

TO: Honorable Board of Supervisors

FROM: Walter Wilson, Chairperson, Community Correction and Law Enforcement Monitoring Committee

RE: Off-Agenda Report: Recommendations Relating to Increased COVID-19 Cases in the County Jails

DATE: December 10, 2021

On November 22, 2021, the Community Correction and Law Enforcement Monitoring Committee (the “Committee”) held a special meeting to consider recommendations relating to increased COVID-19 cases in the County jails. The Committee received reports from the Office of the Sheriff, the Office of the District Attorney, the Office of the Public Defender, and the Custody Health Services Department relating to the recent increase in COVID-19 cases in the County jails, including efforts to reduce transmission, sources of new exposures and virus spread, staff and detainee vaccination rates, availability of COVID-19 booster vaccinations for staff and detainees, and prevention of future outbreaks. The Committee then discussed potential recommendations and authorized the Chairperson to forward to the Board of Supervisors an off-agenda report summarizing the Committee’s recommendations.

As reflected in the Committee’s discussion on November 22, 2021, the Committee makes the following recommendations to reduce the jail population and mitigate the risk of COVID-19 in the County jails:

1. That County justice system partners collaborate to reduce the jail population to fewer than 2,000 individuals, with input from Custody Health Services as appropriate.
2. That justice system partners, including the Probation Department and the Office of the Public Defender, identify all inmates that may qualify for early release, in addition to approximately 200 individuals already identified.
3. That justice system partners collaborate with Superior Court judges to implement reductions in sentences and to reduce the number of individuals entering the jails.
4. That law enforcement agencies in Santa Clara County increase the use of “Cite and Release” to limit the number of individuals entering jail.
5. That the Office of Pretrial Services and the Office of the Sheriff increase efforts to ensure that those who can and should be immediately released after booking (meaning those who have not been cited and released in the field) are released.
6. That the Office of the District Attorney reconsider individuals charged with serious and violent crimes to individually determine whether such individuals are eligible for release or reduced charges, as the term “violent crime” and initial over-charging may create misperceptions of alleged safety concerns, and consider seeking shorter sentences.

7. That all relevant justice system partners conduct an individualized assessment of every person in the jail, regardless of charge or case status, for release options, prioritizing the medically vulnerable.

8. That all relevant justice system partners assess who is still detained in the jail with a bail amount under \$50,000 and initiate immediate release for those individuals.

9. That the Superior Court implement Penal Code section 4012, which authorizes the Superior Court to designate an alternative place of confinement when a contagious disease outbreak occurs in or near a jail and to authorize the Office of the Sheriff to remove inmates to the designated place until they can be safely return to the jail.

10. That the Office of the Sheriff maximize releases from jail under Government Code section 8658, which allows alternative confinement or release when an emergency that endangers the lives of inmates has occurred or is imminent.

11. That the Superior Court consider options from the Office of Pretrial Services to minimize arrested individuals entering the jails and to provide alternatives to confinement.

The Committee refers the Board to the November 16, 2021 report from County Counsel providing options to reduce the jail population.¹ The Committee also requests that the Office of the District Attorney, Office of the Sheriff, Office of the Public Defender, Probation Department, Office of Pretrial Services, and Custody Health Services Department submit jail population reduction and COVID-19 mitigation recommendations for subsequent Committee consideration.

¹ Memorandum from County Counsel to the Board of Supervisors re: Report-Back on Options to Reduce Jail Population, Create Alternatives to Custody, and Increase Civilian Oversight Over County Jails, available at <http://sccgov.iqm2.com/Citizens/FileOpen.aspx?Type=4&ID=220400>.