

REPORT ON DETENTION FACILITIES In The Era of Reform



2017-2018 Civil Grand Jury
of Santa Clara County

May 21, 2018

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GLOSSARY and ACRONYMS

AB 109	Assembly Bill 109, Public Safety Realignment Act
AED	Automated External Defibrillator
BHS	Santa Clara County Behavioral Health Services
BHT	Behavioral Health Team (Multidisciplinary)
BOS	Santa Clara County Board of Supervisors
BRC	Blue-Ribbon Commission on Improving Custody Operations
BSCC	California Board of State and Community Corrections, state agency with mandate to inspect all local adult and juvenile detention facilities and ensure that local jail project meet Legislative mandates
CHF	Court Holding Facility
CIT	Crisis Intervention Training
DOC	Santa Clara County Department of Correction
HOJ	Hall of Justice (County's Main Criminal Courthouse)
Jail	A locked adult detention facility, which holds both non-sentenced and convicted adult criminal offenders
SO	Santa Clara County Sheriff's Office
Tasers®	A conducted energy device used by law enforcement as an alternative to conventional physical control tactics
THF	Temporary Holding Facility

SUMMARY

The 2017-18 Santa Clara County Civil Grand Jury's (Grand Jury) investigation into the condition and management of detention facilities within Santa Clara County (County) encompassed reviews of the Main Jail, Elmwood Facility, all the city Temporary Holding Facilities (THF), all the Court Holding Facilities (CHF) and the two juvenile detention facilities. An investigation of at least one County detention facility is required of the Grand Jury by Section 919(b) of the California Penal Code.

Wide-ranging Santa Clara County jail reform continues following the 2015 beating death of a mentally ill inmate in the Main Jail by three correctional deputies and their subsequent June 2017 conviction for second-degree murder. The incident led to multiple investigations into the operations of the County jails, including recommendations by a Blue-Ribbon Commission (BRC) appointed by the Board of Supervisors (BOS); by the 2015-2016 Civil Grand Jury; and by the National Institute of Corrections. Many positive changes and improvements have taken place or are in the works.

Still, difficult issues remain. The 30-plus-year debate about just who should run the jails — the Sheriff's Office (SO), Department of Correction (DOC) or some combination of both — continues, with newly added oversight possibly making the situation murkier. The Grand Jury has concluded that the Sheriff should have sole and exclusive authority over the entire jail system.

Morale among custody staff remains low amid recent reforms and long-standing Main Jail understaffing that results in mandatory overtime.

Meanwhile, though the trend in the Juvenile Justice System to reduce the number of youths detained in Juvenile Hall and the James Ranch has shown success, a recent rise in crime rates raises questions about the need for programs geared to repeat, serious offenders.

BACKGROUND

The California Board of State and Community Corrections (BSCC) establishes standards for the construction, operation and administration of local detention facilities administered by a county or city.

The BSCC defines a jail as a locked adult detention facility, which holds both non-sentenced and convicted adult criminal offenders. A THF holds inmates for up to 24 hours in a locked

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room or secure enclosure under the control of a peace officer or custodial officer, primarily for the temporary confinement of those recently arrested. A CHF, located in a courthouse, is used to hold inmates for a court appearance for as long as 12 hours.

The BSCC defines two types of detention facilities for juveniles: a Juvenile Hall, which is a locked facility that holds both non-sentenced and convicted juvenile offenders; and a Juvenile Camp, which is a minimum to maximum secure facility for sentenced juvenile offenders.

Santa Clara is one of only three California counties where the Sheriff does not have “the sole and exclusive authority to keep the county jail and the prisoners in it.”¹ Santa Clara, Madera and Napa counties operate pursuant to Government Code 23013, which lets a county’s board of supervisors establish a Department of Correction, headed by a board of supervisors appointee who has jurisdiction over all or some jail operations.

Prior to 1987, the SO operated the Santa Clara County jail system. Section 509 of the County Charter, adopted in 1988, created a Department of Correction to administer the County jails. Since then, multiple actions took place to address staffing the jails with armed peace officers.

In 2012, Section 509 was amended to give the BOS the authority by ordinance to delegate jail operations between the Sheriff, DOC and/or any other department or agency that may lawfully exercise such jurisdiction. By Ordinance #NS-300-901,² the BOS approved a new model that divided responsibility for jail operations between the SO and the DOC. That ordinance expires June 30, 2018, but the BOS in March paved the way to extend the ordinance through January 17, 2019, as the BOS deliberates changes in the organizational structure for the jails.

For now, the Santa Clara County DOC is responsible for food services, inmate laundry, warehouse operations and administrative booking. It is led by a Chief of Correction, who reports to the BOS.

The Sheriff is responsible for all other jail staff and functions. The Sheriff is the appointing authority for all badge staff (including correctional deputies and officers), custody support assistants, and all non-badge administrative staff who do not report to DOC. Currently, the Undersheriff, who has primary responsibility as the SO’s second-ranking officer, also serves as Chief of Correction. Thus, the Undersheriff reports directly to both the Sheriff and, as Chief

¹ Government Code 26605

² https://library.municode.com/ca/santa_clara_county/ordinances/code_of_ordinances?nodeId=793055

of Correction, to the BOS. The two positions are separate and independent. There is no requirement that they be held by the same individual.³

The County's four CHF's are operated by the SO and are located in the Hall of Justice, the Family Justice Center, the North County Courthouse and the South County Courthouse.

The cities of Campbell, Gilroy, Los Altos, Los Gatos, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara (2) and Sunnyvale have THF's. The city of Santa Clara has a THF in the police station and at the Levi's Stadium.

The County's two Juvenile facilities, Juvenile Hall and James Ranch, fall within the jurisdiction of the BOS-appointed Chief Probation Officer. Probation also decides which program a youth will be referred to after the Juvenile Justice Court orders the removal of a youth from their home and placement in a residential treatment program.

METHODOLOGY

The Grand Jury used the BSCC Jail Inspection Handbook for Grand Jurors to establish a guide for inspecting facilities. Grand Jury members toured facilities, reviewed documents and interviewed correctional deputies, supervisors, command staff and county officials. The Grand Jury did not interview adult inmates but did speak with youths housed in the county's two juvenile jail facilities. The Grand Jury adapted the Detention Facility Inspection Form found in the BSCC handbook to document each inspection.

The Grand Jury broke into teams to inspect the seven THF's and four CHF's, while most members inspected the Main Jail, Elmwood and the two juvenile facilities. Four Grand Jury members took a separate tour focused on the Eighth Floor Mental Health Unit of the Main Jail. The Grand Jury interviewed more than 60 jail and county officials, with some interviewed more than once. The Grand Jury also reviewed dozens of documents.

