law relating to unlawful dumping.

Peace Officers Standards and Training

The Commission on Peace Officers Standards and Training (POST) should have a diverse membership that includes members from organizations having experience and expertise in

training law enforcement. Such members would provide a valuable perspective as they represent the entities directly affected by standards and regulations issued by POST.

> **AB 1229 (Carter), Chapter 409,** adds an additional rank-and-file peace officer to POST, and requires that the additional member be a peace officer with the rank of sergeant or below; have a minimum of five-years' experience, as specified; and have demonstrated leadership in a California-based law enforcement association that is also a presenter of POST-certified law enforcement training.

Reserve Housing Authority: Patrol Officers

Through omission, California law has excluded a public housing authority police department from being able to operate a reserve police officer program in accordance with California Penal Code Section 830.6.

California Penal Code Section 830.6 designates what authorities can appoint reserve peace officers. A housing authority police department was not included In Penal Code Section 830.6 and, therefore, could not appoint reserve officers.

> **AB 1374 (Hernandez), Chapter 118,** permits a housing authority to hire reserve patrol officers who would be classified as peace officers.

Peace Officers: Impersonation Uniforms

At present, a vendor of law enforcement uniforms is not required to verify that a person purchasing a uniform is an employee of the law enforcement agency identified on the uniform. This creates an opportunity for a person who is not a uniformed employee of a law enforcement agency to purchase a uniform and pose as police officer in order to commit crimes. The impetus for this law was a situation in Sacramento County where a man stated to a Sacramento police officer that he was a Sacramento deputy sheriff. An investigation revealed that the man was not employed as a deputy sheriff and yet he possessed a complete deputy sheriff's uniform. Prior to this investigation, for several months, there were instances where women were being stopped in Sacramento County by a man in a sheriff's deputy uniform. In some cases, the women were assaulted.

> **AB 1448 (Niello), Chapter 241,** requires a law enforcement uniform vendor to verify that a person buying a uniform is an employee of the law enforcement agency identified on the uniform, and makes it a misdemeanor punishable by a fine to fail to verify identity.

Assault: Parking Control Officers

Over the past several years, there have been an increased number of assaults on parking control officers by motorists who become angry and attack officers who are simply doing their jobs.

In San Francisco alone, there were 28 reported assaults on parking control officers, representing a more than 64-percent increase in the number of assaults reported in 2005. An individual who

attacks a parking control officer should be punished in the same manner as an individual who attacks a traffic control officer.

AB 1686 (Leno), Chapter 243, increases the fine from $1,000 to $2,000 when an assault is committed against a parking control officer in the performance of his or her duty.

Police Protection Districts

In addition to city police departments and county sheriffs departments, 15 special police protection districts (PPD) in California provide their own police protection services to PPD residences. Most PPDs that provide police services contract with the county sheriff. For example, the Broadmoor PPD maintains its own force of sworn police officers, performs identical police services, and has the obligations of a municipal police department. Broadmoor PPD officers take the same training, and are held to the same standards, as municipal police officers. The Broadmoor PPD has inadvertently been excluded from legislation granting powers to local law enforcement agencies.

SB 230 (Yee), Chapter 169, provides that a PPD shall have all the rights, duties, privileges, immunities, obligations, and powers of a municipal police department, and authorizes a district board to delegate to the chief of police the authority to appoint and dismiss district employees. Specifically, new law:

- Provides that a PPD's police department, police chief, and employees shall have all of the rights, duties, privileges, immunities, obligations, and powers of a municipal police department.

- Provides that a PPD board may delegate to the chief of police the authority to appoint and dismiss PPD employees.

- Clarifies legislative intent that any current reimbursements for state-mandated local programs to the Broadmoor PPD shall not be affected by this new law.

RESTITUTION

Victim's Compensation

Under current law, a "derivative victim" is limited to receiving $3,000 in mental health counseling benefits. This limit has been in effect for more than a decade. In light of cost-of-living and inflation factors, as well as increases in the number of mental health counseling sessions allowed by the California Victims Government Claims Board (CVGCB) under CVGCB's in-house guidelines, this $3,000 limit is inadequate. The CBGCB does allow for approval above the statutory maximum in cases of "dire or exceptional circumstances", but such approval is often difficult to obtain.

Under current law, a victim may request reconsideration of a VCGCB decision denying all or part of a claim; such a request must be filed within 60 days of the adverse decision. The VCGCB has discretion to grant reconsideration on its own motion. According to VCGCB's legal counsel, the VCGCB does not have the discretion to grant reconsideration more than 60 days after the VCGCB's decision even if the facts warrant such reconsideration. For example, if VCGCB staff is unable to locate a copy of a crime report (or if law enforcement or Child Protective Services refuse or fail to respond to a request for that report), a denied claim may not be reopened more than 60 days after the denial even if the crime report is later obtained. Also, if a VCGCB office or other VCGCB agent fails to file an appropriate appeal and the claim is denied, it is the VCGCB's position that it cannot grant reconsideration even if documentation supporting the claim is later obtained.

Additionally, under current law, the VCGCB has the discretion to adopt "service limitations" on mental health counseling for crime victims and their families. Many providers believe the limitations adopted by the VCGCB are inappropriate and too low. While the authority to impose these limitations has been in statute for more than a decade, the VCGCB has only used those limitations in the past several years. Prior to that time, claimants could count on the amount listed in the Government Code as the maximum available and could plan their therapy with their counselors accordingly. However the VCGCB's ability to change therapy limits at its discretion has caused much confusion and consternation among victims and providers.

SB 883 (Calderon), Chapter 564, increases the limitation on an award by the VCGCB for outpatient mental health counseling from $3,000 to $5,000. Specifically, this new law:

- Allows the following persons to be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed $5,000:
    - A derivative victim, provided that the victim's mental health counseling is necessary for the victim's treatment.

- A victim of unlawful sexual intercourse who is under the age of 16 and the defendant is 21 years of age or older

- Eliminates the VCGCB's authority to set service limitations for medical and mental health service reimbursement.

- Provides that the VCGCB may order reconsideration of its decision, in whole or in part, at any time.

SEX OFFENDERS

Inmate Release

Notification to victims, law enforcement and the receiving community of the pending release of sexually violent predators (SVPs) or high-risk sex offenders (HRSOs) into the community is a potentially significant public safety issue. The California High Risk Sex Offender and Sexually Violent Predator Task Force has recommended increased notification requirements prior to release of SVP or HRSO parolees.

AB 1172 (Runner), Chapter 571, increases specified notification requirements related to parolees and SVPs. Specifically, this new law:

- Increases the notification requirement to the immediate family of the parolee and county child welfare services upon the release of a parolee convicted of willful harm or injury to a child, assault of a child resulting in death, felony corporal punishment on a child, any sex offense committed upon a minor, or an act of domestic violence to 60 days prior to scheduled release.

- Increases the notification requirement to local law enforcement agencies upon the release of a parolee convicted of willful harm or injury to a child, assault of a child resulting in death, felony corporal punishment on a child, or any sex offense committed upon a minor to 60 days prior to scheduled release.

- Increases the existing period after receiving notification of a court's finding a SVP suitable for conditional release for the conditional release program director to make necessary placement arrangements to 30 days.

- Specifies that any written comment provided to the court by law enforcement for consideration at the hearing on conditional release of a SVP shall be filed with the court at the time the comment is provided to the Department of Mental Health (DMH) and shall identify any differences between the comments provided to the court and those provided to DMH.

