Email
Correspondence
Hello,

Attached please find a paper in support of my recent recommendation to the BRC related to removing SCC jail operations from the Office of the Sheriff.

Kind regards,
Is It Possible to Change the Administration of Santa Clara County’s Jail?

Background

Historically, the Office of the Sheriff (OS) has administered Santa Clara County’s jail. In June 1987, the County created the Department of Correction (DOC), and in June 1988, Measure A confirmed the establishment of the DOC which administered the County’s jails for the next 22 years.

Driven by cost-saving arguments, in June of 2010, the Board of Supervisors returned administration of Santa Clara County’s jails to the Sheriff, although some portions of jail administration (Laundry, Warehouse, and Food Services, and Administrative Booking) remained with the DOC.

Today, many in the community are calling for a change in jail administration, driven by what most acknowledge to be low staff morale and a general climate of fear, intimidation, and retribution among jail staff and inmates alike. As conveyed in two recent reports to the Blue Ribbon Commission on Jail Operations, and in a soon-to-be-released report of the County’s Human Relations Commission, trust in the current jail administration has all but disappeared.

From a layperson’s perspective, this paper explores the possibility of removing jail operations from the OS, consolidating all jail operations within the DOC, and with a new leader, to report solely and directly to the Board of Supervisors.

California Government Code regarding County Jails and their Administration and Operation

Section 23013 states that, “The board of supervisors ... may, by resolution, establish a department of corrections, to be headed by an officer appointed by the board, which shall have jurisdiction over all ... facilities, ... relating to institutional punishment, care, treatment, and rehabilitation of prisoners, including, ... the county jail and ... their functions and personnel.”

As well, section 26605 authorizes the sheriff [to] take charge of and be the sole and exclusive authority to keep the county jail and the prisoners in it. However, the section excludes counties where the sheriff was not in charge of the jail as of July 1, 1993. From June 1987 to June 2010, the County’s jails were administrated by the DOC, and therefore this section does not govern in Santa Clara County. This interpretation clearly must be vetted by the County Counsel.

California Penal Code regarding County Jail Personnel

California Penal Code Section 831(d) requires that there must be at least one peace officer on duty whenever 20 or more correctional officers are on duty in a jail. Interestingly, Section 830.1(c) defines as a peace officer a deputy sheriff whose exclusive duties relate to custody
assignments. This seems to mean that the OS must provide some personnel even if not overseeing either them or the jail. It is not clear, however, if other means exist, outside of the OS, to establish peace officers in the jail.

What does the Santa Clara County Charter say about Jail Administration?

As noted in the Background section above, voters ratified Santa Clara County Charter Section 509, in June, 1988, which allowed the Board of Supervisors to establish a Department of Correction and appoint a Chief Officer to operate the county jails.

Critically, Section 509 also affords the Board the “flexibility to address changed circumstances” and if determined by a 4/5ths vote of the Board, it is authorized to convey jurisdiction over all jail operations to the DOC, as the Board determines.

Conclusion

This brief review of state and local statutes affecting the administration of our County’s jails indicate that our Board of Supervisors has the authority, if it so chooses, to consolidate all jail operations within the Department of Correction. Because of PC Section 830.1(c), a Memorandum of Understanding with the OS governing the training and provision of deputy sheriffs (as peace officers) to the DOC would be required, unless another means of providing peace officers in the jail exists.

Afterward

Even with the establishment of an independent jail operation oversight body, many observers, including some personnel within the jail system, believe that improvements to the County jail sufficient to restore public trust cannot be accomplished with the current jail leadership. A way forward as suggested above, although clearly not easy, does exist.

With the impending retirement of the current Chief of Correction, a clear opportunity for jail operation improvement now exists. Essential in the restoration of trust is to identify a new Chief, one who brings a record of positive culture change, one who has demonstrated a willingness and capacity to replace fear with responsibility, indifference with attention, and intimidation with fairness.
References

California Government Code regarding Jails and their Oversight and Operation

Section 23013. The board of supervisors of any county may, by resolution, establish a department of corrections, to be headed by an officer appointed by the board, which shall have jurisdiction over all county functions, personnel, and facilities, or so many as the board names in its resolution, relating to institutional punishment, care, treatment, and rehabilitation of prisoners, including, but not limited to, the county jail and industrial farms and road camps, their functions and personnel.