The Grand Jury paid particular attention to the Main Jail and the Elmwood complex, the County's primary jails, given the many reforms under way. Main Jail inmate Michael Tyree's death and the arrest of three correctional deputies on murder charges (and their subsequent convictions) sparked formation of the County's Blue-Ribbon Commission on Improving Custody Operations, which in April 2016 presented 122 recommendations to the BOS.

³See June 9, 2016, Office of the Santa Clara County Executive Memorandum, "Organizational Structure for the County Jails and Oversight Models" <https://www.sccgov.org/sites/scc/Documents/June-9-2016-Organizational-Structure-for-the-County-jails-and-Oversight-Models.pdf>

The 2015-16 Grand Jury also made recommendations in its report, “Addressing Mental Illness in Santa Clara County Jails.”⁴ At the same time, the SO already was making some changes, including independent technical assistance from the National Institute of Corrections, as requested by the Sheriff. The county Human Relations Commission, among other entities, also reviewed jail operations. In all, since the Tyree murder the BRC and 14 other sources have made more than 600 jail reform recommendations. Many have been enacted, are in the works or are pending further review. A few recommendations have been rejected.

DISCUSSION

Administration and Oversight of Santa Clara County Jails

In April 2018, the BOS established the Office of Correction and Law Enforcement Monitoring. This person or firm, not appointed as of this report, will be independent and report to the BOS on conditions in the jails. The BOS also authorized formation of a Community Correction and Law Enforcement Monitoring Committee for the jails to provide independent civilian oversight.

In creating the Monitoring position, the BOS implemented one of the two recommendations that the BRC highlighted as most needed. The other main recommendation is more controversial: that control of the jails be taken away from the SO. The Grand Jury spoke with members of the BRC and determined that this recommendation was near a 50/50 split.

The Grand Jury also spoke to many officials and staff involved in the County government and jail and law enforcement. Other than the split BRC, the Grand Jury did not find a single official or staff member who favors taking the jails away from the SO. Grand Jury interviewees called the SO-DOC hybrid system inefficient. Interviewees, though, generally were open to the new jail monitor and citizens oversight commission, saying this would provide some extra checks and balances for jail governance.

The BOS hired CGL Companies in December 2017 to review the organizational structure of County jails as part of the ongoing reform. CGL found “no specific operational benefits” to using the DOC, in its March 2018 report to the BOS.⁵ In terms of fostering communications

⁴ http://www.sccourt.org/court_divisions/civil/cgi/2016/MentalIllnessJail.pdf

⁵ <http://sccgov.iqm2.com/citizens/FileOpen.aspx?Type=1&ID=9195&Inline=True>

between the BOS and jail officials, CGL found the current system works because the Undersheriff also serves as Chief of Correction.

Still, CGL found that “the dual management structure muddies public perception of who is responsible for jail management, the Chief of Correction or the Sheriff. ... If such confusion exists, the ambiguity inherent in the dual management system could diminish organizational transparency and impair accountability.”

The BOS is moving to end the inefficient system, what one Supervisor in a BOS meeting labeled “fuzziness.”⁶ The BOS directed staff to look at preparing an ordinance to take the four jail support operations controlled by the DOC and give them to the Sheriff, thus giving the SO total control of the jails.

The BOS does not intend to abolish the DOC but instead wants to maintain a Chief of Correction reporting to the BOS, giving Supervisors what they have found to be valuable insight and a window into the jails. The BOS is debating how to set up a new structure that gives the SO control of the jails but lets the BOS retain the DOC and probably a Chief of Correction who would report to the BOS. It also is possible that the new Office of Correction and Law Enforcement Monitoring person would hold the position of Chief of Correction.

County jail consultant CGL recommends the BOS establish a professional correctional administrator position, appointed by and reporting to the Sheriff, to manage jail operations, but the consultant also recommends the BOS consider appointing that person as Chief of Correction. CGL also recommends, in what seems to be a contradiction, that the correctional administrator should have overall authority for direction of the jail system, in conjunction and cooperation with the Chief of Correction.

The conclusions were much the same in a separate March report on the County jails, this one by GAR Inc., Criminal Justice Consulting⁷, under a September 2017 contract with the SO.

GAR found the County, like some other counties nationwide, is faced with criminal justice reform that includes dealing with mental health issues. The challenges here are compounded by the organizational alignment between the SO and DOC, states this consultant.

GAR also found that the SO has been “listening, planning and making reforms at a highly-commendable pace” and completing the majority of 623 jail reform recommendations within two years.

⁶ <http://scgov.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=9800&Format=Minutes>

⁷ GAR report was on the agenda of the April 3, 2018, meeting of the County Board of Supervisors <http://scgov.iqm2.com/citizens/FileOpen.aspx?Type=1&ID=9243&Inline=True>

GAR notes the “unusual number of special interest groups with an interest in the jail” and observed that when “groups with a specific agenda become too involved in any business or operation, their voice can become overrepresented in the decision-making process.”

On the question of civilian oversight, GAR stated, “As often happens after a major negative event in a government agency, there was a call for independent oversight of the jail after the homicide. What seems to be missing in that conversation is the answer to the question, ‘What current problem will oversight solve?’”

GAR states that “for now, it may be wise to allow the sheriff to continue the reforms, begin to collect meaningful data, continue communication with inmates and demonstrate the agency’s commitment to transparency.” And then, “re-evaluate whether independent oversight would truly add value — and what value it would add.”

As this Grand Jury report was being completed, the situation remained fluid.

Improving Staffing Levels in Santa Clara County Jails

The Main Jail and Elmwood facilities are budgeted for more than 800 correctional deputies and officers, but for much of the past few years vacancies could number 100 or more. One result is mandatory overtime that is among the principal reasons for poor staff morale.

In 2017, correctional deputies and supervisors in the Main Jail worked a total of 270,476 hours of overtime, or about seven hours per week per deputy and officer, at Elmwood they worked 136,635 hours of overtime, or roughly equivalent to 68 additional officers.

Many counties face a shortage of custody staff, but Santa Clara County’s operational shortage has persisted for decades. The Grand Jury, however, learned that the SO has taken steps to more quickly identify and hire qualified applicants. The steps taken include using social media, websites and other advertising venues to identify candidates; and working with the County Employee Services Agency to certify SO staff to proctor the written test required of applicants.

Also, the SO recognized that a lack of medical screeners and polygraph administrators slowed down the background investigation process. The SO contracted with an additional medical provider to provide medical screenings. The SO purchased polygraph exam equipment and chose two deputies to attend training to become polygraph

administrators. The SO also contracted with an additional polygraph exam vendor to speed up these exams.

As of April 8, 2018, there were 28 correctional deputy vacancies, fewer than usual in recent years. There also are an additional 21 correctional academy cadets scheduled to graduate June 14, 2018.

