

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

Fiscal Year 2016-17	Business Unit 5225	Department California Department of Corrections and Rehabilitations – Board of Parole Hearings	Priority No. 7
Budget Request Name 5225-053-BCP-BR-2016-GB		Program 4550 – ADULT CORRECTIONS AND REHABILITATION OPERATIONS – INSTITUTION ADMINISTRATION	Subprogram 4550051 – DIVISION OF ADULT INSTITUTIONS

Budget Request Description
 Board of Parole Hearings: Confidential File Summaries

Budget Request Summary

The California Department of Corrections and Rehabilitation, Board of Parole Hearings, is requesting \$705,000 General Fund and 5 permanent full-time positions to complete confidential file summaries in order to provide procedural due process to inmates.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed N/A	
Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO N/A	Date
For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date:		

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By <i>Sandra Maciel</i> Sandra Maciel	Date <i>1/4/16</i>	Reviewed By <i>Jason Lopez</i> Jason Lopez	Date <i>01.04.16</i>
Department Director <i>Jennifer Shaffer</i> Jennifer Shaffer	Date <i>1/4/16</i>	Agency Secretary <i>Scott Kernan</i> Scott Kernan	Date <i>1-4-16</i>

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA <i>[Signature]</i>	Date submitted to the Legislature <i>1/7/16</i>
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BCP Fiscal Detail Sheet

BCP Title: Board of Parole Hearings Confidential File Summaries

DP Name: 5225-053-BCP-DP-2016-GB

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Positions - Permanent	0.0	5.0	5.0	5.0	5.0	5.0
Total Positions	0.0	5.0	5.0	5.0	5.0	5.0
Salaries and Wages						
Earnings - Permanent	0	433	433	433	433	433
Total Salaries and Wages	\$0	\$433	\$433	\$433	\$433	\$433
Total Staff Benefits	0	250	250	250	250	250
Total Personal Services	\$0	\$683	\$683	\$683	\$683	\$683
Operating Expenses and Equipment						
5301 - General Expense	0	7	7	7	7	7
5302 - Printing	0	1	1	1	1	1
5304 - Communications	0	1	1	1	1	1
5306 - Postage	0	1	1	1	1	1
5320 - Travel: In-State	0	1	1	1	1	1
5322 - Training	0	1	1	1	1	1
5368 - Non-Capital Asset Purchases - Equipment	0	10	4	4	4	4
Total Operating Expenses and Equipment	\$0	\$22	\$16	\$16	\$16	\$16
Total Budget Request	\$0	\$705	\$699	\$699	\$699	\$699

Fund Summary

Fund Source - State Operations						
0001 - General Fund	0	705	699	699	699	699
Total State Operations Expenditures	\$0	\$705	\$699	\$699	\$699	\$699
Total All Funds	\$0	\$705	\$699	\$699	\$699	\$699

Program Summary

Program Funding						
4550051 - Division of Adult Institutions	0	705	699	699	699	699
Total All Programs	\$0	\$705	\$699	\$699	\$699	\$699

Analysis of Problem

A. Budget Request Summary

The CDCR, Board of Parole Hearings (Board) is requesting 5 positions (1 Correctional Counselor III [CCIII] and 4 Correctional Counselor Is [CCI]) to perform the following functions:

- Review information contained in the confidential portion of an inmate's central file prior to a Board hearing, and generate summaries of that information to be served on the inmate and his or her attorney prior to the hearing. Create summaries of confidential information to be used in parole suitability determination.
- Review pre-hearing documents submitted by inmates, their counsel, victims, and prosecutors to determine whether they contain confidential information and if this information should be redacted, placed in the confidential section of the inmate's central file, or both.

B. Background/History

The Attorney General has opined that it is a violation of due process of law for the Board to deny an inmate parole based on information contained in the confidential section of the inmate's central file without first notifying the inmate that the information exists and providing the inmate with a summary of the information. Several writs have been filed against the Board on this issue. The Division of Adult Institutions (DAI) is the custodian of records for inmate central files and only a CCIII or above can authorize information be deemed confidential and provide a summary of it. The Board and DAI need to determine what confidential information in an inmate's central file may be relevant to the Board and the Governor when determining the inmate's parole suitability, and provide the inmate and his attorney with a summary of it in advance of the hearing. The Board currently schedules 400-450 hearings per month throughout the state.

C. State Level Considerations

This proposal is necessary now due to the rise in litigation associated with perceived misuse of confidential information by the Board in parole hearings and by the Governor when reviewing parole decisions without first providing the inmate with notice and a summary of the information being used.

D. Justification

This proposal will create a meaningful process to summarize confidential information for inmates so that the information can continue to be used by the Board and the Governor to determine parole suitability. The Board is requesting 4 permanent, full-time CCIs to review the confidential section of the central file, provide a summary of relevant information as needed, and review potentially confidential information contained in documents submitted in advance of Board hearings. The Board is requesting 1 permanent, full-time CCIII to review the work of the CCIs, specifically their summaries of confidential information to be distributed to the inmate and his or her counsel, and to review, research, and provide final authorization for appropriate documents to be placed in the confidential section of the inmate's central file, as required by CDCR procedures.

E. Outcomes and Accountability

If approved, this proposal will allow CDCR and the Board to provide due process to inmates and avoid costly litigation associated with cases in which the Board denies an inmate parole in part or in whole, based on information contained in the confidential section of an inmate's central file.

Analysis of Problem

F. Analysis of All Feasible Alternatives

Alternative 1:

Approve the requested positions and funding.

Pros:

- Avoid costly litigation.
- Standardize and create a meaningful process to summarize confidential information for inmates so the information can legitimately be used by the Board and the Governor to determine parole suitability.

Cons:

- It will cost \$705,000 annually and establish 5 permanent positions.