Section 26605. Notwithstanding any other provision of law, except in counties in which the sheriff, as of July 1, 1993, is not in charge of and the sole and exclusive authority to keep the county jail and the prisoners in it, the sheriff shall take charge of and be the sole and exclusive authority to keep the county jail and the prisoners in it including persons confined to the county jail pursuant to subdivision (b) of Section 3454 of the Penal Code for a violation of the terms and conditions of their postrelease community supervision,

California Penal Code

Section 830.1(c) Any deputy sheriff ... of the Count[y] of ... Santa Clara, ... who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency.

Section 831(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

Santa Clara County Charter

ARTICLE V. - OFFICERS, BOARDS AND COMMISSIONS

Section 509. (ratified by the voters June 7, 1988)

The Board of Supervisors shall establish a Department of Correction and appoint a Chief Officer to operate the county jails for sentenced and unsentenced prisoners and to carry out such other functions of a Department of Correction as the Board determines.

The Board shall ensure that there are at all times an adequate number of trained law enforcement personnel who are authorized to use firearms to guard and transport prisoners.
The savings of public funds generated by creation and operation of the Department of Correction shall be used for other essential governmental services.

The Board shall honor the Memorandum of Understanding between the Deputy Sheriff's Association, Inc. of Santa Clara County and the County, effective September 21, 1987, and shall engage in good faith negotiations for successor memoranda. The Department of Correction and Chief Officer thereof shall report directly to the Board of Supervisors.

To continue to reduce the cost of operating the jails, to ensure that an adequate number of law enforcement personnel are authorized to carry firearms to guard and transport prisoners, and/or to provide flexibility to address changed circumstances, the Board may, by ordinance supported by a 4/5ths vote of the Board, convey jurisdiction over any or all jail operations to the Sheriff, to the Department of Correction, to any other department or agency that may lawfully exercise such jurisdiction, or to any of these entities jointly as the Board may determine.

Division A20 - LAW ENFORCEMENT AND SHERIFF'S DEPARTMENT
CHAPTER I. - IN GENERAL

Sec. A20-2. - Sheriff recognized; authority over personnel.
There is in the County and in the Department the position of Sheriff. Subject to provisions of the Charter and this Code, he shall have power to appoint, suspend or remove all assistants, deputies, clerks and other employees necessary to conduct the work of the Department.

Sec. A20-3. - Deputy Sheriffs transferred to the Department of Correction.
By special order executed on December 12, 1988, the Sheriff has maintained deputy sheriff status for all Deputy Sheriffs transferred to the Department of Correction on January 9, 1989. Each transferred Deputy Sheriff shall retain the title "Deputy Sheriff" in addition to any other title granted him or her. The Sheriff shall have no responsibility or liability in any respect for the training or supervision of those transferred Deputy Sheriffs. If any Correction Department Deputy Sheriff is dismissed, resigns or transfers from the Department of Correction, his or her Deputy Sheriff status under this section shall be automatically revoked. The Sheriff shall not be responsible for the receipt and keeping of prisoners in County jails nor be held accountable in any respect for the performance, on or off duty, of any employee of the Department of Correction, whether or not that employee is a Deputy Sheriff.

CHAPTER III. - DEPARTMENT OF CORRECTION
Sec. A20-38. - Department recognized.
(a) There is in the County a Department of Correction, hereafter in this chapter referred to as the Department.

(b) The Department is established by resolution of the Board of Supervisors pursuant to Government Code § 23013 and County Charter Section 509.

Sec. A20-39. - General responsibilities.
The Department shall have jurisdiction over all County functions, personnel and facilities relating to institutional punishment, care, treatment and rehabilitation of prisoners, both presentenced and sentenced, excluding the Mountain View Work Purlough Center, the Juvenile Hall and all juvenile ranches and juvenile residential facilities.

Sec. A20-40. - Director recognized.
There is in the Department a position of Director of the Department of Correction, hereafter in this chapter referred to as the Director, who shall be appointed by the Board of Supervisors.