Impact of Realignment on County Jail Population

In response to Federal Court orders to reduce state prison populations, California in 2011 enacted Assembly Bill 109 (AB 109), the Public Safety Realignment Act, which redirects sentenced criminals from state prisons to county jails.⁸

The presence of AB 109 felons, who would have been serving sentences of up to 10 years in state prison whereas almost all county jail inmates serve less than a year, presents a new challenge. County jails are not designed for inmates serving long sentences and do not offer the array of programs and activities found in state prisons.

AB 109 has had a big impact on County jails. GAR, in its report to the BOS, reports that the annual monthly average number of inmates housed in County jails has declined from about 4,400 in 2007 to 3,400 in 2017, a trend helped by changes in the law that reclassified some felonies to misdemeanors. But, states GAR, the average length of stay for inmates in County jails has nearly doubled to 200 days in 2017 from 107 days in 2007, in part due to the longer terms of AB 109 inmates.

Litigation challenging solitary confinement prompted a revision of the inmate classification system from the former “attitude and observation” subjective type to an objective point-based system resulting in fewer inmates placed in solitary confinement. AB 109 inmates may not be placed in more restrictive housing solely because of their status. As a consequence, custody staff are often unable to segregate the sophisticated, manipulative, more experienced, AB 109 inmates from those who are new offenders or more vulnerable. The GAR report finds an increase in inmate assaults since 2015, which in part may be due to comingling AB 109 inmates with the other inmates.

⁸ See Grand Jury Report, 2011-12, AB 109/AB 117 Realignment: Is Santa Clara County Ready for Prison Reform? http://www.sccscourt.org/court_divisions/civil/cgj/2012/CriminalRealignment.pdf

Main Jail (Inspected Nov. 8, 2017 and Dec. 4, 2017)

The Santa Clara Main Jail, at 150 W. Hedding St. near downtown San Jose, is divided into Main Jail North and South. Main Jail South, built in 1956, now gets relatively little use. The facility is showing its age, with graffiti in some areas. Main Jail North, which opened in 1989, is clean and the Grand Jury observed no graffiti.

The County plans to begin constructing a new jail that will replace Main Jail South. The seven-story, 243,000-square-foot facility will house as many as 535 inmates, fewer than the current Main Jail South's rated capacity of 674. The new facility will focus on accommodating mentally ill inmates as well as on transitional services designed to help ease the path for inmates when they are released from custody. Treatment for the mentally ill and transitional services were identified as critical areas in the current jail reform efforts.

The reduced capacity is in keeping with state and national trends that favor shorter sentences and more diversionary services. The County's Main Jail and Elmwood have the capacity to house about 4,000 inmates, but daily populations have been running at just over 3,000. The SO provides a daily population report on its website.⁹

In 2016, at the Sheriff's request, the National Institute of Corrections (NIC) interviewed jail guards and others and presented a technical assistance report to the SO.¹⁰ NIC, among other things, reported that jail "employees report fearing inmates — physically because of low staffing and professionally because of a fear of retaliation. ... Employees clearly feel demoralized, frustrated and embarrassed by the negative public attention on the agency. ... Jail staffing was overwhelmingly the most common concern mentioned by employees. We heard this from almost every employee at every facility. While the availability of overtime is positive for some employees, many more report that it is physically and psychologically draining and adds to the stress of the job," the NIC said.

Two years later, in 2018, the Grand Jury heard identical comments in our interviews of County jail management and staff. Interviewees said staff had lost control of the jails and that deputies don't feel safe. Deputies believe inmate grievances filed against them affects promotions.

⁹ https://www.sccgov.org/doc/Doc_daily_pop.pdf

¹⁰ <https://www.sccgov.org/sites/sheriff/jail-reforms/Documents/Departmentof%20Justice%27s%20National%20Institute%20of%20Corrections%20Report.pdf>

“Jail staff have a perception that the jail is more dangerous for them, and they are correct,” states that March 2018 report by GAR. The consultant said the number of assault and battery cases in County jails jumped to 691 in 2017 from 90 in 2007. One reason for the large jump, though, is a change over the past couple of years in which all such cases are documented, not only cases that proceed to prosecution. Still, the numbers are up, and GAR also reported that “data indicates a fairly strong correlation between AB 109 [inmate] incidents and inmate-on-inmate violence ...”

Other recommendations for staffing have not been achieved. For example, sergeants remain responsible for supervising more than one floor, a single correctional officer manages some housing units and no Watch Commander is on duty during the weekends.

Jail officials say the number of grievances filed by Main Jail and Elmwood inmates ballooned from 3,525 in 2015 to 12,864 in 2016, after reforms provided for a new grievance system that funneled more inmate requests into the formal grievance process. That number held steady in 2017, with 12,828 grievances. According to staff, a small number of inmates generate a large proportion of the grievances.

Staff and management have asked for Tasers[®], to protect themselves as well as inmates. Some see a need for a dedicated Emergency Response Team armed with Tasers, rather than pulling officers from the housing units to respond to emergencies.

Increased training is one significant part of the ongoing jail reform and is among BRC recommendations. Correctional deputies, however, see a need for even more training in a number of areas: crisis intervention, arrest and control, and dealing with personal stress. Training should be scheduled off-shift to be most effective, but that presents a challenge when the jails are short-staffed. As of January 2018, the SO reported that in only three of 10 major categories had 100% of correctional deputies received required training.¹¹

On Sept. 11 and 14, 2017, the Grand Jury observed portions of the CIT training presented by County Department of Behavioral Health (Behavioral Health) and the SO. Attendees included about 50 correctional deputy cadets as well as peace officers from the SO and other agencies. The Grand Jury also interviewed Behavioral Health officials who manage the program and law enforcement liaisons who present CIT scenario training and interact with law enforcement agencies in dealing with persons in behavioral health crisis.

¹¹ <http://sccgov.iqm2.com/citizens/FileOpen.aspx?Type=1&ID=9064&Inline=True>

New and improved Use of Force and inmate classification systems have been implemented, the transitional STEP (Supportive Transition and Empowerment Program) has been expanded, a new surveillance camera system is 95% complete and ADA (Americans with Disabilities Act) fixes and improvements have been made and continue to be made (100% of quick fixes have been made at the Main Jail and 25% at Elmwood), as the Grand Jury saw during its inspections.

These reforms are long overdue, according to many people interviewed by the Grand Jury. But they come at a cost. County staff reports that one-time costs associated with enacting these reforms is \$284 million to \$304 million, up from \$165 million in September 2017, with ongoing annual costs of \$83 million to \$85 million, up from \$75 million in September 2017. County staff expects those costs to grow significantly as more reforms are implemented.

Mental Health, Main Jail Unit 8A

Improving the care of inmates suffering from mental issues is a focus of ongoing jail reform, and improvements have been impressive. The County has boosted its staffing at the Main Jail's Unit 8A, where inmates with acute mental health issues are housed. There is always at least one psychiatrist on duty in 8A, and often two or three. Adjacent to 8A are units 8B and 8C, for inmates with lesser mental health issues.