Alternative 2:

Mandate that correctional counseling staff at all institutions review and summarize information contained in the confidential section of the inmate's central file in advance of every scheduled parole suitability hearing.

Pros:

- Would utilize existing staff.

Cons:

- The additional workload would have to be negotiated through labor negotiations.
- Overtime expenditures would increase if additional position authority is not obtained.
- Litigation costs would likely increase if confidential information is inconsistently redacted or summarized from one institution to another and documents are inconsistently processed from one institution to another.

Alternative 3:

Discontinue use of confidential information in parole suitability hearings and significantly limit documents that will be accepted in advance of a parole suitability hearing.

Pros:

- Would eliminate the need to summarize sensitive information in advance of a hearing and would significantly decrease the number of documents accepted in advance of a hearing.

Cons:

- Would compromise public safety by removing critical information (both confidential information and documents submitted by the inmate, prosecutor, victim, or the public) from the Board's consideration when determining if an inmate poses a current unreasonable risk to public safety.
- Would also deny the Governor from considering the same critical information when reviewing the Board's decisions.
- Would be problematic since the confidential section of the inmate's central file is considered part of the inmate's central file and the Board is required to consider the inmate's entire central file when determining parole suitability. It is likely that consideration of confidential information has been part of the Board's parole suitability hearing process for as long as the Board has been in existence so removing it would reverse a long-standing and important part of the Board's historical processes.

Analysis of Problem

- Could lead to additional litigation if CDCR refused to accept and review documents submitted by the inmate, prosecutors, victims, and the public (as mandated by the Board's governing statutes and regulations).

Alternative 4:

Prepare confidential file summaries using existing staff.

Pros:

- No costs incurred by CDCR.

Cons:

- The CDCR would need to reduce or eliminate other workload and re-direct correctional counselors and case records staff.

G. Implementation Plan

This proposal would be implemented as quickly as possible. Recruitment would be accomplished in advance, subject to budget approval so staff could begin work as soon as the budget is approved.

H. Supplemental Information

See Attachment A.

I. Recommendation

Based on the critical need for these pre-proceeding processes, the Board recommends approval of Alternative 1.

**BOARD OF PAROLE HEARINGS - PRE-PROCEEDING SATELLITE OFFICE STAFFING
FY 2016-17 FUNDING AND STAFFING NEEDS**

Attachment A
Rev. 8/5/2015

POSITIONS AND TASKS	ACTIVITY COUNTS	ACTIVITY MINUTES	MONTHLY HOURS	PERSONNEL YEARS
CORRECTIONAL COUNSELOR III (CCIII) <i>(1.3 Positions ~ 1.3 new positions)</i>			186.1	1.3
CCIII Workload Tasks			175.3	1.2
Parole Suitability Pre-Proceeding Process ~ Confidential Section of Cfile*			60.0	0.4
Review CCI Summary of Confid. Section of Cfile (60% of 3600 = 2160 / 12 mos)	180	15	45.0	
SOMs Entries Related to Confid. Section of Cfile Review (60% of 3600 = 2160 / 12 mos)	180	5	15.0	
Parole Suitability Pre-Proceeding Process ~ Additional Research & Follow-up**			26.3	0.2
Additional Research & Follow-up (25% of 2160 = 540 / 12 mos)	45	30	22.5	
SOMs Entries related to Additional Research & Follow-up (25% of 2160 = 540 / 12 mos)	45	5	3.8	
Parole Suitability Pre-Proceeding Process ~ Incoming Docs Review & CCI Recommendations***			89.0	0.6
Review & Approval of CCI Recommendation re: Incoming Docs (89% of est WKLD)(4800 x .89 = 4272 /12 mos)	356	15	89.0	
CCIII Meetings/Administrative Tasks			10.8	0.1
Bi-Monthly Chiefs Meeting with Executive Officer (2 hrs per meeting @ 2 times per mos = 240 mins per staff per	1.3	240	5.2	
Monthly Unit Meeting (1 hr per mos per staff)(60 min x 1.3 staff)	1.3	60		
Mandatory Training (40 hrs per yr = 2400 min / 12 mos = 200 min per mos)(200 min x 1.3 staff)	1.3	200	4.3	
Completion of Personnel Admin Paperwork (1x per mos @ 1 hr per staff)(1.3 staff)	1.3	60	1.3	
CORRECTIONAL COUNSELOR I (CCI) <i>(4.9 Positions ~ 4.9 new positions)</i>			646.1	4.4
CCI Workload Tasks			622.7	4.2
Parole Suitability Pre-Proceeding Process ~ Confidential Section of Cfile			415.0	2.8
Confidential Section Review by CCI (75% of est WKLD)(4800 x .75 = 3600 / 12 mos)	300	65	325.0	
Confidential Section Review by CCI, needing a summary* (60% of 3600)(3600 x .60 = 2160 /12 mos)	180	30	90.0	
Parole Suitability Pre-Proceeding Process ~ Incoming Docs Review***			207.7	1.4
Review of Incoming Docs & Redaction (89% of est WKLD)(4800 x .89 = 4272 / 12 mos)	356	25	148.3	
Review of Incoming Docs & Summary for CCIII (89% of est WKLD)(4800 x .89 = 4272 / 12 mos)	356	10	59.3	
CCI Meetings/Administrative Tasks			23.5	0.2
Monthly Unit Meeting (1 hr per mos per staff)(60 min x 4.4 staff)	4.4	60	4.4	
Mandatory Training (40 hrs per yr = 2400 min / 12 mos = 200 min per mos)(200 min x 4.4 staff)	4.4	200	14.7	
Completion of Personnel Admin Paperwork (1x per mos @ 1 hr per staff)(4.4 staff)	4.4	60	4.4	