Sec. A20-41. - Administrative duties and powers.
(a) The Director shall be in charge of and responsible for the correctional facilities under the jurisdiction of the Department and shall have custody of the presentenced and sentenced prisoners in them in accordance with such rules and regulations as prescribed by state law and by the Board of Supervisors.
(b) The Director shall be responsible and legally accountable for administering the County jail system and for performing those duties with respect to receiving and keeping prisoners in the jail and other related jail duties assigned to the Sheriff in general law. The Director also shall be responsible and legally accountable for all County employees assigned to the jail, including Deputy Sheriffs employed in the Department of Correction.
(c) The Director shall have administrative control over the Department and shall be responsible for the required annual itemized estimates of expenditures and revenues for the Department. The Director shall supervise the expenditure of all funds allocated to the Department and review expenditures of those funds.
(d) Correction Deputies, who by virtue of Section A20-3 of this Code remain Deputy Sheriffs, shall be subject to the sole and exclusive supervision, direction, training and appointment of the Director, who shall, in all instances and for all purposes, including respondeat superior be the principal officer in charge rather than the Sheriff. Training for Correction Deputies shall meet or exceed Peace Officer Standards and Training (POST) requirements for Deputy Sheriffs assigned to jail operations.

Sec. A20-42. - Direction over personnel.
Subject to the provisions of the Charter and this Code, the Director shall have the power to appoint, supervise, suspend or remove all assistants, deputies, clerks and other employees in the Department.

Sec. A20-42.1. - Status of Correction Deputies.
Notwithstanding any other provisions of law, the Deputy Sheriffs assigned to work in the Department of Correction (known as "Correction Deputies") under the direction of the Director also remain deputies of the Sheriff who has appointed such deputies to prevent and detect crime and generally enforce the laws of this State for the duration of their appointment as deputies. Such deputies have completed the qualifications of Penal Code § 832.6 and have the full powers and duties of a peace officer as provided by Penal Code § 830.1.
I would like to voice out on how. At Santa Clara county Inmates are greatful for being able to go to class and pass test for GED, it would mean so much to them if they could be photographed at time of graduation wearing their cap and gown receiving their Diploma certificate. This is a once of a life time event i believe to be a seed to progress.

Thank you for your time
Inmates are so thrilled to being. Able to pass GED test, they are pleased to share such an event with loved ones. The chance to wear cap and gown and receive their certificates, it would mean so much to them to be able to get photographed. This is a once in a life time event, is there a way to make it possible? A few parents and myself would really appreciate if they can get photographed.

Thank you so much.
US Mail
Correspondence
Good afternoon/morning,

- The Clerk of the Board’s Office received the attached correspondence. This document is being forwarded to you for appropriate action. The original document will be on file in the Clerk of the Board’s Records Unit for a maximum of 2 years from the date received.

Thank you,
Jessica Schmidt
Office Specialist III- Confidential Clerk
Clerk of the Board
70. W Hedding St 10th Floor
San Jose, CA 95110
Dear,

Blue Ribbon I was in the Jail the main jail from 10-1-2014 - Now 3-8-2016 and I was in 2-b main Jail Medical Unit, in 2015 Blue Ribbon At main Jail found over 15 Violations and Blue Ribbon sent a Civil Rights lawyer to speak to inmates in 2-b main Jail Santa Clara 885550 sandra st, San Jose CA 95110. They asked if I would sign off on law suit because jail wanted to Sedal out of Court I was told it would be done by the end of Feb, 2016 but the jail has moved almost every inmate involved in law suit out of main jail almost instantly within 3 day almost 30 inmates were moved I didn't get the Name of Civil Right lady who interviewed me but she had explain by Feb 2015 I would be signing off on the's law suit. Please Help me with case number and law firm name, involved in the law suit and please send Blue Ribbon Rep to speak to me about this matter.

Thank you
Now in Elmwood
M8-E
March 10, 2016

Santa Clara Blue Ribbon Jail Commission
Attention: La Doris Cordell, Honorable (Ret.) Judge
70 W. Hedding Street
San Jose, California 95110

RE: Elmwood Correction facility – Needed Changes

Dear Honorable Judge Cordell,

My name is [REDACTED], a retired figure skating professional teacher-instructor working with thousands of students over a thirty-five year period (35). I was also a ophthalmic technician and am currently an active published author (two children’s books).