- Specifies that any suggested alternate placement of a SVP location shall be filed with the court at the time that the suggested placement location is provided to DMH.

Sex Offenders: Placement

The High Risk Sex Offender Task Force was created by the Governor (Executive Order S-08-06) on May 15, 2006. The Task Force submitted 10 recommendations on August 15, 2006. The Task Force noted that Penal Code 3003 provides which victims have the right to insist that parolees not be placed within 35 miles of the actual residences of the victims. That provision applies to any victim of specified violent felonies. The crime of continuous sexual abuse of a child is not referenced in these provisions. Under existing law, a victim of lewd and lascivious

acts on a child has the right to insist that the offender not be placed within 35 miles of that victim's home, but a victim of continuous sexual abuse of a child does not have that same right.

> **AB 1509 (Spitzer), Chapter 573,** includes continuous sexual abuse of a child in the list of specified violent felonies which prohibit a parolee from being returned to a location within 35 miles of the actual residence of a victim or witness if the victim or witness has requested additional distance in the placement.

Sex Offenders: Registration

After passage of Proposition 83 (Jessica's Law, November of 2006), existing law now contains two Penal Code Sections 288.3 [one added by SB 1128 (Alquist), Chapter 337, Statutes of 2006, and one added by Proposition 83], each of which applies to persons who use the Internet to lure children for the purpose of engaging in sex and each of which is valid and enforceable.

> **SB 172 (Alquist), Chapter 579,** renumbers a provision of law related to communicating with a person under the age of 18 with the intent to commit a specified sex offense, as specified; and reorganizes and renumbers provisions of law relating to sex offender registration requirements contained in AB 1706 (Committee on Public Safety), which was vetoed.

SEXUALLY VIOLENT PREDATORS

Inmate Release

Notification to victims, law enforcement and the receiving community of the pending release of sexually violent predators (SVPs) or high-risk sex offenders (HRSOs) into the community is a potentially significant public safety issue. The California High Risk Sex Offender and Sexually Violent Predator Task Force has recommended increased notification requirements prior to release of SVP or HRSO parolees.

AB 1172 (Runner), Chapter 571, increases specified notification requirements related to parolees and SVPs. Specifically, this new law:

- Increases the notification requirement to the immediate family of the parolee and county child welfare services upon the release of a parolee convicted of willful harm or injury to a child, assault of a child resulting in death, felony corporal punishment on a child, any sex offense committed upon a minor, or an act of domestic violence to 60 days prior to scheduled release.

- Increases the notification requirement to local law enforcement agencies upon the release of a parolee convicted of willful harm or injury to a child, assault of a child resulting in death, felony corporal punishment on a child, or any sex offense committed upon a minor to 60 days prior to scheduled release.

- Increases the existing period after receiving notification of a court's finding a SVP suitable for conditional release for the conditional release program director to make necessary placement arrangements to 30 days.

- Specifies that any written comment provided to the court by law enforcement for consideration at the hearing on conditional release of a SVP shall be filed with the court at the time the comment is provided to the Department of Mental Health (DMH) and shall identify any differences between the comments provided to the court and those provided to DMH.

- Specifies that any suggested alternate placement of a SVP location shall be filed with the court at the time that the suggested placement location is provided to DMH.

Sexually Violent Predators: DNA Testing

Under existing law, a sexually violent predator (SVP) has the ability to request post-conviction DNA testing without any notice to prosecutors. A SVP should have to follow the same procedures in current law that apply to all other incarcerated persons in order to have access to post-conviction DNA testing.

SB 542 (Romero), Chapter 208, requires that any right to DNA testing that may exist for a person subject to SVP provisions be in conformity with those provisions relating to incarcerated persons. Specifically, this new law:

- Provides that any right to DNA testing that may exist for a person subject to SVP provisions shall be in conformity with those provisions relating to incarcerated persons, and states that this right does not limit any other legal or equitable right to DNA testing.

- States it is not legislative intent to create any new right to DNA testing on prior cases, and it is legislative intent to provide for a procedure for DNA testing in the event existing provisions relating to SVPs are construed to provide a right to DNA testing on prior cases.

VEHICLES

Vehicles: Abstracts

Under existing law, the clerk of a court in which a person was convicted of a specified code shall prepare, within 10 days after conviction and immediately forward to the Department of Motor Vehicles (DMV) at its office at Sacramento, an abstract of the record of the court covering the case in which the person was so convicted.

> **AB 421 (Benoit), Chapter 746**, reduces the time for the clerk of a court to forward abstracts of court records of convictions for Vehicle Code violations, as specified, to the DMV from ten days to five days.

Vehicles: Reckless Driving

Under existing law, whenever reckless driving of a vehicle proximately causes bodily injury to any person other than the driver, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months; by a fine of not less than $220 nor more than one $1,000; or by both the fine and imprisonment. AB 2190 (Benoit), Chapter 432, Statutes of 2006, made reckless driving and engaging in a motor vehicle speed contest that proximately causes great bodily injury (GBI) to another person an alternate felony/misdemeanor.

> **AB 430 (Benoit), Chapter 682,** makes cross-referencing amendments to various Vehicle Code sections to reflect changes made to reckless driving and engaging in a motor vehicle speed contest that proximately causes GBI; and re-enacts previously sunset provisions of law that authorize law enforcement to impound a vehicle for exhibition of speed, speed contest, or reckless driving in a parking facility, as specified.

Vehicular Manslaughter

AB 2559 (Benoit), Chapter 91, Statutes of 2006, made non-substantive, grammatical, and organizational changes to sections of the Penal Code relating to vehicular manslaughter. Those changes were made for the purpose of clarity and consistency and were accomplished by renumbering and rearranging various portions of the Penal Code. However, AB 2559 did not make conforming changes to other Vehicle and Penal Code sections that referenced any of the vehicular manslaughter sections.

> **AB 678 (Gaines), Chapter 747,** makes a series of technical conforming amendments to numerous code sections related to penalty enhancements, victim compensation, license suspension, license revocation, insurance rates, waiver of personal appearance through counsel, chemical test refusal, commercial licensing, prior offense enhancements, and vehicle impoundment. This new law makes technical corrections to conform 2006 legislative amendments to provisions relating to vehicular manslaughter.

Criminal Profiteering

In 1982, California enacted the "California Control of Profits of Organized Crime Act", which requires the forfeiture of profits acquired and accumulated as a result of specified criminal activity. According to the legislative history, this act was implemented partly to deter vehicle theft and improve the recovery of stolen vehicles; however, the unlawful taking or driving of a motor vehicle proscribed by Vehicle Code Section 10851 was never included in the list of offenses that constitute criminal profiteering activity.

AB 924 (Emmerson), Chapter 111, adds the offense of the theft of a motor to the definition of "criminal profiteering" activity for the purpose of allowing the State to seek criminal asset forfeiture from a convicted defendant.

Driving under the Influence of Alcohol

Operating a motor vehicle while under the influence of alcohol or drugs, or both; when the driver has a specified percent, by weight, of alcohol in his or her blood; or if the driver is addicted to the use of any drug is unlawful. Current law provides a rebuttable presumption that a person had a blood alcohol concentration (BAC) of 0.08 percent or more at the time of driving of the vehicle if the person had a BAC of 0.08 percent or more at the time of the performance of a chemical test within three hours after the driving. A separate provision makes it unlawful to engage in this conduct and to drive in an unlawful manner if that conduct causes bodily injury to a person other than the driver.