County BHS now has 10 behavioral health teams (BHTs), which consist of a psychiatrist, psychologist, psychiatric nurse, licensed clinical social worker and perhaps another social worker. The team number is up from just five as of May 2017 despite significant recruiting challenges. Three or four BHTs work the day shift, and two or three the evening and night shifts. Prior to housing, all inmates get an initial classification within six to eight hours of arrival at the Main Jail.

In addition, 8A inmates have been added to the County Valley Medical Center's HealthLink electronic records system, enabling quicker diagnoses and tracking of medication, among other advantages.

The County's BHS annual budget commitment spiked to \$89 million from \$55 million prior to fiscal year 2015. The 10 Behavioral Health Teams (12 have been authorized), and associated BHS staff to support these teams, as well as the HealthLink system, drive much of the budgetary increase.

Among other changes, jail staff has moved meal times on 8A to more normal hours, with breakfast starting time moved to 6 a.m. from 4:30 a.m. and dinner to 6 p.m. from 4:30 p.m.

Also, three psychiatrists lead a daily 45-minute or so 8 a.m. meeting to update staff on the condition of the 8A clients (inmates).

Still, some correctional deputies say BHS moves inmates out of 8A too quickly, often to the general jail population instead of the step down 8B and 8C units. Correctional deputies favor designating a full floor at the Main Jail that can serve as a step down facility for inmates leaving 8A.

Elmwood Complex – Men’s and Women’s Facilities (Inspected Nov. 20, 2017)

Elmwood Men’s and Women’s Facilities now house both sentenced and un-sentenced inmates along with inmates sentenced under AB 109.

Custody staffing was at 96% of authorization as of early 2018, with 75-80 officers per shift. This should ease the overtime issue.

Specialized staff training is mandated for the kitchen and for the intake and release station, as well as for gun-bearing officers. The County is hiring Rehabilitation Officers to handle some non-security/custodial duties. The number of staff that has completed the Multi-Support Deputies (MSD) team training for a mental health crisis duty is increasing.

Jail staff estimates that 15% to 20% of its inmates have drug addiction problems, primarily methamphetamines. The smuggling of drugs into the facility is a continual challenge. There now is the additional concern over the use of drones to airdrop drugs into the jail yards.

Vocational activities/training such as auto body shop, welding, woodworking, upholstery and laser engraving are offered at Elmwood only for male inmates classified as Level 1, or low-risk. These activities provide a service to the county by repairing county vehicles, making signs and fixing furniture.

All classifications of women inmates can participate in vocational training, but their options are limited to landscaping, yoga, knitting and embroidery. The embroidery class was inactive as of the date of the Grand Jury’s inspection because the machinery needed certain safety equipment, required by the California Occupational Safety and Health Administration. The

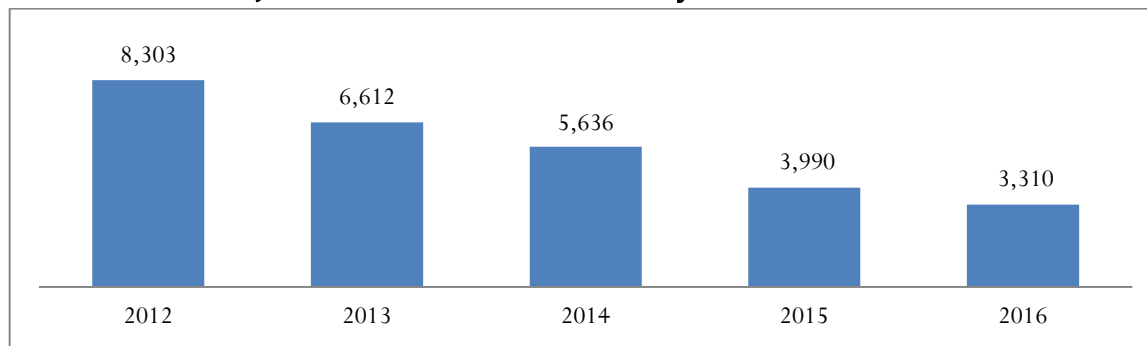
dearth of vocational training for women was noted in a Grand Jury report in 2011-12¹² and in the responses to that report.^{13 14 15}

Juvenile Detention Facilities

Juvenile Justice trends have resulted in fewer youth incarcerated and more diverted to outside services, as the Grand Jury observed in its visits to both juvenile facilities. The agency now uses what is called best evidence practices to assess whom to release and who to house. One focus is on what causes youth to offend and reoffend and whether they can verbalize the difference between right and wrong.

In its 2016–2017 Annual Santa Clara County Juvenile Justice Report¹⁶, Probation states that the number of juvenile arrests and citations for the year ended June 30, 2016, fell 17% from the preceding year, to 3,310 (see graph below). The decline has been steady since at least fiscal 2012, and the same trend holds for juveniles admitted to Juvenile Hall.

Juvenile Arrests and Citations by Year 2012-2016



In part, the statistics are helped by the 2014 passage of California’s Prop 47, which reclassified some lower-level felonies to misdemeanors, and the 2016 passage of California

¹² 2011-2012 Santa Clara County Civil Grand Jury Report, “Custody or Rehabilitation? The County’s Approach to Women Inmates at Elmwood”

http://www.scscourt.org/court_divisions/civil/cgj/2012/CountysApproachtoWomenInmatesAtElmwood.pdf

¹³ http://www.scscourt.org/court_divisions/civil/cgj/2016/Responses/ResponseSCCSheriff092216.pdf

¹⁴ http://www.scscourt.org/court_divisions/civil/cgj/2016/Responses/ResponseSCCSheriff100416.pdf

¹⁵

http://www.scscourt.org/court_divisions/civil/cgj/2016/Responses/05.15.17%20Response%20SCC%20COB%20-%20Mental%20Illness.pdf

¹⁶

https://www.sccgov.org/sites/probation/Documents/JPD%20Services%20Annual%20Report_2016_FINAL.pdf

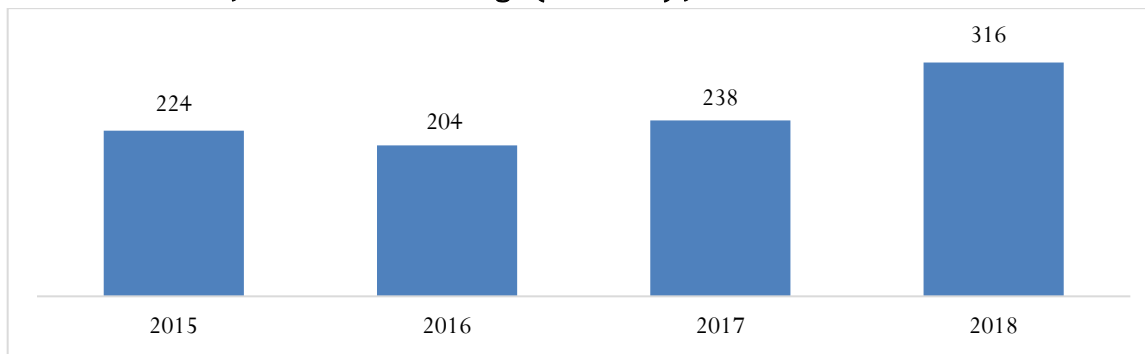
Prop 57, which lets judges instead of prosecutors decide if a juvenile will be tried in adult court.

