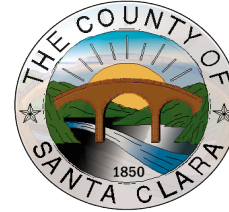


County of Santa Clara
Office of the County Executive

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DATE: April 28, 2021

TO: Honorable Board of Supervisors
Jeffrey V. Smith, County Executive

FROM: Martha Wapenski, Deputy County Executive

SUBJECT: Off Agenda report related to the Impact of the Two Federal Consent Decrees on Department Services, Activities, and Staffing

At the April 1, 2021 Public Safety and Justice Committee meeting (Item No. 5), Supervisor Ellenberg requested an off-agenda report relating to the impact of the two Federal consent decrees on department services, activities, and staffing levels. This report from the Office of the County Executive is providing information on the staffing component of the referral.

There are many legal statutory mandates that apply to the correctional setting, and these legal mandates are separate from the two jail consent decrees that the County is addressing. For instance, the classification of inmates, which separates inmates into appropriate housing units, is regulated by various mandates contained in numerous sections of the Penal Code, the Welfare and Institutions Code, the Americans with Disabilities Act, and the Eighth Amendment to the Constitution. However, as is common with other correctional legal statutory mandates, the level of staffing (number of positions or posts) for this function is not mandated. Following increases or reductions in positions as part of the budget process, or fluctuations in the inmate population, it is the responsibility of the Sheriff's Office to deploy staffing in a manner that complies with legal statutory mandates.

Apart from the mandates mentioned above, the *Chavez v. County of Santa Clara et al.* and *Cole v. County of Santa Clara et al.* Federal consent decrees require the County to

implement remedial plans designed to address constitutional and legal deficiencies in the way the County provides care and services to the inmate population.

The *Chavez* and *Cole* remedial plans do not require particular staffing numbers or ratios. Instead, the *Chavez* remedial plan requires that the County provide sufficient “clinical and custodial staff, and/or off-site services” to comply with the substantive requirements set forth in the plan. In general, the remedial plan requires that the County achieve certain outcomes (e.g., five-day response to an urgent dental need) but does not require that the County staff in a particular manner to meet the requirement. Since the consent decree is primarily outcome-based, the County has discretion on how to achieve those outcomes and to allocate the staffing and other resources needed to do so. But if the County fails to achieve a remedial plan requirement, plaintiffs’ counsel could seek court intervention. Under those circumstances, it is possible the court—as it has with the California Department of Corrections and Rehabilitation—could direct the County to hire additional staff.

Some examples of remedial plan subjects that impact staffing needs include: supervision of increased inmates’ out-of-cell time; inmates in Administrative Management (i.e., solitary confinement); inmates in need of transport for increased medical, mental health, and dental care; inmates receiving enhanced services in the jail; identification, tracking, and accommodation of disabled inmates; timely responses to inmate grievances; and revising policies/practices and providing trainings to staff.

cc: Chief Board Aides

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Mary Ann Barrous, Agenda Review Administrator

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