Many driving under the influence (DUI) offenders are placed on informal court probation pursuant to the Vehicle Code. The terms and conditions of such probation include, but are not limited to, probation of not less than three nor more than five years, and a requirement that the person shall not drive a motor vehicle with any measurable amount of alcohol in his or her blood.

AB 1165 (Maze), Chapter 749, creates a new Vehicle Code section that prohibits a convicted DUI offender from operating a motor vehicle with a BAC of 0.01 percent or higher as measured by a preliminary alcohol screening during the term or his or her probation. Specifically, this new law:

- Requires the Department of Motor Vehicles to immediately suspend the privilege of a person to operate a motor vehicle if the person was driving with a BAC of 0.01 percent or greater, as measured by a preliminary alcohol screening or other chemical test, while on probation for a DUI prior offense or DUI causing bodily injury.

- Makes it unlawful for a person who is on probation for specified DUI offenses to operate a motor vehicle with a BAC of 0.01 percent or greater as measured by a preliminary alcohol screening or other chemical test.

- Provides that if a person refuses to submit to, or fails to complete, a preliminary alcohol screening test, the Department of Motor Vehicles shall either suspend the person's privilege to drive for a period of one year or revoke the person's privilege to

drive a motor vehicle if the refusal occurred within 10 years of a conviction for specified DUI-related offenses.

- Provides that this new law shall become operative on January 1, 2009.

Vehicles: Registration

Currently, courts are unable to dispose of a significant portion of traffic cases resulting from the vehicle owner's failure to appear in response to an unsigned owner-responsibility "Notice to Appear" citation because, under current law, certain Vehicle Code violations can be the responsibility of a vehicle owner rather than (or in addition to) the vehicle's driver. Because this type of citation is issued in the owner's absence, the violator does not sign a "Promise to Appear" as is the case with most traffic citations. Typical examples occur at a truck scale, where a citation is issued because the vehicle is not properly equipped or is out of compliance with other regulatory provisions. These requirements are the responsibility of the owner, not the driver, and the law enforcement officer should issue the citation and mail a copy of the Notice to Appear to the owner.

AB 1464 (Benoit), Chapter 452, permits a court, when an owner or other person given a notice to appear does not appear in court or pay the applicable fine and penalties if an appearance is not required to notify the owner or other person by mail that registration may be precluded by that failure, as specified.

VICTIMS

Protective Orders

Under current law, the court having jurisdiction over a criminal proceeding may issue a protective order if there is a belief that harm to, or intimidation of, a witness or victim may occur because of his or her participation in the criminal proceeding. The length of the protective order depends on the criminal action for which it is issued or on the probation conditions of the defendant. Once the defendant has been sentenced, the protective order is no longer in effect and witnesses and victims may again be subject to harassment by the defendant.

Penal Code Section 1203.097 gives conditions of probation for a person convicted of domestic violence, which include a minimum of 36 months on probation, a criminal protective order protecting the victim, notice to the victim of the disposition of the case, and booking within one week if not already booked. However, if probation is interrupted for any reason (i.e., if the person convicted of domestic violence goes to jail for violating probation), these four conditions are rescinded, including the protective order. This results in the victim having to appear again in court to seek another protective order even when the same grounds for issuing the order still exist. Hence, there is a need for protective orders to remain in force even if probation is revoked, thereby protecting the victim from the defendant and avoiding additional court appearances in order to obtain a second protective order.

> **AB 289 (Spitzer), Chapter 582,** allows the court, upon a misdemeanor or felony conviction of willful infliction of corporal injury or stalking, to consider issuing an order restraining the defendant from any contact with the victim that may be valid for up to 10 years whether the defendant is sentenced to state prison, county jail, or if imposition of sentence is suspended and the defendant is placed on probation.

Animal Bites: Notification

When a person is bitten by a domesticated animal, existing law does not require the owner of the animal to provide any information regarding the animal's health status to the person who was bit. When two persons are involved in an automobile accident, they are required to share information and provide necessary assistance. Similarly, when a person is bitten by a domesticated animal, it is the victim's right to know the health status of the animal.

> **AB 670 (Spitzer), Chapter 136,** requires a person who owns or has custody of an animal and that person knows, or has reason to know, that the animal bit another person, he or she shall, as soon as is practicable, but no later than 48 hours thereafter, provide the other person with specified information. Specifically, this new law provides a violation is an infraction, punishable by a fine of not more than $100; and requires the animal's owner or custodian to provide the following information:
>
> - His or her name, address and telephone number.

- The name and license tag number of the animal.

- If the animal is required by law to be vaccinated against rabies, the person having custody or control of the animal shall, within 48 hours of the bite, provide the other person with information regarding the status of the animal's vaccinations.

- If the person having custody or control of the animal is a minor, he or she shall instead provide identification or contact information of an adult owner or responsible party.

For purposes of this law, it is necessary that the skin of the person be broken or punctured by the animal for the contact to be considered a bite.

Inmate Release

Notification to victims, law enforcement and the receiving community of the pending release of sexually violent predators (SVPs) or high-risk sex offenders (HRSOs) into the community is a potentially significant public safety issue. The California High Risk Sex Offender and Sexually Violent Predator Task Force has recommended increased notification requirements prior to release of SVP or HRSO parolees.

AB 1172 (Runner), Chapter 571, increases specified notification requirements related to parolees and SVPs. Specifically, this new law:

- Increases the notification requirement to the immediate family of the parolee and county child welfare services upon the release of a parolee convicted of willful harm or injury to a child, assault of a child resulting in death, felony corporal punishment on a child, any sex offense committed upon a minor, or an act of domestic violence to 60 days prior to scheduled release.

- Increases the notification requirement to local law enforcement agencies upon the release of a parolee convicted of willful harm or injury to a child, assault of a child resulting in death, felony corporal punishment on a child, or any sex offense committed upon a minor to 60 days prior to scheduled release.

- Increases the existing period after receiving notification of a court's finding a SVP suitable for conditional release for the conditional release program director to make necessary placement arrangements to 30 days.

- Specifies that any written comment provided to the court by law enforcement for consideration at the hearing on conditional release of a SVP shall be filed with the court at the time the comment is provided to the Department of Mental Health (DMH) and shall identify any differences between the comments provided to the court and those provided to DMH.

- Specifies that any suggested alternate placement of a SVP location shall be filed with the court at the time that the suggested placement location is provided to DMH.

Victim's Compensation

Under current law, a "derivative victim" is limited to receiving $3,000 in mental health counseling benefits. This limit has been in effect for more than a decade. In light of cost-of-living and inflation factors, as well as increases in the number of mental health counseling sessions allowed by the California Victims Government Claims Board (CVGCB) under CVGCB's in-house guidelines, this $3,000 limit is inadequate. The CBGCB does allow for approval above the statutory maximum in cases of "dire or exceptional circumstances", but such approval is often difficult to obtain.

Under current law, a victim may request reconsideration of a VCGCB decision denying all or part of a claim; such a request must be filed within 60 days of the adverse decision. The VCGCB has discretion to grant reconsideration on its own motion. According to VCGCB's legal counsel, the VCGCB does not have the discretion to grant reconsideration more than 60 days after the VCGCB's decision even if the facts warrant such reconsideration. For example, if VCGCB staff is unable to locate a copy of a crime report (or if law enforcement or Child Protective Services refuse or fail to respond to a request for that report), a denied claim may not be reopened more than 60 days after the denial even if the crime report is later obtained. Also, if a VCGCB office or other VCGCB agent fails to file an appropriate appeal and the claim is denied, it is the VCGCB's position that it cannot grant reconsideration even if documentation supporting the claim is later obtained.