Also, 38% of the fiscal 2016 arrests and citations were lower level offenses or offenses by first-time offenders who went to the County's impressive array of diversionary services (counseling and more) and therefore were not recorded as official arrests.

The Juvenile Justice System remains focused on prevention-oriented and school-based programs and services. At the same time, the well-publicized decline in staffing at the San Jose Police Department (SJPD) is acknowledged as among factors in the lower arrest rates for both juveniles and adults.

SJPD now is regaining staff, and the initial decline in arrests resulting from Props 47 and 57 has ended. The County DA reports a significant spike in juvenile offenses in calendar 2017. The DA says total juvenile filings rose 20% in 2017 to 1,399 from 1,162 in 2016. The filings are Welfare and Institutions Code Section 602 Petitions, for criminal acts, and violations of probation (VOP). This comes after four consecutive years of declines in filings. DA officials say the 2017 increase is even more dramatic than it appears because the new laws make it harder to file both 602 Petitions and VOPs. The early part of 2018 saw the trend continue. (See chart below)

Juvenile Crime Filings (Petitions) Jan. 1 thru March 5



Some types of crime saw big leaps in juvenile participation. The DA says in 2017 residential burglary jumped 128% to 185, auto theft accelerated 51% to 208, robbery rose 21% to 120 and carjacking more than tripled to 28.

Organized groups of juvenile offenders were responsible for much of this increase, Probation, DA and law enforcement officials agree. But they don't agree on some other things. Where Probation says as few as 10 youths accounted for a big chunk of the spike, DA officials attribute much of the increase to more than 50, and as many as 100, in the organized groups.

Juvenile recidivism rates¹⁷ for the lowest-level offenders remains admirably low, at just 2% to 3%, but for the highest level of offender, it has risen to 43% in fiscal 2016 from 32% in fiscal 2015 and 40% in fiscal 2014.

Law enforcement officials have expressed some frustration to the Grand Jury about a lack of programs for some repeat offenders who do commit the most serious crimes, since only the most serious offenders and violent felons can be sent to the state Division of Juvenile Justice (formerly the California Youth Authority). In Santa Clara County, incarcerated juvenile offenders go to Juvenile Hall or get assigned to the six- to eight-month James Ranch program. Officials see a need for programs that give repeat offenders a “time out,” which could mean moving them to a facility outside the county and thus away from potentially bad influences or, could mean offering an 18- to 24-month “step-down” program, similar to what’s offered by Contra Costa with its Youth Offender Treatment Program and Girls in Motion program.

Probation officials, on the other hand, point to their success with diversion programs and their continued motivation to keep youths in environments more constructive than jails or ranches. “... Incarceration is the single-biggest predictor of criminality,” Laura Garnette, the County Chief Probation Officer, recently told the San Jose Mercury News.¹⁸

Meanwhile, the County is part of an innovative state pilot program, SB 1004¹⁹, that makes use of one of the Juvenile Hall buildings, which otherwise has sat mostly vacant due to juvenile justice diversion efforts. Under the pilot program, being tested in five counties, this facility will house adult offenders ages 18-21. These inmates get access to the rehabilitative programs offered at Juvenile Hall. As of March, the program just housed four of these young-adult offenders, but it’s expected to house 10 males and 10 females shortly.

William F. James Ranch (Inspection Oct. 5, 2017)

The James Ranch is a locked detention facility that houses juveniles (ages 13-19) who have been committed by the Juvenile Court. Its program runs six to eight months. The Ranch houses males and females. Its capacity is 96, but according to officials the Ranch has been housing fewer youths in recent years. On the date of the Grand Jury’s visit, the Ranch housed 56 youths. Youths are categorized at Levels 1 through 4, advancing in levels based on participation in and compliance with the facility programs and rules (cooperation,

¹⁷ Recidivism refers to a new offense committed by an individual within a set period that can vary, and the start of the clock on the timing of recidivism varies for different programs. In general, this refers to a person committing a new offense within a year of release from an earlier offense.

¹⁸ <https://www.mercurynews.com/2018/02/22/amid-juvenile-crime-spike-officials-work-to-meld-compassion-and-deterrence/>

¹⁹ Chapter 865, Statutes of 2016. Penal Code Section 1000.7.

acceptance of routine and more). Education is provided through the County Office of Education's Blue Ridge High School program. Starlight Community Services and Pathway Society are contracted to provide mental health, substance abuse and other services at the Ranch.

The Grand Jury spoke with Ranch managers and toured the facility, including a first aid station, welding classroom, a female housing pod, a male housing pod and the dining hall. The Grand Jury also observed out buildings on the perimeter of the facility, including a "tiny house" that had been built as a skills project and intended to be used in county programs to provide transitional housing.

Directly adjacent to the Ranch, construction of a new, \$27 million facility is under way. New dormitories, administrative offices, a kitchen and a gym are under construction, an upgrade people we interviewed considered overdue. The current 50-year-old facility is showing its age. The conference room had signs of rain leakage, with watermarks on some ceiling tiles. Many sidewalks were narrow and the lawns infested with gopher holes.

Each housing pod contains up to 12 youths and is supervised by probation assistants, with one assistant per two youths. That small 2-to-1 ratio is intended to facilitate bonding. The female pod was clean and orderly, with adequate bunks and bedding. The male dormitory is in one of the Ranch's original buildings, with the large dorm separated by partitions into three pods. The cafeteria was clean and was equipped with a door fan to keep out insects. Besides daily school attendance, juveniles are instructed in two trade skills, welding and carpentry. Ranch youths make benches used in local parks.

Members of the Grand Jury spoke with a few female juveniles in the welding class and a male juvenile in the dormitory. The female juveniles that were observed appeared to be healthy, properly clothed, but the welding class instructor was absent and the youth were watching a video on the day of our visit. The male juveniles observed were scheduled for a craft exercise, but only one youth was actively engaged in the exercise. The staff/youth interactions observed in the dormitories and welding shop by the Grand Jury were pleasant and civil.

Unlike the chronic understaffing of correction deputies, Probation often is nearly fully staffed.