I have lived in Santa Clara County for most of my life. My grandfather, [REDACTED], was one of the first mayor’s in Santa Clara. My late husband, [REDACTED], who passed away in 1993, served 20 plus years as a deputy District Attorney for Santa Clara County. During his time in the DA’s office, he was a prosecuting attorney and he worked some time in family support where his focus was helping abused children.

You’re Honor, I am writing this letter out of concern for the operations going on at Elmwood Correctional Facility. During the past year, on numerous occasions, my family and I visited this facility and an inmate populated there:

- The guards were very kind and worked hard
- The public bathroom was dirty, plus the locks were rusted and actually locked me and my daughter inside after using them on two occasions where once I had to yell to be removed
- On visiting the inmate at building M-5, I was shocked to see widespread filth with dirty floors, phones kept unclean; and the bathrooms were so filthy it made me sick.
  - Besides myself and family, how could anyone bring young children and expose them to these type conditions
- The inmate shared with me that they sometimes can’t get outside for fresh air because of understaffing
- The inmate offered he liked most of the guards and felt they did they did the best they could but simply did not have the numbers to offer effective fairness and change
- The inmate, a high school graduate, essentially, sat for one year in a cell with nothing to do. The main reason only three (3) offerings were available for inmates
  - Three R’s drug program
  - Art Program
  - GED for those who did not have their HS diploma
I have great concern for the health of all, starting with children and families. Further, the young adults incarcerated should have classes and education to help them prepare for release or further incarceration.

In Santa Clara County, we have removed all the places of entertainment, fun and fellowship that many of us enjoyed years back. In my opinion, an area this size, should be able to provide numerous activities for youth of all ages, who instead, with nothing to do, then choose to hang out in parks and the streets and find trouble.

The future of our city and country are the youth of today. We must make changes to give them hope and opportunity for tomorrow.

Sincerely,

CC:
SC County DA Mr. Jeff Rosen,
San Jose Mayor Sam Liccardo,
SC County Sheriff Ms. Laurie Smith
Hon. ha Doris Cordell

On January 25, 2013, I was found guilty by a jury of my peers for possessing narcotics with the intent to sell. On March 29, 2013, I was sentenced to a 12-year term to be served in county jail with a court order of no early release programs (NERP) and no Custodial Alternative Supervision Unit (CASU).

In doing so, the court made it impossible for me to be released before my term is served. Meaning that I must serve a total of 6 years in county jail without the option of transitioning to an alternative place of custody, the same option that state prisoners have. This traumatic experience has left me devastated. I feel that the court's order is cruel and unusual punishment. I was convicted for a non-violent drug offense, not for anything serious, sexual, or violent; therefore I question why the added punishment.

Was my 12-year prison sentence in county jail not sufficient that the court felt necessary to impose an order equivalent to no parole. I think the court sought to teach me a stern lesson. Although the court is aware that the sheriff was given sole discretion concerning whether to permit participation in the alternative custody program, it made no difference. The court disregarded Section 1170.06 and simply presumed jurisdiction.

Such actions has compelled me to take a stand and speak in opposition to what the court has done. I believe it is unethical for the court to ignore legislation by asserting its authority by precluding participation in the alternative custody program. CASU is the only relief available to AB-109 prisoners. I am astounded at the latitude in which the court uses.

Why deny me this invaluable rehabilitative program? Should I not be privileged to such relief? These are the questions that deserves an answer, considering county jail was not meant to house AB-109 prisoners in part because it lacks the essential programs to accommodate such inmates.

If you were to take a look into my history of grievances and letters to Elmwood's staff, you'd find a long list of complaints dating back to the beginning of 2015, concerning the absence of rehabilitative programs that offer relief. It is now 3 years later and still no programs. Although the law permits a number of programs for county jail pursuant to Section 4019, not one of them has been implemented.

The excuse that county jail wasn’t ready for realignment is several years old now. I believe
enough time has passed for the Department of Correction to implement programs that model that of the CDCR. Since it now house AB109 prisoners. In its mission statement, the Santa Clara County Department of Correction stated: “It is our expectation that every individual that is housed within the Department of Correction will return to his/her community better prepared to cope with society.”