Additionally, under current law, the VCGCB has the discretion to adopt "service limitations" on mental health counseling for crime victims and their families. Many providers believe the limitations adopted by the VCGCB are inappropriate and too low. While the authority to impose these limitations has been in statute for more than a decade, the VCGCB has only used those limitations in the past several years. Prior to that time, claimants could count on the amount listed in the Government Code as the maximum available and could plan their therapy with their counselors accordingly. However the VCGCB's ability to change therapy limits at its discretion has caused much confusion and consternation among victims and providers.

SB 883 (Calderon), Chapter 564, increases the limitation on an award by the VCGCB for outpatient mental health counseling from $3,000 to $5,000. Specifically, this new law:

- Allows the following persons to be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed $5,000:
    - A derivative victim, provided that the victim's mental health counseling is necessary for the victim's treatment.

- A victim of unlawful sexual intercourse who is under the age of 16 and the defendant is 21 years of age or older

- Eliminates the VCGCB's authority to set service limitations for medical and mental health service reimbursement.

- Provides that the VCGCB may order reconsideration of its decision, in whole or in part, at any time.

WEAPONS

License to Carry Concealed Firearm

Existing law generally prohibits the carrying of a concealed firearm, but contains specified exemptions from these prohibitions, including exemptions for active and honorably discharged peace officers. The content of a certificate issued to a retired peace officer verifying the officer's license is set forth in the Penal Code, and previously included the home address of the retired peace officer licensed to carry a concealed firearm.

AB 805 (Galgiani), Chapter 139, deletes the requirement that the peace officer's home address appear on the certificate. In view of the increase in high-tech and identify theft crimes, a retired officer's identification should be protected from potential retaliation. Further, since the card itself is issued by the agency from which the officer retired, that agency would have the most recent contact information for the officer. This new law requires specified revisions:

- A certificate for an officer retiring after January 1, 1981 shall be on a two- by three-inch card, bear the name and photograph of the retiree, date of birth, date of retirement, and the address of the agency from which the person retired.

- The certificate shall have the endorsement "CCW Approved" stamped on the certificate and the date the endorsement is to be renewed.

- The certificate shall not be valid as identification for the sale, purchase, or transfer of a firearm.

- A certificate for an officer retiring before January 1, 1981, as specified, is not required to contain an endorsement from the agency from which the officer retired.

- An officer who retired before January 1, 1981 is required to petition the issuing agency for the renewal of his or her privilege to carry a concealed weapon every five years. If the agency denies the officer's petition for renewal, the agency from which the officer retired shall stamp on the officer's identification certificate "No CCW Privilege."

Firearms: Consultant-Evaluators

Current California law does not allow a firearms manufacturer to loan a firearm to any person for the purpose of evaluating, studying, or testing a firearm. State law does not provide an exception to the retail transaction procedures required for individuals not engaging in the business of firearms sales, including, but not limited to, the one-handgun-a-month requirements, the Unsafe Handgun Act, and the Assault Weapons Act.

Federal law (Rev. Rule 69-248, and Industry Circular 72-23) allows manufacturers to loan firearms in California to persons that meet the criteria of an evaluator-consultant.

AB 854 (Keene), Chapter 163, exempts consultant-evaluators from the requirement that the Department of Justice (DOJ) keep a record of the loan of a firearm when the loan is processed through a licensed firearms dealer. Specifically, this new law:

- Defines a "consultant-evaluator" as a consultant or evaluator who, in the course of his/her profession, is loaned firearms from a federal licensee for his or her research or evaluation and has a current certificate of eligibility.

- Allows a firearm to be loaned to a consultant-evaluator by a licensed firearms dealer for a period of 45 days without DOJ keeping a record of the loan, a background check being conducted, or compliance with the 10-day waiting period.

- Allows a firearm that is not on the DOJ roster of handguns not found to be unsafe to be delivered to a consultant-evaluator by a licensed firearms dealer.

- Requires a consultant-evaluator to provide the dealer with a photocopy of government-issued identification, certificate of eligibility, and a letter from the licensed manufacturer detailing the business purposes for which the firearm is being loaned.

State legislative intent that DOJ follow specific Federal guidelines in determining who qualifies as a consultant-evaluator.

Firearms: Microstamping

In approximately 45% of all homicides in California, no arrest is made due to a lack of evidence. Of the approximately 2,400 homicides in California per year, over 60% are committed with handguns. Approximately 70% of new handguns sold in California are semiautomatics. Microstamping technology would provide law enforcement with an additional tool when investigating a crime, providing more leads in the first crucial hours after a homicide and, therefore, potentially leading to more convictions.

AB 1471 (Feuer), Chapter 572, creates the Crime Gun Identification Act of 2007 and commencing January I, 2010 expands the definition of "unsafe handgun", as specified, to include semiautomatic pistols not designed and equipped with a microscopic array of characters that identify the make, model, and serial number of the pistol etched in two or more places, as specified, on each cartridge case when the firearm is fired. Specifically, this new law:

- Requires the Department of Justice (DOJ) to certify that the technology used to create the imprint is available to more than one manufacturer unencumbered by any patent restrictions.

- Authorizes the Attorney General to approve another method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm as long as DOJ certifies that this method is also unencumbered by any patent restrictions.

- Requires DOJ to include notice that the method chosen is unencumbered by any patent restriction in any regulations adopted by the DOJ in implementing the provisions of this legislation.

- States the microscopic array of characters required by the provisions of this new law shall not be considered the name of the maker, model, manufacturer's number, or other mark of identification including any distinguishing number or mark assigned by the DOJ within the meaning of existing law.

Emergency Powers: Firearms

After recent national disasters (for example, Hurricane Katrina), some states have issued executive orders to disarm United States citizens and confiscate their legally owned firearms. Since then, several states have passed legislation to prevent state or local authorities from passing any order or decree that would allow for the confiscation of legally owned firearms simply because an area has been declared disaster.

Additionally, on October 4, 2006, President George W. Bush signed the Department Of Homeland Security Appropriations Act of 2007 (Public Law 109-295). Public Law 109-295 specifically prohibits the confiscation of otherwise legal firearms from law-abiding citizens during a state of emergency by any agent of the Federal Government or any department receiving federal funds; therefore, a state that does not prevent the confiscation of legally owned firearms in a disaster situation could lose disaster assistance funds.

It is essential to protect California's federal funding of disaster assistance by making sure California meets the requirements established by the Department Of Homeland Security Appropriations Act of 2007.

AB 1645 (La Malfa), Chapter 715, forbids the seizure or confiscation of any firearm or ammunition, or any order to that effect, by the Governor during a state of war emergency or a state of emergency from any individual who is lawfully carrying or possessing the firearm or ammunition. However, a peace officer who is acting in his or her official capacity may disarm an individual if the officer reasonably believes it is immediately necessary for the protection of the officer or another individual. The officer shall return the firearm to the individual before discharging the individual, unless the officer arrests

that individual or seizes the firearm as evidence pursuant to an investigation for the commission of a crime.