Juvenile Hall (Inspected Dec. 20, 2017)

Juvenile Hall has a capacity of 370 youth but, like James Ranch, it has been housing far fewer youths. Daily populations have been running under 100; 85 on the day of the Grand Jury's visit. Current staffing is 187 probation counselors and there were few vacancies at the end of 2017. Group counselors must complete the Penal Code Section 832 core course training program in addition to having 60 units of college credits. Extra Help counselors must complete a shorter training course in addition to 20 hours of college credits. Supervising group counselors are required to have a BA degree. The Probation Department uses a quality assurance team to review the operation of the Hall. The three Juvenile Courts at Juvenile Hall utilize county deputy sheriffs to staff the courtrooms and the entry metal detectors.

The Grand Jury inspected the male intake area, medical unit, the mental health housing unit, a female housing unit, a classroom, the kitchen and mess hall, gym, outside recreation area and control center.

The average length of incarceration in Juvenile Hall is 29 days and seldom longer than six months. In unique situations youth have been housed there for several years. The youth at the Hall are classified in three levels that indicate security risk and how well they are adhering to rules and regulations. Staff says the Hall's culture has shifted over the past five years to be more open and positive.

Still, incident levels show little, if any, decline of late. Probation says minor-on-minor assaults rose to 46 in 2017 from 32 in 2016 and 41 in 2015. The number of times staff had to use physical restraints fell to 41 in 2017 from 47 in 2016, but that's up from 40 in 2015.

Juvenile Probation is reviewing who is held in the Hall and for how long. Staff informed the Grand Jury they are seeing more individuals in the very young age group of 11 to 13.

The Hall provides schooling through the County Office of Education's Osborne Juvenile Center. A college liaison offers assistance to learn about college options and financial aid. There are a variety of programs provided at the Hall by community-based organizations. Programs include anger management, substance abuse, UnChained (matching foster dogs with youth who assist in training for adoption) and Our City Forest (mural painting). The Hall has a garden that is tended by female youth. Yoga and art also are offered.

The dorm units have both single and double cells, but most cells are occupied by one youth. California's Title 15 requires two staff per 20 youth, but the Hall assigns three staff. The cells were clean in general, but there was some graffiti on the walls and a lot on the cell doors.

There is periodic repainting of the cell walls, but the doors cannot be made graffiti proof. The existing camera installations do not cover the entire dorm and presently there is no recording capability. The video monitoring system is scheduled for an upgrade that will permit recording via the command center console. There is access to telephones in the dorms.

One dorm houses youth who are designated Welfare & Institutions Code Section 5150 or who otherwise suffer from mental health issues. This unit has suicide barriers. Youth who are a danger to themselves may be supervised one-on-one as needed, and welfare checks are made every five minutes (vs. 15 minutes in adult correctional facilities).

Court Holding Facilities (Inspected Nov. through Dec. 2018)

The SO operates holding facilities in the Court-owned Hall of Justice Courthouse adjacent to the Main Jail, the Family Justice Center in downtown San Jose, at the South County Courthouse in Morgan Hill and at the North County Courthouse in Palo Alto

Inmates aren't housed overnight at CHF's but are kept in the facilities to be available for their court hearings. The facilities can house 50 or more inmates.

Hall of Justice CHF (Inspected Dec. 8, 2017)

The holding cells at the Hall of Justice (HOJ), the County's main criminal courthouse, serve all the courtrooms in both the older HOJ West and newer HOJ East buildings. They are connected to the Santa Clara County Main Jail via a tunnel. In-custody defendants arrive twice a day for morning and afternoon sessions and are sent to the appropriate station based on the courtroom in which their case will be heard.

There are three stations located in the basement, one of which serves the courtrooms in HOJ West and two that serve the courtrooms in HOJ East. The holding cells have ample space to accommodate both male and female defendants as well as those with special restrictions such as protective custody. The stations were well staffed and the cells were clean and tidy.

The hallways have video security cameras that are monitored in the court security office, but the holding cells do not.

In HOJ East defendants are moved via internal elevators and hallways connected directly to the courtrooms, but in HOJ West the elevators used to move defendants from the basement

to the courtrooms open into the public hallway where deputies then walk defendants to the courtroom.

Family Justice Center CHF (Inspected Nov. 13, 2017)

This new facility opened just in 2016 and it remains very clean and neat and in good repair. The facility often processes more than 100 prisoners a day, and officials cite a 90% “conformance rate,” which refers to the rate at which prisoners obey rules and follow orders. Law enforcement officials called that a very good rate.

South County Courthouse CHF (Inspected Nov. 30, 2017)

This facility opened in 2009. It has a video camera system and remains generally in good shape, but there are some negatives. There is significant graffiti scratched into cell walls and doors.

In the winter of 2016-17, heavy regional rains caused a few inches of water to flood some cells and offices. The county quickly addressed that immediate problem, but the State courts have not come up with any permanent solution to prevent future flooding nor the funding source.

North County Courthouse CHF (Inspected Jan. 8, 2018)

This court holding facility was built in 1961 and originally served as an auxiliary jail. It was transformed into a CHF in 1990s. The maximum capacity of 50 has been exceeded a few times in the recent past. The average census is about 100 inmates per week. There are seven four-person cells, 18 single cells and one safety cell for prisoners in danger of harming themselves.

Female inmates are housed in cells that are at the far end of the facility. The facility lacks monitoring cameras. Cells have metal bed frames but the mattresses have been removed some time ago due to mold. The facility has some graffiti. One of the four-person cells features an exquisite inmate drawing (see below) on one wall. Two wheelchairs are available for disabled inmates. One of the cells (#18) has a broken toilet fixture that has not been repaired in over a year.

Work release inmates are assigned to clean the facility, as there is no janitorial service. The First Aid kits available are outdated. No AED is available in the holding facility; the nearest unit is at the public entrance to the courthouse. A kitchen exists, now only for staff use and to refrigerate the inmate lunches. (Inmate food comes from Elmwood) The gas range and

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dishwasher are non-functional. Deputies use bottled water because of the poor tasting water supply, but the cost is borne by the deputies.