I want the Department of Correction to know that after I’ve served the full 6 years here in county jail without the opportunity to earn relief, then expect no such thing. They should expect me to become institutionalized after so many years. However, the sheriff has the authority to rescind the court’s order that prohibits participation in the CASV because the court does not have jurisdiction.

Effective January 1, 2015, section 1170.06 provides a voluntary alternative custody program for specified persons serving county jail sentences. The program operates under the sole discretion of the sheriff, and is offered in lieu of the custody term ordered by the court, “notwithstanding any other law.” Because section 1170.06 allows the sheriff to make the decision whether to operate the program, it is not viewed as a legal entity by the court.
INMATE NAME: [redacted]
BOOKING NUMBER: [redacted]
HOUSING UNIT: [redacted]

DETAILED DESCRIPTION OF GRIEVANCE: I was sentenced to a 12 year prison term with a court order of no early release program. Because of this order, I am not eligible for the custodial Alternatives Supervision Program which is the only relief available to SRTU prisoners. It unfair that I am unable to earn relief. I am a state prisoner serving my time in county jail. I am asking to earn the same relief as a county prisoner. The law now permits such relief under Penal Code 4018.1, 4018.2, 4018.3, and 4018.4 as well as the expansion of 2-for-1 credits (33.3%) for all minimum custody inmates who are able to earn day-for-day credits (50%). Please consider that these programs were intended for SRTU.

WHAT SOLUTION ARE YOU RECOMMENDING?: Expand 2-for-1 credits and implement the above programs immediately.

Your Signature: [redacted]
Date: 7/30/15 Time: 2:20 AM/PM

SUPERVISING OFFICER’S STATEMENT (If applicable):

[ ] Resolved [ ] Refer to Level II

Officer’s Name: [redacted] Team: [redacted] Date: [redacted]

SUPERVISOR’S ACTION:

[ ] Resolved [ ] Refer to Level III

Supervisor’s Name: [redacted] Team: [redacted] Date: [redacted]

SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: [redacted]
Date: [redacted] Time: [redacted]

SUPPORT SERVICE RESPONSE: Unit Assigned: [redacted] Date Assigned: [redacted]
Date Due: 8/19/15
DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC! It has not been made clear to me regarding my order of no early release program (NERP). Am I to understand that my order precludes me from any relief that would release me from jail before my release date January, 2017? Please be advised I do not have an attorney that can answer any questions for me.

WHAT SOLUTION ARE YOU RECOMMENDING?: Please clarify for me. Thank you.

Your Signature: Date: 8/21/15 Time: 2:45 AM/PM

[ ] Resolved [ ] Refer to Level II

Officer’s Name: Team: Date:

SUPERVISOR’S ACTION:

[ ] Resolved [ ] Refer to Level III

Supervisor’s Name: Team: Date:

SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: Date: Time:

SUPPORT SERVICE RESPONSE: Unit Assigned: ADMIN BKG Date Assigned: 7/1/16

Date Due: 1/1/16
DETAILS OF GRIEVANCE. PRINT! BE SPECIFIC!: I have participated in several in-custody programs with certificates of completion in at least 4 of them. I've taken the initiative to reform myself upon my arrival to Elmwood with no order from the court to do so. To date, I have over 24 months of programming yet, I am unable to earn credits for my efforts. It is frustrating to serve out my 5 year term without any form of relief. Please be advised it has not been explained to me whether or not I am eligible to earn credits due to my court order of NERP, however, such an order should not apply for credits.

WHAT SOLUTION ARE YOU RECOMMENDING?: I respectfully recommend expanding milestone credits. Your Signature: 

(DO NOT WRITE BELOW THIS LINE. USE ADDITIONAL SHEETS IF NECESSARY)

RESPONDING OFFICER’S STATEMENT (Please print):

[ ] Resolved [ ] Refer to Level II

Officer’s Name: Team: Date: / / 

SUPERVISOR’S ACTION:

[ ] Resolved [ ] Refer to Level III

Supervisor’s Name: Team: Date: / / 

SHIFT LIEUTENANT REVIEW: [ ] Concur [ ] Reversed

SIGNATURE: Date: / / Time: 

SUPPORT SERVICE RESPONSE: Unit Assigned: Date Assigned: 9/1/15

Date Due: 9/1/15