MISCELLANEOUS

Corrections: Female Inmates

As of January 31, 2007, in California 11,687 women were incarcerated and approximately 12,000 women were on parole. With the exception of two programs for pregnant or parenting female offenders, the vast majority of programs in women's prisons are identical to the programs offered in the men's prisons. A July 2005 article by the National Institute of Justice, "Re-Entry Programs for Women Inmates", reported the following, "For years, practitioners in just about every field took research conducted primarily with male subjects and applied the findings to women. Recently, however, researchers have begun to question the applicability of those findings to women - and the answer has been mixed . . . . One area in which the applicability of gender-neutral data has come under scrutiny is corrections. A recent report of the National Institute of Corrections states that at the same time that the number of female inmates has been increasing significantly, the criminal justice system has too often - and with difficulty - tried to implement with women inmates 'policies and procedures that . . . [were] designed for male offenders.' This practice may be ineffective because studies show that female inmates must overcome unique social, emotional, and physical challenges that impede their ability to integrate smoothly back into society following a period of incarceration."

Improving conditions and services for women in prison can substantially reduce the economic, social, and healthcare burden for parolees, their families, and the state. More importantly, such services will vastly improve a woman's chance of successful re-entry and reintegration into their communities. The state's ability and responsibility to show inmates and parolees better ways to live their lives free from crime and dangerous addictions not only improves their lives, but improves California communities.

AB 76 (Lieber), Chapter 706, requires the California Department of Corrections and Rehabilitation (CDCR) to undertake the following tasks related to female offenders:

- Create a "Female Offender Reform Master Plan" and present this plan to the Legislature March 1, 2008.

- Establish polices and operational practices designed to ensure a safe and productive institutional environment for female offenders.

- Contract with nationally recognized gender-responsive experts in prison operational practices staffing, classification, substance abuse, trauma treatment services, mental health services, transitional services, and community corrections to:

    - Conduct a staffing analysis of all current job classifications assigned to each prison that houses only females. CDCR shall provide a plan to the Legislature by March 1, 2009 that incorporates those recommendations and details the changes needed to address any identified unmet needs of female inmates; and,

- Develop programs and training for CDCR staff.

- Form a gender-responsive staffing pattern for female institutions and community-based offender beds.

- Generate a needs-based, case-and-risk management tool designed specifically for female offenders that includes, but is not limited to, an assessment upon intake and annually thereafter that gauges an inmate's educational and vocational needs, including reading, writing, communication, and arithmetic skills, healthcare needs, mental health needs, substance abuse needs and trauma-treatment needs. This tool shall be used to determine appropriate programming and as a measure of progress in subsequent assessments of development.

- Design and implement evidence-based, gender-specific rehabilitative programs and housing strategies, including "wraparound" educational, healthcare, vocational, substance abuse and trauma treatment programs designed to reduce female offender recidivism, including, but limited to, educational programs that include academic preparation in the areas of verbal communication skills, reading, writing, arithmetic, and the acquisition of high school diplomas and GEDs; vocational preparation including counseling and training in marketable skills; and job placement information.

- Establish a family service coordinator at each prison that houses only females.

- Prohibits CDCR from altering the use of any of the following facilities without first obtaining legislative approval: Valley State Prison for Women in Chowchilla, the Central California Women's Facility in Chowchilla, and the California Institution for Women in Corona.

- Provides that in considering whether or not to approve a proposed conversion, the Legislature shall take into account the institution's proximity to urban areas and access to community involvement and volunteer services, among other relevant criteria.

- Declares legislative intent that this new law accomplish the following:

    - Reduce crime and recidivism.

    - Improve access to rehabilitation.

    - Break the intergenerational cycle of incarceration.

    - Create a therapeutic environment within existing women's institutions.

    - Dedicate adequate space for educational and vocational programming needs.

City Attorneys: Gang Injunctions

Under existing law, Penal Code Sections 11105 and 13300 provide detailed procedures for the lawful dissemination of state and local criminal history information. Listed among the persons entitled to receive such criminal history information are "prosecuting city attorneys", yet that term is not defined.

> **AB 104 (Solorio), Chapter 104**, clarifies prosecuting city attorneys seeking civil gang injunctions and drug abatement orders, as specified, may have access the Department of Justice's state and local summary criminal history information.

Crimes: Military Decorations

At present, there is no state law prohibiting a person from falsely representing himself or herself, verbally or in writing, as having been awarded any decoration or medal from the Armed Forces of the United States (U.S.), the California National Guard, State Military Reserve, or Navel Militia. Current federal law, the Stolen Valor Act of 2005, imposes a term of six months of imprisonment and a maximum $5,000 fine for any false verbal, written or physical claim to an award or decoration authorized for armed service members but there is no corresponding state law.

> **AB 282 (Cook), Chapter 360,** creates an infraction for a person to falsely represent himself or herself, verbally or in writing, to have been awarded any decoration or medal from the Armed Forces of the U.S., the California National Guard, State Military Reserve, or Navel Militia; any service medals or badges awarded to the members of such forces; the ribbon, button, or rosette of any such badge, decoration or medal; or any colorable imitation of such item with the intent to defraud.

California Highway Patrol: Main Office

Existing law requires the physical location of the California Highway Patrol's (CHP) headquarters to be within the city limits of Sacramento. CHP activities and functions have grown to accommodate population growth, increased traffic, transportation of hazardous materials, and security for state property. In addition, the CHP has accommodated technical changes, computer facilities, and information retrieval systems, which have required more personnel. This has resulted in a decentralization of facilities due to space constraints, available lease space and budget limitations. At present, the CHP has five separate administrative offices in Sacramento and West Sacramento which is neither cost effective nor beneficial to all aspects of the CHP's operational functions.

> **AB 443 (Wolk), Chapter 9,** allows the CHP to maintain its main office within 20 miles of Sacramento.

Criminal Procedure: Expungement of Arrest Records

Existing law allows a person who is arrested but never tried or convicted to petition the arresting agency to have his or her criminal record expunged. The law enforcement agency can either find the person factually innocent; in which case, his or her record may be expunged or the agency can find that the law enforcement officer had probable cause to make the arrest and therefore deny the petition. In this instance, the district attorney is notified before the petition is heard in court but the arresting law enforcement agency is not similarly notified. Failure to notify both the district attorney and the arresting law enforcement agency denies law enforcement to present potentially relevant information as to why the petition should be denied; in some cases, such information is solely in the possession of law enforcement and the district attorney may not know of its existence.

AB 475 (Emmerson), Chapter 390, requires the arresting law enforcement agency to be notified when an individual petitions the court to have his or her arrest record expunged. This new law adds an extra measure of protection to the expungement process in assuring that the court hearing the petition has access to all available information regarding the petition when deciding whether expungement is the appropriate remedy. Specifically, this new law:

- Requires a person seeking to have his or her record expunged to serve a copy of the petition on the law enforcement agency having jurisdiction over the offense.

- Allows the law enforcement agency to present evidence at the hearing at the motion of the district attorney.

Minors: Fitness Hearings

As amended by Proposition 21 (March 8, 2000), Welfare and Institutions Code Section 707 contains a number of technical errors that should be corrected so that the section conforms to existing law and the intent of the voters.

AB 686 (Gaines), Chapter 137, deletes the language "16 years of age or older" in a statute related to circumstances in which a respondent is presumed not to be fit for juvenile adjudication and makes other technical, conforming corrections to provisions of Proposition 21.