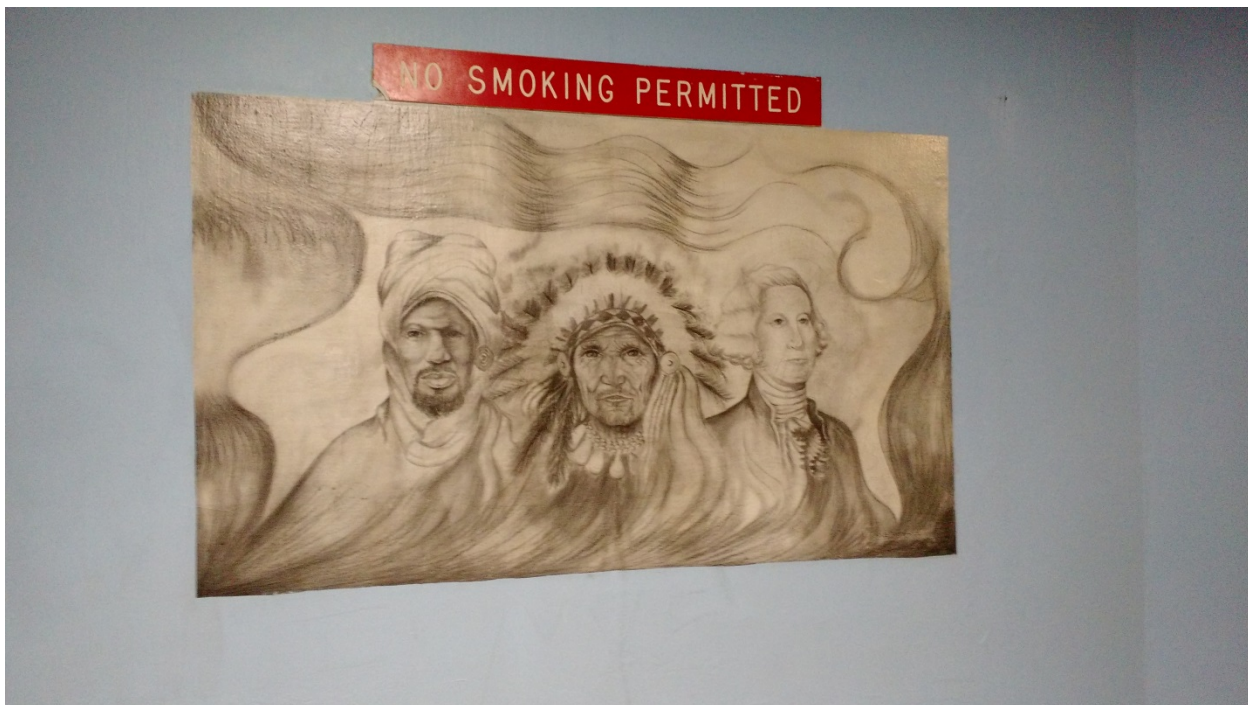
The former jail recreation yard is now used when there is a fire drill or for emergency evacuation. It is a walled area covered by wire screening and open to the elements. There are several wire cages used to maintain inmate segregation. No water is available and the overall condition of the area is poor.

The holding facility is staffed by 11 deputies who also act as court bailiffs for the four criminal departments active in the courthouse. Overtime deputies often supplement the assigned staffing.

The unique layout of the building requires that inmates appearing in courts on the 1st floor ascend an internal spiral staircase up to the landing that serves Departments 84 and 85. Inmates appearing in the third-floor courts must be moved out of the holding facility and back into building and then up the public elevators. This movement now requires three deputies instead of two, a change in procedure because of the November 2017 escape by two inmates.

The staff appears to make the best of the physical limitations of the facility to maintain jail security, inmate segregation and court operations. The facility seems to be necessary for the efficient operation of the County's criminal courts system.

North County CHF, Inmate Drawing



City Temporary Holding Facilities (Inspected Nov. through Dec. 2017)

The cities of Campbell, Gilroy, Los Altos, Los Gatos, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara (two, one at police HQ and one at Levi's Stadium) and Sunnyvale all maintain jails categorized as THF. Gilroy was built as a Type 1 facility, which can hold prisoners for up to 96 hours, but has operated as a THF for years.

The facilities were all well maintained. All were free of graffiti, except for some etching on the floor of some cells in Morgan Hill. All, as required, have separate facilities for juveniles. Adult capacity ranges from four in Los Altos, Los Gatos and Mountain View to more than 25 in San Jose. The need for holding cells has continued to decrease since the 2014 passage of Proposition 47, the state ballot measure that reclassified many theft and drug-related felonies to misdemeanors. As an example of the low utilization rate, Los Gatos processed only 16 arrestees at its THF for the seven months from April 21 through Nov. 17, 2017.

Persons who are arrested are often cited and released or quickly transported to the county Main Jail. Police at the local jails typically can do the fingerprinting, mug shots and other tasks needed for booking at their facilities. They strive to keep arrestees no longer than an hour or so, preferring to immediately transport arrestees to the Main Jail. Although this results in underutilized space at police departments, the holding facilities give police some investigative flexibility.

San Jose Pre-Processing Center (Inspected Nov. 17, 2017)

The San Jose Police Department (SJPD) Pre-Processing Center (PPC) appears to have undergone the most significant change of any THF in the county. It once was a fully staffed facility where SJPD arrestees, both adult and juvenile, were processed in separate areas prior to being taken to the Main Jail or Juvenile Hall. Now, it's a location where only those arrestees requiring additional investigation, interviews or evidence collection activities are processed prior to booking. A police official estimates that roughly 1.5 adult arrestees per day will spend any time at the PPC, and 0.8 juveniles.

Though the great majority of SJPD arrestees are now taken directly to the Main Jail or Juvenile Hall for booking, the PPC Standard Operating Procedures (SOP) Manual dated Sept. 29, 2015, called for it to be staffed by a four-day, 40-hour per week Administrative (Police) Officer as well as a supervisor 24/7. The supervisors are police sergeants on paid overtime, resulting in a total cost one police official estimated at roughly \$900,000 per year for an underutilized facility. SJPD management, however, has informed the Grand Jury that as of May 16, 2018, this policy will change.

The SOP requires sufficient personnel to conduct random safety checks and for a PPC supervisor to be present whenever there is an arrestee in the facility. Additionally, an officer of the same gender as the arrestee must be present, and if both adult and juvenile arrestees are present officers of the same gender must be in both areas. If there are no arrestees in the PPC, staff may leave the facility but must remain available to return quickly as needed.

The security video monitoring system was not working when the Grand Jury inspected the PPC due to age and unavailability of replacement parts. Police officials, however, see less need for the system because officers now wear body-worn cameras.

The Grand Jury noted that the BSCC inspection on Dec. 19, 2017, found continuing issues of non-compliance in that arrestees are handcuffed to tables in holding/interview cells that do not have a toilet, basin, and drinking fountain as required by regulation; and that there was no audio monitoring system for the holding cells, but the BSCC did not require that any fixes be made.

Effective May 16, 2018, SJPD will no longer staff the PPC with overtime sergeants. The updated policy will provide that when prisoners need to be processed at the facility, an on-duty sergeant will respond and remain in the facility while any prisoner is present. The full-time Administrative Officer position will remain.

CONCLUSIONS

The Grand Jury found jail reform in Santa Clara County remains a work in progress. Over the course of more than 60 interviews, the Grand Jury found a strong focus on improving conditions in the jails despite budgetary, physical and staffing constraints. The County, for example, is providing long overdue extra support and services to inmates who suffer from mental illness. Level 8A of the Main Jail is now staffed with 10 BHTs, and correctional deputies and officers are undergoing CIT training.

