

Funding and Oversight of State Developmental Centers

LEGISLATIVE ANALYST'S OFFICE

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Hon. Mark DeSaulnier, Chair

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Hon. Carol Liu, Chair





Organization of Handout



Organization of Handout. This handout provides the following:

- Overview of the Department of Developmental Services (DDS) programs.
- Background information on the Developmental Centers (DCs) program.
- Overview of funding for the DCs.
- Overview of the major entities that perform oversight of the DCs.



Overview of DDS Programs



Lanterman Act Is Basis for Providing Services. The Lanterman Developmental Disabilities Services Act of 1969 forms the basis of the state's commitment to currently provide about 254,000 developmentally disabled individuals with a variety of services that are overseen by DDS. The DDS provides community-based services as well as institutional care as follows:

- ***Community Services Program.*** About 252,000, or more than 99 percent, of DDS consumers receive services under the Community Services Program. These community-based services are coordinated locally through 21 nonprofit organizations called regional centers, which provide diagnosis, assessment of eligibility, and help consumers coordinate and access the services they need.
- ***Developmental Services Program.*** About 1,600, or less than 1 percent, of DDS consumers live in state-operated facilities known as DCs. The DDS operates four DCs (Fairview in Orange County, Lanterman in Los Angeles County, Porterville in Tulare County, and Sonoma in Sonoma County) and one smaller leased facility (Canyon Springs in Riverside County) that provide 24-hour care and supervision to their residents.



Background on the DC Program

- ☑ ***The DCs Provide a Wide Array of Services.*** All of the DCs provide residential and day programs, as well as health care and assistance with activities of daily living, education, and employment.

- ☑ ***The DC Population Has Steadily Declined in Recent Years.*** Between 2001-02 and 2011-12, the DC population has declined from 3,632 to 1,682—an average annual year-over-year decline of about 7 percent. This is consistent with federal and state policy to provide services to developmentally disabled individuals in the community rather than in an institutional setting. The following significantly contributed to the decline in the DC population over the last decade:
 - ***Closure of Agnews DC.*** The closure of Agnews DC (San Jose) was completed in 2009. Most of the Agnews residents were moved to community placements while some were moved to other DCs.

 - ***Planned Closure of Lanterman DC.*** The administration announced plans to close Lanterman DC in 2010. Between 2010-11 and 2011-12, the population of Lanterman DC has decreased from 311 to 254.



Background on the DC Program *(Continued)*

- ☑ ***The DCs Are Aging Facilities.*** With the exception of Canyon Springs, all of the DCs are more than 50 years old. In 1998, consultants from Vanir Construction Management, Inc. assessed the condition of the five DCs operating at that time and recommended hundreds of millions of dollars in capital outlay improvements, most of which have not yet occurred.

- ☑ ***Porterville DC Serves a Unique Population.*** The Porterville DC operates the secure treatment program to provide services to consumers who have (1) mild-to-moderate mental retardation, (2) have come into contact with the criminal justice system, (3) have been determined to be a danger to themselves or others and/or incompetent to stand trial, and (4) have been determined by the court to meet the criteria requiring treatment in a secure setting. The Porterville DC also serves developmentally disabled individuals who have not come into contact with the criminal justice system and do not require secure treatment.



Overview of DC Funding

Caseload and Costs Vary Significantly by Facility. As shown in the figure below (with 2011-12 data), caseload, staffing, and costs vary significantly among the four DCs and Canyon Springs.

2011-12 DC Costs and Other Data, by Facility					
<i>(Dollars in Millions)</i>					
	Caseload	Number of Personnel Years	Personnel Cost	Operating Expenses and Equipment Cost	Total Costs
Lanterman	271	1,051	\$86.2	\$9.5	\$95.7
Porterville	499	1,481	118.6	24.4	143.0
Sonoma	555	1,630	139.3	18.0	157.3
Fairview	377	1,263	101.4	13.5	114.9
Canyon Springs	50	122	9.6	3.9	13.5
6th Center ^a	—	25	8.5	44.2	52.7
Totals	1,752	5,572	\$463.6	\$113.5	\$577.1

^a 6th Center = funds that are not allocated to a specific developmental center at the beginning of the fiscal year and are generally allocated based on need at a later date.

Funding for \$550 Million DC Budget in 2012-13 Comes From Two Main Sources. Of the total of \$550 million budgeted in 2012-13 for the DCs, \$534 million, or 97 percent, comes from the following two sources: (1) General Fund (\$286 million), and (2) Federal Title XIX Medi-Cal reimbursements (\$248 million) that are passed through to DDS via the Department of Health Care Services—the single state agency recognized by the federal government for Medi-Cal to fund services provided to DC residents. Other funding for DCs comes from: (1) other reimbursements (\$15.3 million) for such services as the Community Industries Contract and rental income contracts, (2) grants (\$504,000 federal funds) for the Federal Foster Grandparent Program, and (3) State Lottery Education Funds (\$453,000).