Firearms: Consultant-Evaluators

Current California law does not allow a firearms manufacturer to loan a firearm to any person for the purpose of evaluating, studying, or testing a firearm. State law does not provide an exception to the retail transaction procedures required for individuals not engaging in the business of firearms sales, including, but not limited to, the one-handgun-a-month requirements, the Unsafe Handgun Act, and the Assault Weapons Act.

Federal law (Rev. Rule 69-248, and Industry Circular 72-23) allows manufacturers to loan firearms in California to persons that meet the criteria of an evaluator-consultant.

AB 854 (Keene), Chapter 163, exempts consultant-evaluators from the requirement that the Department of Justice (DOJ) keep a record of the loan of a firearm when the loan is processed through a licensed firearms dealer. Specifically, this new law:

- Defines a "consultant-evaluator" as a consultant or evaluator who, in the course of his/her profession, is loaned firearms from a federal licensee for his or her research or evaluation and has a current certificate of eligibility.

- Allows a firearm to be loaned to a consultant-evaluator by a licensed firearms dealer for a period of 45 days without DOJ keeping a record of the loan, a background check being conducted, or compliance with the 10-day waiting period.

- Allows a firearm that is not on the DOJ roster of handguns not found to be unsafe to be delivered to a consultant-evaluator by a licensed firearms dealer.

- Requires a consultant-evaluator to provide the dealer with a photocopy of government-issued identification, certificate of eligibility, and a letter from the licensed manufacturer detailing the business purposes for which the firearm is being loaned.

- State legislative intent that DOJ follow specific Federal guidelines in determining who qualifies as a consultant-evaluator.

Criminal Investigations: Unauthorized Disclosure

In the age of instant information, the pressure to "break a story" has raised concerns that news Web site employees will attempt to gain inside information by paying a peace officer, employee of a law enforcement agency, attorney employed by a governmental agency, or trial court employee to obtain the information prior to its proper legal, and timely release. Peace officers, employees of law enforcement agencies, attorneys employed by a governmental agencies and trial court employees must, therefore, avoid any conduct that might compromise their integrity and thus undercut the public's confidence in California's criminal justice system.

AB 920 (Brownley), Chapter 401, makes it a misdemeanor, punishable by a fine not to exceed $1,000, for any peace officer, employee of a law enforcement agency, attorney employed by a governmental agency, or trial court employee to disclose for financial gain, or solicit for financial gain, any information obtained in the course of a criminal investigation.

Criminal Profiteering

In 1982, California enacted the "California Control of Profits of Organized Crime Act", which requires the forfeiture of profits acquired and accumulated as a result of specified criminal

activity. According to the legislative history, this act was implemented partly to deter vehicle theft and improve the recovery of stolen vehicles; however, the unlawful taking or driving of a motor vehicle proscribed by Vehicle Code Section 10851 was never included in the list of offenses that constitute criminal profiteering activity.

> **AB 924 (Emmerson), Chapter 111,** adds the offense of the theft of a motor to the definition of "criminal profiteering" activity for the purpose of allowing the State to seek criminal asset forfeiture from a convicted defendant.

Fire Camps: Inmate Weight Training

California Department of Corrections and Rehabilitation (CDCR) inmates can be assigned to firefighting duties, but these same inmates are prohibited from using weight training equipment in order to gain the appropriate level of physical fitness required of firefighters. The prohibition against weight training applies to all inmates, including those who have a legitimate need to utilize weight training equipment because of their assignment to fire suppression efforts.

> **AB 932 (Jeffries), Chapter 737,** requires the CDCR Secretary to make weight training equipment available to inmates assigned to fire suppression efforts in accordance with the Penal Code section pertaining to exercise and weight training equipment and programs in correctional facilities. This new law will assist inmates and wards assigned to fire suppression duties in attaining the appropriate level of physical fitness required by allowing them access to weight training equipment that other firefighters use to maintain the required of physical fitness required of inmates assigned to a fire camp.

Corrections: Compassionate Release

The care of terminally ill prisoners comprises a disproportionate portion of the California Department of Corrections and Rehabilitation's (CDCR) budget. Far too many terminally ill and medically incapacitated inmates have died in correctional institutions even though they were eligible for, but never received, recall and re-sentencing consideration. The release of even a few terminally ill and permanently medically incapacitated inmates who no longer pose a threat to the public safety would save state taxpayers hundreds of thousands of dollars.

Medical release under these circumstances is both humane and cost-effective. A current procedure in the California Penal Code would be an important step toward establishing a procedure for early medical release, ensuring the process is effective and resulting in significant fiscal savings in the state's General Fund without reducing public safety.

> **AB 1539 (Krekorian), Chapter 740,** establishes a criteria and procedure for which a state prisoner may have his or her sentence recalled and be re-sentenced if he or she is diagnosed with a disease that would produce death within six months and whose release is deemed not to threaten public. Specifically, this new law:

- Allows the Secretary of the CDCR, the Board of Parole Hearings (BPH), or both CDCR and BPH to determine that a prisoner satisfies the necessary criteria and recommend to the court that the prisoner's sentence be recalled.

- Gives the court discretion to grant the recall and re-sentencing application upon finding a prisoner is medically incapacitated by a medical condition that renders him or her permanently unable to move without assistance; permanently unable to perform activities of daily living such as dressing, eating, ambulating; or maintaining personal hygiene without assistance or permanently ventilator-dependent.

- Requests physicians employed by CDCR who determine that a prisoner has six months or less to live to notify the chief medical officer of the prognosis. If the chief medical officer concurs with the prognosis, he or she shall notify the warden.

- Requires within 48 hours of receiving notification of the prognosis, the warden or the warden's representative shall notify the prisoner of the recall and re-sentencing procedures; and shall arrange for the prisoner to designate a family member or other outside agent to be notified as to the prisoner's medical condition and prognosis, and as to the recall and re-sentencing procedures. If the inmate is deemed mentally unfit, the warden or the warden's representative shall contact the inmate's emergency contact and provide the necessary information.

- Mandates the warden or the warden's representative to provide the prisoner and his or her family member, agent, or emergency contact updated information throughout the recall and re-sentencing process with regard to the prisoner's medical condition and the status of the prisoner's recall and re-sentencing procedures.

- Allows the prisoner or his or her family member or designee to independently request consideration for recall and re-sentencing by contacting the chief medical officer at the prison or the Secretary. Upon receipt of this request, the chief medical officer and the warden or warden's representative shall follow the necessary procedures.

- Provides that if the court grants the recall and re-sentencing application, the prisoner shall be released by CDCR within 48 hours of receipt of the court's order unless a longer time period is agreed to by the inmate. At the time of release, the warden or the warden's representative shall ensure that the prisoner has each of the following in his or her possession:

    - A discharge medical summary;

    - Full medical records;

    - State identification;

- Parole medications; and,

- All property belonging to the prisoner.

After discharge, any additional records shall be sent to the prisoner's forwarding address.

- Asks the CDCR Secretary to issue a directive to CDCR medical and correctional staff that details the guidelines and procedures for initiating the recall and re-sentencing procedure. The directive shall clearly state that any prisoner who is given a prognosis of six months or less to live is eligible for recall and re-sentencing consideration, and that a recall and re-sentencing procedures shall be initiated upon that prognosis.