One of the Grand Jury's main takeaways, though, is that there is no operational advantage to the current structure of the SO and DOC sharing responsibilities, especially since the head of the DOC is the Undersheriff, who reports directly to both the Sheriff and the BOS. The BOS seems to agree and a new organizational structure for the jails seems to be in the works, prodded by the many reforms under way.

Besides the diffused operational structure of the jails, low morale for correctional deputies and officers seems to the Grand Jury to be a pressing issue. Factors such as chronic

understaffing, mandatory overtime, numerous jail reforms and 12-hour shifts have all added to the problem.

In juvenile justice, diversion programs and changes in the law have led to a big decline in the number of youths in detention facilities, but a recent spike in juvenile crime might indicate some holes in the current methods.

FINDINGS AND RECOMMENDATIONS

Finding 1

The Grand Jury found no advantage to having a separate DOC in the operation of the jails.

Recommendation 1A

The Santa Clara County Board of Supervisors should transfer sole and exclusive authority over the County jails to the Santa Clara County Sheriff, by June 30, 2019.

Recommendation 1B

Santa Clara County Board of Supervisors should clarify the roles in jail management for: the Department of Correction, the Chief of Correction, the proposed correctional administrator position, the Undersheriff, the Office of Correction and Law Enforcement Monitoring, and the Community Correction and Law Enforcement Monitoring Committee. This should be done by Dec. 31, 2018.

Finding 2A

The Grand Jury found morale among correctional deputies is low due to chronic understaffing, mandatory overtime shifts and a new grievance system that deputies believe is open to abuse.

Finding 2B

The Grand Jury found a widespread perception among correctional deputies that they have diminished control over inmates in the jail, putting them at a disadvantage in performing their duties.

Finding 2C

The Grand Jury found that the Santa Clara County Sheriff's Office has taken new steps in the past year to boost hiring, greatly reducing correctional deputy shortages at the Main Jail and Elmwood.

Recommendation 2

The Santa Clara County Sheriff, the Santa Clara County Board of Supervisors and the Santa Clara County Correctional Peace Officers Association should devise and publish a formal plan to improve jail staff morale by June 30, 2019. The formal plan should improve communications between staff and management, consider flexibility in work shifts and examine the perceived diminished control over inmates.

Finding 3A

The Grand Jury found there is an unmet need for training programs at the Main Jail and Elmwood geared to inmates serving multiyear sentences.

Finding 3B

The Grand Jury found there is an unmet need for vocational training programs at Elmwood geared to women inmates. The Grand Jury also found a gender bias in the limited program opportunities for women inmates, which fails to prepare them for transition to post-jail life in Santa Clara County.

Recommendation 3A

The Santa Clara County Sheriff should adopt programs similar to those offered in state prisons for all inmates serving multiyear terms in the County, by June 30, 2019.

Recommendation 3B

The Santa Clara County Sheriff should report to the BOS by June 30, 2019, on additional classes and vocational training that could be offered to Elmwood's women prisoners.

Finding 4

The Grand Jury found the lack of understanding of the relationship between the recent rise in juvenile crime and lower incarceration rates prevents effective means to reduce juvenile crime.

Finding 5A

The San Jose Police Department, at the time of this report, was taking steps to eliminate the needless expense by updating outdated procedures for staffing its Pre-Processing Center with a sergeant on paid overtime.

Finding 5B

The San Jose Police Department puts itself at needless risk of a lawsuit from a detainee or a citizen's complaint by not following BSCC procedures for restraining prisoners at its Pre-Processing Center.

Recommendation 5A

No recommendation because the issue is being addressed.

Recommendation 5B

The San Jose Police Department by the end of 2018 should evaluate its Pre-Processing Center Standard Operating Procedures Manual to address the use of restraints (handcuffs) in the interview rooms.

REFERENCES

The Grand Jury reviewed a number of documents including the following:

- Reports and findings of the County’s Blue-Ribbon Commission (BRC) on Improving Custody Operations. <https://www.sccgov.org/sites/scc/Pages/brc.aspx>
- 2008-2009 Santa Clara County Civil Grand Jury Report, “Department of Correction/Facilities and Fleet - A Broken Relationship in Need of Repair”
- The 2011-12 Grand Jury report titled, [“AB 109/AB 117 Realignment: Is Santa Clara County Ready for Prison Reform?”](#)
- The 2011-12 Grand Jury report titled, [“Custody or Rehabilitation? The County's Approach to Women Inmates at Elmwood”](#)
- The 2015-16 Grand Jury report titled, [“Addressing Mental Illness in Santa Clara County Jails”](#)
- The 2016 SO [Jail Reform Plan](#)
- The 2016 Sabot Consulting [“Report on Dental Care in the County Jail”](#)
- The 2016 National Institute of Corrections [“Technical Assistance Report to the Santa Clara County Sheriff's Office”](#)
- The 2010 BOS Management Audit [“Review of the FY 2010-11 Proposal to Combine Selected Duplicative Functions in the Sheriff's Office and the Department of Correction”](#)
- Recent BSCC Inspection Reports found at <https://drive.google.com/drive/folders/121hiEnIoMsp11obBd76BojrlNahGNAk1>
- Local Inspection Reports (environmental, nutritional and medical/mental health)
- The Probation Department’s [“2016 Annual Santa Clara County Juvenile Justice Report”](#)
- The CGL Companies report to the BOS on March 20, 2018, entitled [“Santa Clara County Jail Organizational Structure of the County Jails”](#), agenda item No. 15.
- The GAR Inc. report to the BOS on April 3, 2018, entitled [“The Santa Clara County Jail System”](#), agenda item No. 56.

The Grand Jury conducted more than 60 interviews with individuals representing the following organizations:

- Santa Clara County Board of Supervisors
- Santa Clara County Sheriff’s Office
- Santa Clara County District Attorney’s Office
- Santa Clara County Main Jail and Elmwood Complex

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- Santa Clara County Juvenile Hall and James Ranch
- Santa Clara County Public Defender's Office
- Santa Clara County Probation Department
- Santa Clara County Behavioral Health Services
- Santa Clara County Facilities and Fleet Department
- Board of State and Community Corrections
- The police departments in the cities of: Campbell, Gilroy, Los Altos, Los Gatos, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale

Inspections by the grand jurors included looking at:

- Conditions of the buildings and grounds
- General cleanliness of the facilities
- Safety and security issues
- Visible staffing levels

REPORT ON DETENTION FACILITIES

This report was **ADOPTED** by the 2017-2018 Santa Clara County Civil Grand Jury on this 16 day of May, 2018.



Peter Hertan,
Foreperson