Overview of DC Funding

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- ☑ ***There Are Two Main Drivers of DC Costs.*** There are two main drivers of DC costs: personnel and operating expenses and equipment (OE&E). Personnel costs refer to the cost of employees including wages, salary, and benefits. The OE&E refers to general expenses such as the cost of equipment, communication, electricity, and general use of the facility.
 - ***Some Costs Are Fixed, Others Are Variable.*** Some costs of operating a DC are fixed, meaning that they do not vary based on the number of residents. For example, costs for grounds maintenance that do not change due to increases or decreases in caseload are fixed costs. However, costs for staff that provide direct care to DC residents do vary based on the number of residents and how acute their needs are for services.



Overview of Major Entities That Perform DC Oversight



Several Entities in State Perform Oversight of DCs. Several entities in the state oversee various aspects of DC operations. The major oversight entities and their roles are as follows:

- ***DDS.*** The DDS has a general oversight role with DCs in that it hires all their executive level staff, helps manage their budgets, and creates rules and guidelines for how criminal investigations are to be handled. The DDS set forth a new set of reporting guidelines to handle abuse allegations in 2002 and recently updated them in 2012.
- ***Regional Centers (RCs).*** The state provides community-based services to consumers through 21 nonprofit corporations known as RCs, which are located throughout the state. While RCs do not have a direct oversight role over DCs, each DC consumer is also a RC consumer, so RCs are in effect responsible for monitoring each DC client's care. The RCs are responsible for eligibility determinations and client assessment, the development of an individual program plan for each consumer, and case management.
- ***California Department of Public Health (DPH).*** As a health care facility, DCs are subject to being licensed and certified by DPH. To be licensed means that the entity has permission to operate, and to be certified means it has met certain standards set forth by the state and/or federal government. The DCs are licensed and certified as Skilled Nursing Facilities, Intermediate Care Facilities, and General Acute Care hospitals. In addition to ensuring DCs comply with state laws and regulations, DPH communicates with the federal government to ensure that DCs are meeting the federal requirements to receive Medi-Cal funding.
- ***Disability Rights of California (DRC).*** The DRC—a nonprofit organization operating in the state—has traditionally taken the role of advocating on behalf of the developmentally disabled by ensuring their legal rights are protected. However, DRC also has federal authority to audit incidents at



Overview of Major Entities That Perform DC Oversight

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the DCs and has done so in the past. The DRC has brought class action lawsuits on behalf of the disability community. For example, in 2009 DRC litigated *Capitol People First v. DDS*, a case that required the state's large facilities, such as DCs, to inform consumers of various community living options and to allow those individuals to choose where they want to live in the community.

- **State Council on Developmental Disabilities (SCDD).** The SCDD was established by state and federal law as an independent agency whose purpose is to ensure that people with developmental disabilities receive the services they need. The SCDD produces a report called the State Plan, in which they state its intent and goals to improve the access and services for disabled individuals. In its recent State Plan, SCDD set a goal to be more involved in the planning and closure process of DCs and to work with state and federal entities in order to protect the rights of residents in DCs. Additionally, SCDD has an interagency agreement with DDS to deliver client rights and volunteer advocacy services for DC consumers. This allows them to have two staff members based at each DC to ensure consumer rights are protected and to ensure consumers get the services they need.



Federal Government Plays a Role in DC Oversight

- Under the Civil Rights of Institutionalized Persons Act (CRIPA), the U.S. Department of Justice (USDOJ) routinely conducts investigations in institutions that provide services for persons who are disabled or mentally ill. In 2004, USDOJ opened an investigation in Lanterman and subsequently in Agnews and Sonoma DCs. The USDOJ identified constitutional violations at Lanterman and similar violations at Agnews and Sonoma DCs. For example, USDOJ found that Lanterman failed to protect its residents from neglect and physical harm—a problem compounded by Lanterman's inadequate reporting and investigation system.



Overview of Major Entities That Perform DC Oversight

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Failure to Meet Federal Licensing Requirement Has Fiscal Implications

- In 1998-99, several DCs faced sanctions as a result of licensing surveys by the Department of Health Services and the federal Health Care Financing Administration. The surveys cited the DCs for numerous examples of inadequate care and understaffed residential and treatment units. As a result of the surveys, the state was unable to receive the federal match for Medi-Cal for individuals who were newly admitted to the two institutions. The state was instructed to increase staffing in all five of its institutions. In response, the state developed a four-year plan to increase staffing levels to help address federal concerns and to restore lost federal funding. In total, the four-year plan added approximately 1,700 positions at a cost of \$107 million (\$55 million General Fund).



Failure to Meet Federal USDOJ Requirements Has Fiscal Implications

- Although USDOJ has not brought any legal actions against DDS to bring the DCs into compliance with CRIPA, it has done so in respect of other California state institutions. For example, several of the state's mental hospitals recently operated under a CRIPA consent decree for several years. The 2012-13 budget plan includes approximately \$65 million related to the state mental hospital workload associated with this judgment. The DDS noted in its program budget estimate released in May of 2012 that it is engaged in settlement negotiations with USDOJ to resolve the investigations.