Alcoholic Beverages: Fines

Alcohol is involved in nearly one-third of youth traffic fatalities. Underage alcohol use is also associated with violence, suicide, educational failure, and other problem behaviors. In addition to the negative consequences of youth who drink, the cost of underage drinking to society in the United States is over $58 billion annually or nearly $600 per American households each and every year.

AB 1658 (Runner), Chapter 743, increases fines for a person who furnishes, sells or gives alcohol to a person under the age of 21 and a person who is under the age of 21 and attempts to purchase alcohol from a licensee or his or her agent.

Sex Offenders: Registration

After passage of Proposition 83 (Jessica's Law, November of 2006), existing law now contains two Penal Code Sections 288.3 [one added by SB 1128 (Alquist), Chapter 337, Statutes of 2006, and one added by Proposition 83], each of which applies to persons who use the Internet to lure children for the purpose of engaging in sex and each of which is valid and enforceable.

SB 172 (Alquist), Chapter 579, renumbers a provision of law related to communicating with a person under the age of 18 with the intent to commit a specified sex offense, as specified; and reorganizes and renumbers provisions of law relating to sex offender registration requirements contained in AB 1706 (Committee on Public Safety), which was vetoed.

City Attorneys: Monetary Damages

Under existing law, whenever an injunction is issued pursuant to existing law to abate gang activity constituting a nuisance, the Attorney General may maintain an action for money damages on behalf of the community or neighborhood injured by that nuisance.

SB 271 (Padilla), Chapter 34, authorizes any prosecuting city attorney regardless of the population size of the city to maintain an action for monetary damages in cases where gang activity has been found to constitute a nuisance, as specified.

Corrections

In November 2003, the Little Hoover Commission released a report, "Back to the Community: Safe & Sound Parole Policies." The report indicates, "Unlike many other states, California has not developed a range of alternative sanctions for parole violators who do not require a return to prison. Moreover, California policy-makers have rejected many strategies that have been proven to work elsewhere and have been proposed by California's own parole authorities."

Revocation of parole and subsequent re-incarceration should be reserved for the state's most dangerous offenders. By increasing staff contact with parolees, providing more extensive services, and allowing greater flexibility in response to behavior, the state will have a system of supervision that is more capable of matching offenders with the proper formula for their individual success.

SB 391 (Ducheny), Chapter 645, authorizes the California Department of Corrections and Rehabilitation (CDCR) to create the Parole Violation Intermediate Sanctions Program (PVISP). Specifically, this new law:

- Authorizes CDCR to expand the use of parole programs or services to improve the rehabilitation of parolees, reduce recidivism, reduce prison overcrowding, and improve public safety through the use of intermediate sanctions for offenders who commit a violation of parole. The use of parole programs or services, in addition to supervision for any offender who is in need of services, is to reduce the parolee's likelihood to re-offend.

- Provides that the expansion of parole programs or services may include, but shall not be limited to, the following:

    - Counseling;

    - Electronic monitoring;

    - Half-way house services;

    - Home detention;

    - Intensive supervision;

    - Mandatory community service assignments;

    - Increased drug testing;

- Participation in one or more components of the Preventing Parolee Crime Program pursuant to existing law;

- Rehabilitation programs, such as substance abuse treatment; and,

- Restitution.

- Allows CDCR or the Board of Parole Hearings (BPH) to assign the programs or services specified to offenders who meet the criteria, the existing discretion given to the parole authority regarding the reporting by CDCR of parole violations or conditions of parole are not altered.

- Gives CDCR or BPH the ability to determine an individual parolee's eligibility for the parole programs or services by considering the totality of the circumstances, including, but not limited to, the instant violation offense, the history of the parole adjustment, current commitment offense, risk needs assessment of the offender, and prior criminal history, with public safety and offender accountability as primary considerations.

- States that BPH, in the absence of a new conviction and commitment of the parolee to the state prison under other provisions of law, may assign a parolee who violates a condition of his or her parole to the parole programs or services in lieu of revocation of parole.

- Permits BPH, as an alternative to ordering a revoked parolee returned to custody, to suspend the period of revocation pending the parolee's successful completion of the parole programs or services assigned by BPH.

- Bars CDCR from establishing a special condition of parole or assigning a parolee to the parole programs or services in lieu of initiating revocation proceedings if CDCR reasonably believes that the violation of the condition of parole involves commission of a serious or violent felony or involves the control, or use, of a firearm.

- Requires as a condition of parole that to participate in residential programs services shall not be established without a hearing by BPH in accordance with existing law and regulations of the parole authority; special conditions of parole providing an assignment to parole programs or services that does not consist of a residential component may be established without a hearing.

- Provides that expansion of parole programs or services by CDCR is subject to the appropriation of funding as provided in the Budget Act of 2007 and subsequent budget acts.

- Asks CDCR, in consultation with the Legislative Analyst's Office, contingent upon funding, to conduct an evaluation regarding the effect of the parole programs or

services on public safety, parolee recidivism, and prison and parole costs and report the results to the Legislature three years after funding is provided.

- Requests CDCR to report annually to the Legislature beginning January 1, 2009, regarding the status of the expansion of parole programs or services and the number of offenders assigned and participating in parole programs or services the preceding fiscal year.

- Authorizes CDCR to create the PVISP program. The purpose of PVISP shall be to improve the rehabilitation of parolees, reduce recidivism, reduce prison overcrowding, and improve public safety through the use of intermediate sanctions for offenders who violate parole. The PVISP program will allow CDCR to provide parole agents an early opportunity to intervene with parolees who are not in compliance with the conditions of parole and facing return to prison. The program will include key components used by drug and collaborative courts under a highly structured model, including close supervision and monitoring by a hearing officer; dedicated calendars; non-adversarial proceedings; frequent appearances before the hearing officer; utilization of incentives and sanctions; frequent dug and alcohol testing; immediate entry into treatment and rehabilitation programs; and close collaboration between the program, parole, and treatment to improve offender outcomes. The program shall be local and community based.

- Refers a parolee who is deemed eligible by CDCR to participate in the PVISP program, and who would otherwise be referred to the parole authority to have his or her parole for a parole violation by his or her parole officer for participation in the program in lieu of parole revocation. If the alleged violation of parole involves the commission of a serious felony, or a violent felony as defined under existing law, or involves the control of, or use of, a weapon, the parolee shall not be eligible for referral to the PVISP program in lieu of revocation of parole.

- Authorizes CDCR to establish local PVISPs that may have, but shall not be limited to, the following characteristics:

    - An assigned hearing officer who is a retired superior court judge or commissioner and who is experienced in using the drug court model and collaborative court model.

    - The use of a dedicated calendar.

    - Close coordination between the hearing officer, CDCR, counsel, community treatment and rehabilitation programs participating in PVISP and adherence to a team approach in working with parolees.

    - Enhanced accountability through the use of frequent PVISP appearances by PVISP parolees, at least one per month, with more frequent appearances in the

time period immediately following the initial referral to PVISP and thereafter in the discretion of the hearing officer.

- Reviews of progress by the parolee as to his or her treatment and rehabilitation plan and abstinence from the use of drugs and alcohol through progress reports provided by the parole agent as well as all treatment and rehabilitation providers.

- Mandatory frequent drug an alcohol testing.

- Graduated in-custody sanctions may be imposed after a hearing in which it is found the parolee failed treatment and rehabilitation programs or continued in the use of drugs or alcohol while in PVISP.

- A problem-solving focus and team approach to decision making.

- Direct interaction between the parolee and the hearing officer.

- Accessibility of the hearing officer to parole agents and parole employees as well as treatment and rehabilitation of providers.

- Upon successful completion of PVISP, the parolee shall continue on parole or be granted other relief as shall be determined in the sole discretion of CDCR or as authorized by law.

- Authorizes CDCR to develop local PVISP programs. The BPH is directed to convene in each county where the PVISPs are selected to be established all local stakeholders, including, but not limited to, a retired superior court judge or commissioner, designated by the Administrative Office of the Courts, who shall be compensated by CDCR at the present rate of pay for retired judges and commissioners; local parole agents and other parole employees; the district attorney, the public defender, an attorney actively representing parolees in the county and a private defense attorney designated by the public defenders association; the county director of alcohol and drug services, behavioral health, and mental health; and any other local stakeholders deemed appropriate. Specifically, persons directly involved in the areas of substance abuse treatment, cognitive skills development, education, life skills, vocational training and support, victim impact awareness, anger management, family reunification, counseling, residential care, placement in affordable housing, employment development and placement are encouraged to be included in the meeting.

- Requires CDCR, in consultation with local stakeholder, to develop a plan that is consistent with this new law. The plan shall address, at a minimum, the following components:

  - The method by which each parolee eligible for PVISP shall be referred to PVISP.

- The method by which each parolee is to be individually assessed as to his or her treatment and rehabilitative needs and level of community and court monitoring required, participation of counsel, and the development of a treatment and rehabilitation plan for each parolee.

- The specific treatment and rehabilitation programs that will be made available to the parolees and the process to ensure that they receive the appropriate level of treatment and rehabilitative services.

- The criteria for continuing participation in, and successful completion of, PVISP, as well as the criteria for termination from the program and return to the parole revocation process.

- The development of a PVISP team, as well as a plan for ongoing training in utilizing the drug court and collaborative court non-adversarial model.

- Gives the hearing officer in charge of the local PVISP to which the parolee is referred to determine whether the parolee will be admitted to PVISP:

  - A parolee may be excluded from admission to PVISP if the hearing officer determines that the parolee poses a risk to the community or would not benefit from PVISP. The hearing officer may consider the history of the offender, the nature of the committing offense, and the nature if the violation. The hearing officer shall state his or her findings, and the reasons for those findings, on the record.

  - If the hearing officer agrees to admit the parolee into PVISP, any pending parole revocation proceedings shall be suspended contingent upon successful completion of the PVISP as determined by PVISP hearing officer.

  - Participation in PVISP will not be construed to in any way affect the parolee's term of parole.

- Provides that special conditions of parole imposed as a condition of admission into PVISP consisting of a residential program shall not be established without a hearing in front of the hearing officer and regulations of BPH. A special condition of parole providing an admission to PVISP that does not consist of a residential component may be established without a hearing.

- States that implementation of the PVISP is subject to the appropriation of funding in the Budget Act of 2008 and subsequent budget acts.

- Allows CDCR, in consultation with the Legislative Analyst's Office, to conduct an evaluation, contingent upon funding, of the PVISP.

- A final report shall be due to the Legislature three years after funding is provided. Until that date, the CDCR shall report annually to the Legislature, beginning January 1, 2009, regarding the status of implementation of the PVISP and the number of offenders assigned and participating in PVISP in the preceding fiscal year.

Public Safety: Omnibus Bill

The annual omnibus bill makes technical changes and corrections to various provisions of code.

SB 425 (Margett), Chapter 302, makes a variety of corrections and minor amendments to various criminal justice-related statutes. Specifically, this new law:

- Clarifies that the DNA database, emergency services, and courthouse construction penalty assessments shall not be imposed upon any restitution fine, state or county penalty assessments; the state penalty surcharge; any parking offense; or any bail schedule adopted by the Judicial Council.

- Clarifies that the full $5 courthouse construction penalty assessment shall be collected on any portion of a fine or penalty less than a full $10 increment.

- Clarifies that the courthouse construction penalty shall be reduced by the amount the county board of supervisors elects to contribute to the local courthouse construction fund.

- Clarifies that specific penalty assessments shall not be imposed upon restitution fines.

- States legislative intent to reject the interpretation of the court in People v. Chavez (2007), 150 Cal App 4th 1288.

- Corrects a cross-reference in the Government Code which does not exist. The corrected code section relates to booking fees.

- Corrects a cross-referencing error in the Health and Safety Code related to illegal dumping enforcement officers.

- Corrects a cross-referencing error in the Penal Code which makes reference to the federal crime of mail fraud.

- Removes an unconstitutional provision from the Penal Code related to loitering.

- Corrects a cross-referencing error in the Penal Code related to vehicular manslaughter as it applies to waivers of appearance by defense counsel.

- Adds the recently adopted enhancement for trafficking on the grounds of a drug treatment center, detoxification facility, or homeless shelter to the list of specific enhancements compiled in the Penal Code.

- Corrects an incorrect reference related to the People's power to dismiss a case in the interest of justice.

- Corrects a grammatical error. This new law specifically changes the word "residential" to "the residence" due to the grammatical structure of the sentence.

Mental Competency: County Jails

Under existing law, a defendant deemed mentally incompetent must be treated in a state mental hospital. The definition of a "treatment facility" in the Penal Code should include a county jail or other county penal facility and the administration of medication should be consistent with a treatment plan ordered by a physician and deemed necessary by a physician.

SB 568 (Wiggins), Chapter 556, allows county jails to be used as "treatment facilities", as specified, designed to restore a criminal defendant's mental competency. Specifically, this new law:

- Defines "treatment facilities" to include a county jail for the sole purpose of administering antipsychotic medication pursuant to a court order. Upon the concurrence of the county board of supervisors, the county mental health director and the county sheriff, the jail may be used to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder pursuant to this new law. In the case of Madera, Napa, and Santa Clara Counties, the concurrence shall be with the board of supervisors, the county mental health director, and the county sheriff or the chief of corrections.

- States the maximum period of time a defendant may be given antipsychotic medications in a county jail "treatment facility" shall not exceed six months.

- States that the evaluating psychiatrist appointed by the court under existing law shall comment on whether it is medically appropriate to administer antipsychotic medication in the county jail.

Criminal History

Under current law, a comprehensive scheme exists to withhold and disclose summary criminal history information by prosecutors and law enforcement agencies. Summary criminal history information includes basic blotter sheet information such as a person's name, physical description, date of arrests, arresting agencies, booking numbers, charges, dispositions and other data. A recent Attorney General opinion has cast doubt on the ability of prosecutors to continue the practice to inform the public they serve about prosecutorial activities and the criminal justice system.

SB 690 (Calderon), Chapter 560, permits public prosecutors to provide criminal history information to scholars and journalists. Specifically, new law:

- Requires a written request made pursuant to the Government Code.

- States that the information shall be provided from the local summary criminal history.

- Requires the person making the request to declare that the request is made for a scholarly or journalistic purpose and would enhance public safety, the interest of justice, or the public's understanding of the criminal justice system.

- States that if the declaration contains willfully misstates any material facts, the declarant shall be subject to a civil penalty not exceeding $10,000. The action to enforce this penalty may be brought by any public prosecutor and shall be enforced as a civil judgment.

- Requires that the request notify the petitioner of the fine for providing willfully false information.

- Requires the Attorney General to provide criminal history information to city attorneys pursuing civil gang injunctions or drug abatement actions as specified.